

## CONTENTS

<b>INTRODUCTION</b>	<b>1.1</b>
Staffing and structure	1.5
Caseload	1.8
Performance against targets	1.13
The inspection process	1.15
The lay inspector	1.17
Overview	1.19
Structure of the report	1.26
<b>PROVIDING ADVICE</b>	
Introduction	2.1
Quality of advice	2.3
Timeliness of advice	2.7
Appropriateness of advice	2.11
Advice from counsel	2.15
<b>REVIEWING CASES</b>	
Introduction	3.1
Quality and timeliness of initial review decisions	3.8
Continuing review	3.10
Review and file endorsements	3.15
Application of charging standards and selection of charges	3.18
Mode of trial	3.21
Bail decisions	3.22
Discontinuance	3.25
<i>Quality of decision to discontinue</i>	3.35
Adverse cases	
<i>Foreseeability</i>	3.38
<i>Adverse cases in the magistrates' courts</i>	3.40
<i>Adverse cases in the Crown Court</i>	3.43
Learning from experience	3.47
Sensitive and aggravated offences	3.51
<i>Child abuse cases</i>	3.52
<i>Domestic violence cases</i>	3.54
<i>Racially aggravated offences</i>	3.58
Youth justice and persistent young offenders	3.59
<b>PREPARING CASES</b>	<b>4.1</b>
Advance information	4.2
Disclosure of unused material	
<i>Generally</i>	4.6
<i>Disclosure of unused material in the magistrates' courts</i>	4.14
<i>Disclosure of unused material in the Crown Court</i>	4.16
<i>Sensitive material</i>	4.19
Summary trial preparation	4.21
<i>Evidential considerations</i>	4.25
<i>Witness warning</i>	4.35
Pre-trial reviews	4.39

Cracked and ineffective trials	4.41
Committal preparation	4.48
Discharged committals	4.53
Joint performance management	4.56
Section 51 cases	4.60
Instructions to counsel	4.62
Indictments	4.69
Custody time limits	4.71
<i>Systems for monitoring</i>	4.75
The CPS in the Crown Court	4.82
Special casework lawyer	4.89
Appeals and committals for sentence	4.92
Plea and directions hearings	4.94
File endorsements and management	4.98
Correspondence and typing	4.100
Providing information for pre-sentence reports	4.104

### **PRESENTING CASES**

Advocacy standards	5.1
Court coverage in the magistrates' courts	5.5
The quality of advocacy in the magistrates' courts	5.8
<i>Crown Prosecutors</i>	5.9
<i>Designated caseworkers</i>	5.11
<i>Agents</i>	5.13
The quality of advocacy in the Crown Court	5.16
<i>Higher court advocates and Crown Prosecutors</i>	5.17
<i>Counsel</i>	5.20
Returned briefs	5.22
Monitoring of advocacy standards	5.25

### **MANAGEMENT AND OPERATIONAL ISSUES**

Management of the Area	6.1
<i>Leadership</i>	6.3
<i>Strategy and planning</i>	6.14
<i>Organisational structure</i>	6.16
<i>Glidewell</i>	6.21
<i>Performance management</i>	6.29
Management of financial resources	6.35
<i>The current year</i>	6.37
<i>Agents</i>	6.42
<i>Fees</i>	6.46
Management of human resources	6.48
<i>Deployment of staff</i>	6.49
<i>Training</i>	6.54
<i>Communication</i>	6.61
<i>Managing absence</i>	6.64
Selection and instruction of agents	6.69
Selection and instruction of advocates in the Crown Court	6.71
External communication and liaison	6.74
Victims and witnesses	6.79

Accommodation	6.89
Health and safety	6.91
Security	6.92
Equality and diversity	6.94
Performance indicators	6.98
Complaints	6.108

## **CONCLUSIONS, COMMENDATIONS, RECOMMENDATIONS AND SUGGESTIONS**

Conclusions	7.1
Commendations	7.9
Recommendations and suggestions	7.10

## **KEY STATISTICS**

**8.1**

## **EXTERNAL CONSULTATION**

**9.1**

**ANNEX 1:** Total number of files examined for CPS Hertfordshire

**ANNEX 2:** Area's caseload and case mix

**ANNEX 3:** List of local representatives of criminal justice agencies who assisted in our inspection

**ANNEX 4:** Joint Performance Management

**ANNEX 5:** HMCPS Inspectorate's Statement of Purpose and Aims

## **PREFACE**

Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) 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.

HMCPSI'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.

HMCPSI 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.

HMCPSI 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, HMCPSI 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 HMCPSI considers should be attached to the proposals, with those matters meriting highest priority forming the basis of recommendations.

## **INTRODUCTION**

- 1.1 This is HMCPSI's report about CPS Hertfordshire, which serves the area covered by the Hertfordshire police.
- 1.2 In 1986, when the CPS was established, Hertfordshire was combined with Bedfordshire as one CPS Area, with Hertfordshire forming a Branch. When the CPS was reorganised in 1993 from 31 to 13 Areas, the Hertfordshire Branch became part of CPS Anglia. Following the latest reorganisation of the CPS in April 1999, it became a CPS Area in its own right for the first time. The 1999 reorganisation created 42 CPS Areas co-terminous with police areas and each headed by its own Chief Crown Prosecutor (CCP) enjoying a high degree of autonomy and working to the DPP within a framework document.
- 1.3 We inspected the Hertfordshire Branch in 1998 (Report 6/98), when it was part of CPS Anglia, during the previous Branch based inspection programme. We will refer to that report as the "1998 inspection report".
- 1.4 The Area covers conurbations such as Watford, Stevenage and Hemel Hempstead together with more rural areas. There are six magistrates' courts, three police command areas and one Crown Court centre at St Albans. North Hertfordshire Magistrates' Court commits cases to the Crown Court sitting at Luton. Most of the Area's Crown Court cases are dealt with in St Albans, but some are transferred to other centres.

### **Staffing and structure**

- 1.5 The Area office is in St Albans, close to the Crown Court and St Albans Magistrates' Court. The Area is also responsible for the prosecution of cases at Watford, Stevenage, Hemel Hempstead (Dacorum), Hertford and Cheshunt.
- 1.6 The Area has re-organised following the recommendations in the review of the CPS by Sir Iain Glidewell (the Glidewell Report). This has resulted in the creation of a Crown Court Unit (CCU) dealing with committals and Crown Court work and two Criminal Justice Units (CJUs) dealing with magistrates' courts casework.
- 1.7 There are the equivalent of 65 full time staff. The Area Secretariat comprises the CCP, the Area Business Manager (ABM) and seven administrative staff (including typing support for the Area). There is also a special casework lawyer (SCL). The following table illustrates the staffing levels, expressed as full time equivalents, of the CCU and CJUs:

<b>Grade</b>	<b>CCU</b>	<b>CJU</b>
Level E lawyers	2	0
Level D lawyers	0	2
Level C lawyers	6	10
Designated caseworkers	0	4
Level B2 caseworkers	1	0
Level B1 caseworkers	11	2
Level A2 caseworkers	5	9.2
Level A1 caseworkers	1.8	2
<b>TOTAL</b>	<b>26.8</b>	<b>29.2</b>

## Caseload

1.8 We refer to figures for the 12 months to September 2001. Charts and tables showing the types of case, how they were dealt with and case results in both the magistrates' courts and the Crown Court can be found in Annex 2.

1.9 The Area handled 517 pre-charge advice cases and 19,076 cases in the magistrates' courts comprising:

<b>Category</b>	<b>Area number</b>	<b>Area % of total caseload</b>	<b>National % of total caseload</b>
Pre-charge advice to police	517	2.6	3.4
Magistrates' courts defendants finalised	17,516	91.8	92.4
Other proceedings	1,560	8.2	7.6

1.10 The overall caseload, includes a high proportion of summary motoring cases.

<b>Offence type</b>	<b>Area %</b>	<b>National %</b>
Summary motoring	47.0	37.3
Other summary	14.4	18.6
Either way and indictable only	36.0	39.9

1.11 The Area handled 1,615 cases in the Crown Court of which 72.3% were committals for trial or indictable cases sent from the magistrates' courts to the Crown Court under section 51 Crime and Disorder Act 1998. This is similar to the national average but includes a lower proportion of defence elections – 9.4% against a national average of 13.9%.

1.12 In the magistrates' courts guilty pleas are very low at 52.5% compared to the national average 72.7%, whilst convictions after trial are nearly twice the national rate (30.0% against 15.5%). Jury acquittals are also higher (15.5% against 9.6%).

## Performance against targets

1.13 Performance measures adopted by the CPS nationally or applicable to Government departments generally and the criminal justice system are shown in the following table:

## TABLE OF PERFORMANCE AGAINST TARGETS

CPS PERFORMANCE MEASURES	National Target	National Outcome	Area Target	Area Outcome
<p><b>Objective: To deal with prosecution cases in a timely and efficient manner in partnership with other agencies</b></p> <p>Committal papers sent to defence within agreed time guidelines</p> <p>Briefs delivered to counsel within agreed time guidelines</p>	2000-2001	Apr 2000 – Mar 2001	2000-2001	Apr 2000 – Mar 2001
	66%	77.2%	80%	80.6%
	73%	77.4%	87%	83.8%
<p><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></p> <p>Cases dismissed on a submission of no case to answer attributable to failures in the review process (self assessment by CPS)</p> <p>Non-jury acquittals in the Crown Court which are attributable to failures in the review process (self assessment by CPS)</p> <p>Prosecution decisions examined during inspection by HMCPSI complying with the evidential test set out in the Code for Crown Prosecutors (random sample)</p> <p>Prosecution decisions examined during inspection by HMCPSI complying with the public interest test set out in the Code for Crown Prosecutors (random sample)</p> <p>Advices given to the police and examined during inspection by HMCPSI complying with the tests set out in the Code for Crown Prosecutors</p> <p>Decisions to discontinue examined during inspection by HMCPSI complying with the tests set out in the Code for Crown Prosecutors</p> <p>Cases in the adverse sample examined during inspection by HMCPSI, where the outcome was foreseeable, but no remedial action was taken</p>	2000-2001	Apr 2000 – Mar 2001	2000-2001	Apr 2000 – Mar 2001
	0.009%	00.008%	0.009%	0.017%
	0.7%	0.6%	0.9%	0.3%
		<b>Inspection Cycle 2000-2002</b>		<b>This Inspection</b>
	AA	98.7%*		96.5%**
	AA	99.8%*		98.2%**
	AA	96.8%*		77.8%
	AA	93.2%*		85%**
	BB	18.93%		31%
<p><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></p> <p>Advocates who perform significantly above the normal CPS standards of advocacy, as assessed by HMCPSI</p> <p>Advocates who fail to meet the CPS standards of advocacy, as assessed by HMCPSI</p> <p>Cases where the prosecution has properly discharged its statutory duties regarding primary disclosure</p> <p>Cases where the prosecution has properly discharged its statutory duties regarding secondary disclosure</p>		<b>Inspection Cycle 2000-2002</b>		<b>This Inspection</b>
	7%	4.06%		0%
	CC	1.21%*		0%*
	AA	73.46%*		83.3%**
	AA	64.81%*		59.1%*

<b>Objective: To meet the needs of victims and witnesses in the CJS, in co-operation with other agencies</b>	<b>2000-2001</b>	<b>Apr 2000 – Mar 2001</b>	<b>2000-2001</b>	<b>Apr 2000 – Mar 2001</b>
Witness expenses paid within 10 days	100%	97.7%***	100%***	99.3%
Complaints replied to within 10 days	89%	90.5%	95%	97.4%
<b>Improving productivity</b>				
Undisputed invoices paid within terms or 30 days	100%	95.3%***	100%	97.2%
Reduce sickness absence rate per member of staff	8.5 days by 30/3/01		10.6 days	9.1 days (Jan – Dec 01)
<b>Citizens charter commitment</b>				
MPs' correspondence replied to within 15 days	100%	96.7%	100%	100%

\* Average performance of Areas inspected in inspection cycle 2000-2002 based on a sample of cases examined and observations at court.

\*\* Area performance based on sample of cases examined and observations at court in this inspection.

AA The CPS constantly seeks to improve its performance and to increase the percentage of these cases, but set no targets for 2000-2001.

BB The CPS undertakes self assessment (see above) of such cases which are attributable to failures in the review process.

CC The CPS formerly had a target of less than 2.5% and the performance has been collated by HMCPSI throughout the inspection cycle.

<b>CJS PERFORMANCE MEASURES (shared between Home Office, Lord Chancellor's Dept and CPS)</b>	<b>National Target</b>	<b>National Outcome</b>	<b>Area Target</b>	<b>Area Outcome</b>
		<b>Quarter ending 30 June 2001</b>		<b>Quarter ending 30 June 2001</b>
<b>Youth Justice</b> To halve the time from arrest to sentence for persistent young offenders from 142 days to 71 days by 31 March 2002	71	73	71	66

1.14 The CPS does not have targets in relation to conviction rates. The information is collected and we set it out for comparison purposes.

	<b>CPS Hertfordshire outcome 2000-2001</b>	<b>National outcome 2000-2001</b>
Conviction rate in the magistrates' courts	97.9%	98.3%
Conviction rates in the Crown Court	82.5%	88.2%

The percentage is of total caseload; convictions include cases proved in absence and guilty pleas.



## **The inspection process**

- 1.15 Our methodology combined examination of 218 cases finalised between April and June 2001 and interviews with members of CPS staff at all levels, criminal law practitioners and local representatives of the criminal justice agencies. Details of the file sample are at Annex 1 and a list of people other than CPS staff who were interviewed is at Annex 3.
- 1.16 The inspection team consisted of HM Deputy Chief Inspector, two legal inspectors, one business management inspector and one casework inspector. It carried out its on-site work between 12 November and 30 November 2001. During this time the team was able to carry out observations of the performance of advocates in both the magistrates' courts and the Crown Court.

## **The lay inspector**

- 1.17 The lay inspector for this inspection was Gareth Williams. He examined files that had been the subject of complaints from members of the public and considered the public interest decisions in a number of finalised cases. He also visited the Crown Court and was able to speak to some witnesses after they had given evidence.
- 1.18 The views and findings of the lay inspector have been incorporated into the report as a whole, rather than separately reported. This is a valuable contribution to the inspection process. Mr Williams gave his time on a purely voluntary basis and the Chief Inspector is very grateful for his effort and assistance.

## **Overview**

- 1.19 The Area was reorganised into functional Units, two CJUs and one CCU, by February of this year in pursuance of the Glidewell initiative and has a relatively new Area Management Team (AMT). We sensed a positive energy about the new Unit Heads and we hope that combined with the experience of the CCP and ABM there will now be an impetus towards continuous improvement of the Area's own casework performance. There is a need for positive work with the other criminal justice agencies to improve performance and a determined approach led from the top that problems can be overcome.
- 1.20 Plans for co-location with the police under Glidewell are well under way and considerable effort and time is being put in by the management team and staff to achieve a smooth transition. The first move took place on 21 January 2002. There is close co-operation with the police and a generally positive attitude towards these changes. We were impressed by the work and commitment being demonstrated.
- 1.21 The Narey initiative is fully in place with Narey courts in each of the clerkships. Review and presentation of appropriate cases is undertaken by designated caseworkers (DCWs) and we received positive comments about their contribution. There are still some issues about court listing, which are the subject of negotiation with the magistrates' courts so that lawyers and DCWs can be deployed more effectively.

- 1.22 Our main concerns, arising from file examination, discussions and observations on site, relate to the lack of early, pro-active and effective review of cases. There is too often a failure to grasp and address key issues. The need for a robust and thorough approach is heightened by the relatively poor quality and timeliness of files provided by the police.
- 1.23 We were pleased to see signs of improvement in the quality of preparation of cases in the CCU. Nevertheless, there has in the past been some lack of drive to tackle and overcome problems and we were concerned that there had not been substantial progress in relation to many of the recommendations in the 1998 inspection report. Some of these are key to issues raised in this report and are therefore the subject of similar recommendations repeated here. We hope that managers and staff will focus on the continuous improvement of the Area's own performance and on tackling some of the shared problems within the county.
- 1.24 Co-location with the police should lead to improvements in communication and timeliness. However, much remains to be done to raise the quality of the prosecution as a whole and to improve, jointly with others, the efficient running of the local criminal justice system.
- 1.25 The Area displays a good sense of unity and team spirit. The word "camaraderie" was used to us more than once. This is an element that the AMT will want to build upon to carry through changes. Similarly the cordial relations with the other criminal justice agencies have in time enabled a successful joint initiative in tackling delays in the persistent young offender (PYO) system. We hope that the CPS will now lead the way in harnessing that co-operation to drive forward the improvements that all recognise as being required.

### **Structure of the report**

- 1.26 Our scrutiny of casework focuses on four main themes: provision of pre-charge advice, the review of cases, case preparation and case presentation. Chapters two to five examine each of these issues. We set out in relation to each of them what we were looking for and our findings. Chapter six looks at management and operational issues.

## **PROVIDING ADVICE**

### **Introduction**

- 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 police for ensuring that the right cases are being submitted for advice and that any advice informally given is properly recorded. It is important that CPS resources are focused on those cases that most require them. Care is needed to prevent factors leading to the submission of cases where the police should properly make the decision without assistance. Conversely the police should be encouraged to seek assistance in those cases where legal or evidential issues arise at an early stage and may influence the later handling of the case. Sometimes it may be appropriate to bring in counsel at an earlier stage than usual.
- 2.2 In the year ending September 2001, advice was provided to the police in 517 cases, representing 2.6% of the Area's caseload. This is lower than the national average. There is no formal agreement between the CPS and police to govern the types of case submitted. Fatal road traffic accident files are always forwarded for advice pre-charge. Our file examination revealed a number of cases that would have benefited from early advice.

### **Quality of advice**

- 2.3 We examined ten files to establish the quality of advice provided. The quality of advice given was variable. Some were reasoned whilst others merely confirmed the charge proposed by police. We considered that seven out of nine cases (77.8%) complied with the tests in the Code for Crown Prosecutors. We could not assess the appropriateness of the decision in one case.
- 2.4 Full explanations of the decision made were provided to the police in five out of eight applicable cases. One advice about a fatal road traffic accident provided no explanation for the decision made. We considered that the Code had not been applied correctly in two cases. In another case outside the sample, conflicts within the prosecution evidence were recognised, but led to a misapplication of the evidential criterion in the advice and the resulting prosecution inevitably failed.
- 2.5 The ability to give proper advice was hampered by instances of police omitting to put evidence in the file in support of the summary provided. In three cases where we considered contents were insufficient to advise adequately, further information was sought in only one.
- 2.6 In that case the prosecutor correctly declined to advise without more information. However, the prosecutor did not identify the further evidence needed, or specifically request information about the troubling aspects of the case.

### **Timeliness of advice**

- 2.7 The CPS nationally has agreed with the police a time guideline of 14 days for dealing with requests for advice from receipt of an adequate file. In five out of six cases where we were able to ascertain timeliness, advice was sent to the police within this period. The other files were not date-stamped upon receipt from police.
- 2.8 Advice logs kept by the Unit Heads disclosed that 60% of advices on one team and 55% on the other met the time guidelines. Three examples were 47, 70 and 78 days beyond the target period.
- 2.9 In order to encourage and facilitate the submission of appropriate requests for advice by the police the Area will need to ensure the timeliness of responses. The CJU Heads have put systems in place with a view to ensuring that advice is timely, but these are not yet fully effective.
- 2.10 We recommend that Unit Heads establish and monitor standards for written advice and actively review both quality and timeliness.**

### **Appropriateness of advice**

- 2.11 We found that it was appropriate to request advice in each of the cases in the file sample. There is currently a low rate of advice – 2.6% compared to the national average of 3.4%.
- 2.12 There is liaison in serious cases and we were told that pre-charge advice in such cases is often dealt with by way of conference rather than submission of papers. For the avoidance of misunderstanding, such advice should be confirmed in writing. Informal or telephone advice should be recorded on forms that are collated by the B1 administrator and added to the Area's performance indicators (PIs) monthly. The figures for both teams were low.
- 2.13 Some of the adverse cases (see paragraph 3.40 onwards) started off on a poor footing evidentially and did not make up ground. Submission for advice in appropriate cases pre-charge could enable an earlier grasp to be taken on cases which should proceed and lead to a decrease in those with adverse conclusions. In discussing such cases with police under joint performance management (JPM), the CCP and Unit Head will want to encourage police to request pre-charge advice where evidence is problematic or where additional lines of investigation are feasible.
- 2.14 We recommend that the CCP agrees with the police standards for advice files in relation to both the content and type of case sent for advice.**

### **Advice from counsel**

- 2.15 There were none of these in the file sample and it is not the practice of the Area to seek advice from counsel at an early stage. The Area has the benefit of an SCL to whom cases of major complexity and seriousness may be referred.

## REVIEWING CASES

### Introduction

- 3.1 We examined the quality and timeliness of the decision-making at various stages in the progress of the cases within our file sample and some that featured in our on-site observations. 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 aspects of the Code are the twin criteria for the institution or continuation of proceedings: first, there must be sufficient evidence to afford a realistic prospect of conviction; second, 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 proceedings rests, other than in exceptional circumstances, with 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 that should be subject to 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 cases that consistently attract a high degree of public concern e.g. discontinued cases, or those that have proved problematic and may 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 discharged by magistrates following consideration of evidence and a ruling that it is insufficient to justify committal to the Crown Court;
  - \* where all charges are dismissed by magistrates on the basis that there is no case to answer at the conclusion of the prosecution case;
  - \* where a trial judge at the Crown Court orders that an acquittal should be entered following a decision by the prosecution prior to the empanelling of a jury that the case should not proceed. These are called judge ordered acquittals (JOAs); and
  - \* 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. These are called judge directed acquittals (JDAs).

- 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 that have ceased to be viable.
- 3.5 We examine not only the substantive decision whether to prosecute but a number of ancillary decisions, such as whether 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 are shared with all prosecutors; and the soundness of its systems for recording decisions and reasons on files.
- 3.6 Assessing the quality of legal decision-making is difficult. Decisions frequently turn on legal or evidential issues that 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 assessment in relation to quality of decision-making therefore considers whether the decision taken was one that 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. Against this background, we set out our findings.
- 3.7 Throughout this chapter references to Area figures relate to the year ending 30 September 2001, unless otherwise stated.

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

- 3.8 We examined a random sample of 59 cases including guilty pleas, convictions and acquittals in the magistrates' courts, youth court and the Crown Court. In those cases where it could be ascertained, we considered that the evidential test was properly applied in 56 out of 58 cases (96.5%) and that the public interest test was properly applied in 56 out of 57 (98.2%). The national averages in our cycle of inspections to date are 98.7% and 99.8% respectively.
- 3.9 We had concerns about the quality of the initial reviews. They frequently failed to refer to or identify potential issues or evidential weaknesses or to result in decisions about the case. Timeliness was also variable, initial review notes occasionally being well after the first hearing date. The Area has since provided training on these issues.

## Continuing review

- 3.10 Continuing or further review was often not evidenced by endorsements on the inside of the jacket, although information was sometimes contained in correspondence on the file. Even when problems were identified, effective review was often left until the case went to the CCU after mode of trial had been determined, or a full file had been received for summary trial where the case remained in the magistrates' court.
- 3.11 Two main issues arise from this. First, the lack of immediate grasp on a file, compounded by late and poor quality file submission by the police, means that cases are not properly considered or evaluated so that they lack direction and simply drift through the system. Secondly, by not dealing with known or likely evidential weakness or other issues before receipt of a full file, the opportunity to take action before summary trial or committal is often lost. Adjournments, wasted court time and case failures result.
- 3.12 The ability to conduct a full review is clearly affected by the quality and timeliness of evidence provided by the police and this will be discussed again when looking at summary trial and committal preparation. Nevertheless, our file examination and other analysis plus factors such as the low guilty plea rate in the Crown Court and high acquittal rates, indicate the need for robust and meaningful early review.
- 3.13 We recommend that:**
- \* **prosecutors conduct adequate and meaningful initial and continuing reviews, addressing the Code criteria and issues in the case; and**
  - \* **Unit Heads adopt rigorous systems to monitor the quality and timeliness of review and review endorsements.**
- 3.14 Proper review of Narey files is hampered because the police are not consistently meeting the agreed timescales for delivery and a proportion only arrive just before the hearing. In addition, the contents of the files are incomplete, for instance witness statements may be missing. This may prompt the defence to seek adjournments and may well be a factor in the fall in the rate of first time disposals from 80% in the initial pilot period to a current rate around 50%. The Area intends to tackle this in conjunction with other agencies (see paragraph 6.32).

## Review and file endorsements

- 3.15 At review, the evidential and public interest criteria were recorded in 57.9% of cases, a figure which clearly can be improved upon. The standard of review endorsements in our file sample was variable. Narey reviews tended to be extremely brief. There were bare references to the Code criteria and sometimes no reference or endorsement at all. Further review endorsement was frequently missing. Out of ten cases lost in the magistrates' court, two had initial reviews which were barely legible, one being undated and unsigned. Whilst difficult to distinguish those endorsements made by lawyers and those by DCWs, we received favourable comment from the courts as to the DCWs knowledge and understanding of their files in court. The Area has disseminated the good practice promoted by the joint CPS/HMCPSI Good Practice

Committee, provided training, and set personal objectives for lawyers to address these issues.

- 3.16 Sometimes evidence of review is found in correspondence to the police, but there needs to be consistent use of the file jacket for review and out of court endorsements. Magistrates' court endorsements were better, records of case progress being made in 97.4% of cases.
- 3.17 It appeared sometimes that there had been discussions with police, but there was no clear note in the file. Court endorsements were not always clear and notes of trials, particularly where cases were lost, were rare and lacked detail.

### **Application of charging standards and selection of charges**

- 3.18 The initial police charge was correct in 46 out of the 58 cases in which it could be ascertained in our random sample (79.3%). The CPS amended the charge correctly in nine out of the 12 applicable cases (75%) at the earliest opportunity.
- 3.19 In one instance, where the evidence for a shoplifting charge was correctly queried at review, the charge was not withdrawn until the trial date on another charge, nearly seven months later. More broadly, in some of the adverse category cases late consideration of charge was demonstrated, and in a few inappropriate charges were selected.
- 3.20 The CPS and the police nationally have agreed charging standards for assaults, public order offences and some driving offences. In our random sample the police had correctly applied the appropriate charging standard to the 18 relevant cases.

### **Mode of trial**

- 3.21 Mode of trial guidelines were followed by the reviewer in 29 out of 31 cases (93.5%). This accorded with the views of local representatives of the courts that sufficient information was being given for proper decisions to be made.

### **Bail decisions**

- 3.22 In our sample, prosecutors had made the correct decision about whether to oppose bail in 16 out of 17 cases (94.1%). In all relevant cases they made proper decisions about the suitability of bail conditions.
- 3.23 The grounds upon which the prosecutor relied to oppose bail and grounds given by the court were clearly endorsed in 60% and 77.8% of appropriate cases respectively. Bail conditions were fully recorded in 12 out of 17 cases (70.6%). These are above the national averages recorded to date.
- 3.24 Some concern was expressed to us that agents are not always robust in their applications and that prosecutors might not always question the police decisions about bail and conditional bail, but this was not reflected in the file sample.



## **Discontinuance**

- 3.25 In the year ending September 2001 the Area's discontinuance rate was 11.8%, lower than the national average of 13.1%.
- 3.26 We examined 82 cases that were stopped by the prosecution in the magistrates' court in July 2001, specifically to ascertain the reasons for discontinuance and whether police were consulted.
- 3.27 The majority of cases were discontinued by formal notice under section 23 (51%). However these notices were often sent at a fairly late stage. Although we recognise that further statements or information may be required before full review can take place, we saw several examples of cases where the decision to discontinue could have been made much earlier.
- 3.28 The lateness of an effective review may be exacerbated by the file allocation system. Files are not routinely allocated to a lawyer unless there is a specific instruction on the file to do so, the defendant has pleaded not guilty, or correspondence has been received. We saw several examples of files marked 'allocate for review' both in the file sample and in the office. Often there was a delay in the allocation, this instruction appearing on the file several times. There was prompt allocation of committal and s.51 cases.
- 3.29 The police were consulted in 75% of relevant cases. Delay in full review led to delay in consultation. The police objected to two of the decisions to discontinue. Communication seemed problematic, with no responses to CPS requests and officers complaining they did not receive notification of intent to discontinue until it was too late to rectify problems. Systems for facilitating 'action dating' of files do not appear to be widely used. Requests to police were rarely chased until the cases were due in court again. Notably, in the one case where the CPS communicated with police via e-mail, a reply was received within two hours.
- 3.30 The Hertfordshire magistrates' courts produce monthly statistics on trial effectiveness, including cases where discontinuance takes place within two days of trial. They showed a fluctuating picture between January and September 2001, the highest being 15 in June and the lowest two in February. The average figure over the period is 8.5 cases per month.
- 3.31 We saw several files that would have benefited from pre-charge advice. In three cases (one of which is discussed below) both parties involved in an incident had been charged, contributing to the relatively high proportion of cases discontinued due to unreliable witnesses. In two of these cases the files had been submitted separately making it difficult for the CPS to make an informed decision on either case. However, there appeared to be little effort to marry cases together once a link was established.
- 3.32 The reasons for discontinuance are set out in the table below:

<b>REASON</b>	<b>No. of cases</b>	<b>%</b>
<b>Insufficient evidence</b>	<b>34</b>	<b>41.5</b>
Inadmissible evidence breach of PACE	0	
Inadmissible evidence - other reasons	0	
Unreliable confession	0	
Conflict of evidence	0	
Legal element missing	13	
Unreliable witnesses	10	
Identification unreliable	11	
<b>Public interest</b>	<b>16</b>	<b>19.5</b>
Effect on victim's physical health	0	
Defendant elderly or suffering significant ill health	2	
Genuine mistake or misunderstanding	1	
Loss/harm minor and one incident	0	
Loss/harm put right	4	
Long delay between the offence and date of charge or trial	0	
Very small or nominal penalty likely	5	
Informer or other PII issues	1	
Caution more suitable	3	
Youth offender	0	
<b>Unable to proceed</b>	<b>26</b>	<b>31.7</b>
Case not ready/adjournment refused	4	
Offence taken into consideration	0	
Victim refuses to give evidence or retracts	13	
Other civilian witness refuses to give evidence or retracts	3	
Victim fails to attend unexpectedly	4	
Other civilian witness fails to attend unexpectedly	0	
Police witnesses fails to attend unexpectedly	2	
<b>Documents produced at court</b>	<b>5</b>	
<b>Reasons not known</b>	<b>1</b>	<b>1.3</b>
<b>TOTAL</b>	<b>82</b>	

- 3.33 There were a high number of cases (13) where the prosecution was unable to proceed because the victim refused to give evidence or provided a withdrawal statement. Nine of these cases arose out of domestic violence incidents. In two of them, the victims made it clear from the outset that they did not wish to pursue any charges and in another case the victim refused to make a statement.
- 3.34 Thirty-four cases were discontinued on evidential grounds. Eleven related to problems with identification evidence. In five of these cases problems were not pointed out to police until several weeks after the defendant's first appearance, making it difficult for them to try and rectify problems. Four of the cases were document offences in which the defendant claimed he was not driving the vehicle when it was stopped.

### ***Quality of decision to discontinue***

- 3.35 We examined 25 cases in more detail to determine whether the Code tests had been applied correctly. The tests had been applied properly in 21 out of 25 cases. This is 84% against a national average in our cycle to date of 93.2%. Of the four cases where the Code was not applied correctly, two were on evidential grounds and two were on public interest grounds.
- 3.36 We considered that discontinuance only took place at the earliest opportunity in ten out of 21 ascertainable cases. This is 47.6% where the current average on inspections so far is 80.2%. This reflects our concerns about early decision making and direction of cases. In two cases, police had identified weaknesses and problems in the file submission, but discontinuance was not undertaken until they were raised again by police. In another case, two parties were both charged and separately prosecuted where there was no independent evidence. Discontinuance did not take place until police had already prepared a committal bundle on one and a second CCU lawyer had become involved.
- 3.37 We recommend that the Unit Heads ensure that timeliness and quality of decision-making in discontinued cases is improved and consultation with the police is undertaken.**

### **Adverse cases**

#### ***Foreseeability***

- 3.38 Our report on the Review of Adverse Cases (Thematic Report 1/99) found that in 31.8% of cases examined the adverse finding was foreseeable. In CPS Hertfordshire we found that the adverse finding was foreseeable in 18 out of 42 cases (42.8%) that we examined, and in 13 of these (31%) no remedial action was undertaken to overcome the difficulties or drop the case sooner. This is significantly higher than the average figure from our inspections so far.
- 3.39 The Area's self-assessment showed very low figures attributed to failure in the review process. The Area has acknowledged that these assessments were based on a narrow interpretation of the test, which was in general usage. It has now changed its tests in accordance with national guidance to include any aspect of CPS review or case management failure which is a contributory factor to the adverse outcome.

### ***Adverse cases in the magistrates' courts***

- 3.40 There was one committal discharged after evidence in our file sample. We considered that the decision to proceed on the evidence was correct and that there was evidence of further review upon receipt of a full file.
- 3.41 The Area's statistics show that in the year ending September 2001 the rate of cases where magistrates found no case to answer in summary trials was 0.1% against a national average of 0.2%. We examined six cases and found that the Code tests had been appropriately applied in all of them. The review endorsement made reference to identifiable weaknesses in two cases only. We considered that the reason for the acquittal was reasonably foreseeable in four of the six cases and that more should have been done to avoid acquittal in all four, but no remedial action had been taken.
- 3.42 Whilst onsite we saw one no case to answer at court. The evidence was thin and contradictory and the advocate anticipated the submission of no case to answer which was successfully made. The file demonstrated a poor standard of review and case management (including the adjournment of a pre-trial review (PTR) for receipt of a full file sent one month before) and reflected the combination of factors affecting casework quality discussed in this report.

### ***Adverse cases in the Crown Court***

- 3.43 The rates for judge ordered acquittals (13%) and judge directed acquittals (2.1%) are similar to the national averages of 13.2% and 2.2%. Other agencies told us that such cases occur infrequently and counsel took the view that the CPS was usually right to proceed in these instances.
- 3.44 We examined 30 JOAs and five JDAs. We found that the evidential test was applied correctly in 22 out of 27 JOAs where this was ascertainable (81.5% against 91.6%) and all of the JDAs. The public interest test was correctly applied in 25 out of the 26 applicable cases (95.8 against 99%) and all five JDAs.
- 3.45 We considered that the Code tests had not been applied correctly in one case that concerned an allegation of attempted burglary involving four youths where identification was clearly in issue for two of them but was inadequately addressed.
- 3.46 Agencies referred to witness attendance problems as being a major source of case failure and witness issues arose in 11 of 30 JOAs. Only four out of 13 (30.8% against 70.1%) cases contained witness reliability information and we found in several instances that the CPS could have been more pro-active.

### **Learning from experience**

- 3.47 We could not always trace adverse case reports for each of the files in our adverse case sample and, of those reports seen, we concluded that some needed to be more searching about CPS involvement at all stages of a case, not just its final demise. The CCU head looks at all the adverse case reports and keeps a monthly log for appraisal purposes.

- 3.48 Useful notes are entered at the back of the file by the CCU Head which are helpful to the individual lawyer but do not go further. There will sometimes be discussion at a team meeting. Successful cases are not promulgated. Either way offences will initially be handled by the CJU lawyers and they should not become de-skilled or out of touch with Crown Court work. There is therefore a need for a sharing of case outcomes and the lessons that can be learned within both the CJU and the CCU.
- 3.49 We recommend that the CCP ensures that adverse case reports contain sufficient information to identify the issues in a case and that lessons to be learned are shared across all Units.**
- 3.50 This will have even more importance once co-location under Glidewell takes place and teams are based apart.

### **Sensitive and aggravated offences**

- 3.51 The CPS recognises that certain types of offence require particular care and attention because of their sensitive nature. The principal categories are cases involving child abuse, domestic violence and racially aggravated offences.

#### *Child abuse cases*

- 3.52 A log of child abuse cases is kept in the CCU and cases are allocated to specific experienced lawyers and caseworkers. There is close liaison with a dedicated Child Protection Unit in the police. There is a very careful track of video interviews, which are maintained in a secure storage system.
- 3.53 In our sample there were two relevant child abuse cases, one of which was a judge ordered and the other a judge directed acquittal. In both cases the decision to prosecute was appropriate. Nevertheless, some judicial concern was expressed to us about the quality of the evidence within the video recorded interviews of children in cases involving sexual offences against children. The CCP may wish to monitor the preparation and case outcomes in these specific cases.

#### *Domestic violence cases*

- 3.54 We were told that the police operate a positive intervention policy and that alleged offenders are invariably arrested to remove them from the situation. Since these cases suffer a high subsequent retraction rate by the complainant, (see paragraph 3.44) officers have polaroid cameras to provide some immediate corroborative evidence. There were two recent cases where such evidence had been used.
- 3.55 We were also told that the CPS is pro-active in these cases. Witness summonses are sought in appropriate circumstances and reluctant witnesses are seen by the police Domestic Violence Unit to be satisfied that they have not been put under pressure.
- 3.56 Our own file examination provided a mixed picture. In one case, the prosecutor pursued evidence in order that the true offence of attempted rape could be reflected in the indictment (originally charged as harassment). On the other hand, in another case where the victim retracted, the prosecutor dropped the case at court even though there was independent evidence from the police officers of injury and trauma and the defendant made admissions in interview sufficient to pursue common assault.

- 3.57 The Area has worked with other agencies, including the Witness Service, in relation to domestic violence. Additionally, cases are monitored, but it is not clear how the information is used. The CCP will wish to ensure that there is a consistent and appropriate approach to these cases by the prosecution.

### ***Racially aggravated offences***

- 3.58 Racist incident monitoring is now being undertaken carefully. Our file sample revealed one form left on a file, but on the plus side it was the CPS who flagged the case as racially aggravated and put on the aggravated offence. The Area figures had been inaccurate last year, but with the assistance of the police, there has been a recount and accurate figures for the period have now been submitted to CPS Headquarters.

### **Youth justice and persistent young offenders**

- 3.59 Youth justice has assumed a high priority within the criminal justice system, with the government setting targets to improve performance overall. The target set is to halve the average time between arrest and sentence of persistent young offenders (PYOs) from 142 days to 71. For the year 2000, the Area's average was 130 days compared to 93 days nationally.
- 3.60 All the criminal justice agencies accept that Hertfordshire had a slow start in dealing with this issue. Once national statistics revealed poor performance by the county the external impetus drove a successful model of inter-agency working.
- 3.61 The PYO figures reduced to 81 days in April to June 2001 and then again to 66 days from July to September, which is a significant improvement. We understand the courts have set a four-week target from plea to trial. The Area has also established two lawyers as "champions" of youth justice work who review, conduct and co-ordinate this field of work. They intend to train specific agents in the conduct of youth courts to give continuity and consistency. They represent the Area at case progression meetings, which take place fortnightly for each of the three clerkships. The presence and influence of these two lawyers is seen as a positive step forward by other agencies. We **commend** the Area on this initiative.
- 3.62 The use of agents in youth courts is something the Area wishes to minimise and cease as soon as practicable. The use of agents, even where restricted to a regular small number, runs counter to the Trials Issues Group aspirations and an expression of intent given to the magistrates by the CCP. In the interim the Area will wish to ensure that there is always a CPS prosecutor at hand in another courtroom.

## **PREPARING CASES**

4.1 The value of good quality decision-making is limited if the subsequent handling of cases is not thorough and professional. In this section of our report we consider the performance of the Area in relation to specific stages in the progress of cases from institution of proceedings through to their conclusion. Some aspects of case handling relate both to magistrates' court and Crown Court cases, others only to Crown Court ones. They range from the provision of advance information, preparation of summary trials, compliance with prosecution obligations in relation to disclosure, preparation and handling of Crown Court cases to monitoring of custody time limits and general file management.

### **Advance information**

4.2 The prosecution is required to provide advance information in all either way cases and the CPS has indicated that it should be given within five working days of receiving the file and being notified of the defendant's solicitor. Under the Narey system it is the practice of the police to provide copies of the relevant material for the defence, apart from excess alcohol cases. The police are not providing copy videos promptly and this may be having an adverse effect on the throughput of early first hearing (EFH) cases. There are also delays in the provision of transcripts of tape recorded interviews, but this should not affect early case progress as the defendant is given a copy of the tape when charged.

4.3 In cases not subject to the Narey provisions, the CPS are generally given 14 days to provide advance information, which is intended to allow time for its consideration by the defence. However, material is very often provided on the next court date.

4.4 Records of material served were only evident on seven out of 49 files from our file sample.

4.5 Lawyers and caseworkers should retain assurance that all appropriate material has been served by recording material provided, particularly where there are issues over receipt from the police. They should also record on the file the material provided to the defence. We were pleased to note that the Area had recently introduced self-carbonated forms for this purpose.

### **Disclosure of unused material**

#### ***Generally***

4.6 We found that primary disclosure had been dealt with properly in 83.3% of cases and secondary disclosure in 59.1%. The Area recognises that there are problems with dealing with its statutory obligations to disclose unused material. External consultees echo this. The main issue is one of timeliness.

4.7 The files in our sample did not highlight the particular problem statistically, because the Area was serving most material within its own time guidelines, but late submission of full files by police meant that service was delayed in relation to hearing dates.

- 4.8 The standard of the schedules provided also has a bearing on the CPS disclosure duty. Where descriptors are inadequate, the MG6C is incomplete or matters are itemised on the wrong schedule, reference should be made back to the police for amendments to be made. This cannot be done if time will not allow unless adjournments are sought. This in turn affects the effectiveness of the trial date listing.
- 4.9 The police concede that they are not getting it right. There has been training but this may not have been at the right level. The police hope that the establishment of File Preparation Units with dedicated experienced officers dealing with all aspects of file preparation will improve the situation. These were expected to be fully operational by April 2002 and fully effective by October 2002.
- 4.10 The CPS has offered to assist with further training and we hope that this will be taken up. The timing may be right when co-location has taken place.
- 4.11 The Area will also wish to address its own handling of unused material. Our consideration of files showed that the duty of disclosure is not always handled well, particularly at the secondary disclosure stage. A joint working group was set up with the police to look at disclosure issues before August 2000 but there were no firm outcomes or an agreed action plan. The special casework lawyer was part of that group and the CCU Head who has taken over the responsibility will want to help revitalise it.
- 4.12 We recommend that the CCP agrees with the police standards of timeliness and quality in relation to the handling of unused material.**
- 4.13 Documentation in relation to unused material is not marshalled separately within files in accordance with good practice. There is no consistent practice in how or where unused material is kept on file and this cannot assist its effective processing. An Area working group is looking at file housekeeping generally and will no doubt want to include consideration of this aspect.

#### *Disclosure of unused material in the magistrates' courts*

- 4.14 Our sample showed that in the 49 cases where such was ascertainable, 11 MG6Cs required some amendment. Lawyers told us that in practice this does not happen due to the timescales involved, but that additional schedules were requested occasionally.
- 4.15 The prosecutors dealt with primary disclosure appropriately in the great majority of cases, but external consultees told us that primary disclosure is served late and this is the biggest cause of complaint by the defence. Further, there is a likelihood that the defence will then request two weeks for consideration of service of a defence statement, albeit these are rarely served in practice. The courts feel they cannot properly refuse and the consequence is adjournments, sometimes of the trials themselves. This adversely affects victims and witnesses and court listing.

#### *Disclosure of unused material in the Crown Court*

- 4.16 The Area uses a checklist as the case proceeds but it is not always completed, making it difficult to establish what has been sent as primary disclosure or when. In our sample, we found that appropriate letters regarding secondary disclosure were served on the defence in 54.2% of cases, service was timely in 68.8% and the prosecutor dealt



with secondary disclosure appropriately in 59.1% of applicable cases. These figures are below the national average.

4.17 Some concerns were expressed by external consultees about the timing of disclosure. We noted omissions including: not returning schedules for necessary amendment; not seeking a second MG6E from police; no schedules on file; no record of secondary disclosure letters to defence; very late service of unused material (leading to a wasted costs order); not noticing items missing from a schedule; and late actions taken in respect of unused material.

**4.18 We recommend that:**

- \* **the CCP develops an effective system for undertaking the duties of disclosure in all appropriate cases; and**
- \* **prosecutors and caseworkers use the standardised systems for recording decisions relating to unused material.**

### ***Sensitive material***

4.19 In some cases there is material that would normally fall to be disclosed but is particularly sensitive. This may result in an application to the court for non-disclosure on the grounds of public interest immunity. This type of material needs to be handled with appropriate care. No concerns were expressed to us by external consultees.

4.20 We understand that the Area organises early conferences with counsel where possible and counsel is involved in the decision-making and the continuing duty of disclosure. The CCU Head will want to ensure that there is effective teamwork and that decisions are carefully and securely noted, the more so when officers' understanding of what constitutes sensitive material may be limited.

### **Summary trial preparation**

4.21 We found some delays in the systems of file allocation to lawyers after the first hearing. This needs to be addressed, and systems of rostering for court and file allocation harmonised as far as is possible, to achieve continuity in lawyer file ownership, consistency and avoid duplication of effort.

**4.22 We recommend that the file allocation and ownership systems are reviewed to reduce and hasten file movement and optimise lawyer input.**

4.23 Each lawyer has racking for their cases but some had considerable backlogs. Different trays - urgent/summary trial/miscellaneous spilled over into each other. This added to the search time for administrative staff wanting to link correspondence or further evidence to files.

4.24 Unit Heads will want to ensure that file organisation systems achieve consistent and efficient file handling.

### *Evidential considerations*

- 4.25 We found evidence of further review on receipt of the summary trial file in only 35% of cases, and preparation was undertaken effectively in only just over half such cases. There were a considerable number of cases (38.5%) in which all appropriate actions were not taken before pre-trial review (PTR).
- 4.26 These findings endorse the need for early and effective review and a pro-active approach towards the management of cases. Omissions included enquiries about strengthening the evidence by obtaining further statements from officers who attended the scene and clarifying what evidence witnesses might give about ancillary aspects such as distress or injury. Additionally, few queries were raised about the way in which cases were dealt with initially or delays in arrest which might be undermining factors.
- 4.27 We recommend that prosecutors actively instigate further lines of enquiry in all cases where additional evidence is desirable to enhance the prospect of conviction.**
- 4.28 All consultees discussed with us the issues surrounding the provision of full files by the police and, in particular, medical and video evidence and transcripts of tape recorded interviews. The last is discussed fully under pleas and directions.
- 4.29 Medical evidence is not a pre-requisite for offences of assault occasioning actual bodily harm, nor should such cases be delayed for it unless it is an injury that cannot be established without medical evidence. However, it may be critical in determining the level of charge, for instance whether an injury constitutes grievous, rather than actual, bodily harm. We were told that there is reluctance by the police to obtain such evidence on their own initiative, and there are delays in obtaining evidence from doctors and hospitals. This has been an ongoing issue for a long time.
- 4.30 There is a national protocol between the Association of Chief Police Officers, the British Association for Accident and Emergency Medicine (BAEM) and the CPS. This provides an agreed framework for the obtaining of witness statements from staff at accident and emergency departments of hospitals for the purposes of criminal prosecutions and to facilitate the development of local service level agreements. The protocol agrees standards of statements which will be provided to the police by medical staff of appropriate qualification and experience within timescales agreed by the parties or set by the court. This document is a useful starting point in local negotiations to tackle the existing problem.
- 4.31 We recommend that the CCP seeks with the police and responsible medical authorities a service level agreement for the provision of medical evidence in prosecutions.**
- 4.32 The issues regarding video evidence seem to relate to police appreciation of its significance either as evidence or unused material and the need for its seizure and early revelation to the CPS. It may sometimes be needed at initial review if critical to the case. Where it is relied upon in evidence, it will reduce delay if a copy is available at an early stage. There may be some question of the formatting of these tapes and this is a matter for practical resolution.

- 4.33 The CCP agreed timescales and criteria with the police for the provision of video material through a service level agreement concluded at the time of the inspection.
- 4.34 The Area has introduced a trial check system two weeks before the due date for summary trial. A lawyer on each team works in the office for a week at a time reviewing forthcoming trials and goes through a check list to ensure the case is trial ready. In practice, the lawyer is having to do some quite substantial preparation work, including warning witnesses. It is a useful safety net, albeit not a substitute for timely preparation and we **commend** the initiative.

### ***Witness warning***

- 4.35 We have discussed under discontinuance the problems of witness attendance at court. Care needs to be taken to ensure that the witness warning system is effective. Two witnesses interviewed by our lay inspector were of the view that the witness availability forms completed by them had been ignored as the trials were fixed on 'dates to avoid'. Another witness was told that he would not be required to attend court, yet officers arrived at his home to escort him to court on the morning of the trial.
- 4.36 In most instances a preliminary witness warning is sent based on the initial file and then a formal warning when a full file is received. It is not clear upon which instruction or when the police act. Witnesses rarely acknowledge receipt of their warning on the reply slip and no steps appear to be in place to confirm attendance. Co-location should facilitate better communication but it seems that in any event a more reliable system is desirable.
- 4.37 File examination revealed that witness statements were appropriately served under s9 Criminal Justice Act 1967 in 83.3% of cases, and so there is some unnecessary attendance at court. A considered approach is needed to witnesses whose evidence should be used, tendered or agreed and the topic of witness warnings is on the agenda of the JPMG.
- 4.38 We recommend that**
- \* **the ABM works with police to secure robust witness warning and response systems; and**
  - \* **prosecutors give early consideration to those witnesses whom it is appropriate to warn for the prosecution, those to be tendered, and those to be served under the appropriate provisions.**

### **Pre-trial reviews**

- 4.39 Pre trial reviews (PTRs) are held across the county but are generally regarded as not very effective. The format varies between the clerkships but none seemed better than another. The cracked and ineffective trial rate is similar across the county.
- 4.40 The courts are unhappy because directions are not complied with, as the CPS is often waiting for papers from the police, and the defence is often without instructions. It is not uncommon for further PTRs to be set. PTRs are intended to identify issues, assess trial time and reduce the cracked and ineffective trial rate. The JPMG will no doubt

assess the effectiveness of different PTRs in tackling the cracked and ineffective trial rate.

### **Cracked and ineffective trials**

- 4.41 Cracked trials, those where late pleas occur or the prosecution is discontinued and the case is concluded without a trial, and ineffective trials, those which are adjourned, are of concern to all criminal justice agencies. They represent wasted resources, and considerable inconvenience for witnesses.
- 4.42 Statistics compiled by the magistrates' courts provide a breakdown of the reasons behind these outcomes and the Crown Court keeps records on a case by case basis. The magistrates' courts figures showed that 23% of these cases in September 2001 were related to the prosecution, including cases where witnesses failed to attend.
- 4.43 Crown Court cracked trial statistics are shared and meetings held between the CPS, police and the Crown Court. Nevertheless, cracked and ineffective trial rates in the Crown Court led the Resident Judge to raise the issue at the September meeting of the Area Criminal Justice Strategy Committee (ACJSC), expressing his concerns and the need for effective action. The Crown Court at St Albans has only four courtrooms and has to transfer some of its work to other court centres. Cracked or ineffective trials exacerbate the situation by wasting court time which could have accommodated some of the transferred matters.
- 4.44 The ACJSC felt that there had been a lack of commitment and drive in tackling the situation and the issue was passed to the local Trials Issues Group (TIG), of which the CCP is the chairman, to deal with. The CCP will want to ensure that the Joint Performance Management Group (JPMG) now tackles this vigorously. This Group comprises representatives of all the relevant criminal justice agencies and hopes to co-opt a local defence solicitor.
- 4.45 We are encouraged that the Area has now shown this commitment and the group will need to be focused and empowered to take action. In deciding its priorities it determined to concentrate on Narey cases, thereby starting with the beginning of the process.
- 4.46 TIG has circulated a system of joint performance management relating to caseload and ineffective trials in the magistrates' courts which has been successfully used in parts of the country. We urge adoption of this.
- 4.47 We recommend that the CCP works with the JPMG to address the cracked and ineffective trial rate in both the magistrates' courts and the Crown Court.**

### **Committal preparation**

- 4.48 All committals are prepared by the lawyers on the CCU and they usually undertake a preliminary review and request additional evidence from police before the committal papers arrive. We were impressed by the quality of some of these reviews and most cases at this stage evidenced more attention and care in preparation. One case received a commendation from the judge to all involved for their hard work and we could see that extra attention had been devoted to it. Another contained a well argued full review

note about the strength of evidence to prove the aggravating feature in a burglary case, albeit a plea to simple burglary was, in the event, accepted.

- 4.49 Some reviews failed to address the key issues. One case in our judge ordered acquittal sample of theft from employer showed Code tests incorrectly applied and little evidence of effective review or consideration of the issues. Another of offering to supply a class A drug contained no committal review or sign of file ownership on the part of the lawyer, where the CPS could and should have done more to affect the outcome.
- 4.50 Eight weeks are given for committal preparation but it is rare for the papers to be served on the defence two weeks before committal as intended. Papers are usually served the day before or on the day of committal and requests are made to adjourn for more time. Timeliness and quality in delivery from the police seem to be the main issues, but on occasions delays occur in requests being made to the police.
- 4.51 Our 1998 inspection report for Hertfordshire made a recommendation that the amount of committal preparation undertaken by caseworkers should increase. Latterly the Area had reduced caseworker numbers with some of the more experienced becoming designated caseworkers (DCWs), and the Area has no caseworker input to committals. The lawyers do all the preparation, with support staff doing pagination and photocopying. The Area intends to train the current caseworkers to assume responsibility for their part of the committal preparation package and at the time of the inspection a training package was awaited.
- 4.52 We recommend that the CCU Head sets target dates for the appropriate training and involvement of caseworkers in committal preparation.**

#### **Discharged committals**

- 4.53 At present, the Area experiences no committals being discharged because they are not ready. This might not be so in the future as we understand the magistrates are now more robust about adjournments and will be more inclined to discharge cases, particularly where extra time has been given.
- 4.54 The committal log only records up to the original committal dates set by magistrates. Any further adjournments are not shown and if a file does not come back after committal its disposal or progress will not be known.
- 4.55 We suggest that the committals log is extended so that a continuing record is kept indicating whether cases have been committed, discharged or adjourned.**

#### **Joint performance management**

- 4.56 The timeliness and quality of police files in Hertfordshire are an issue, together with the timeliness of review and preparation by the CPS. The CPS and the police nationally have agreed a system of joint performance management (JPM), the details of which are set out in Annex 4. In theory, in Hertfordshire the police and CPS retain a census system of monitoring full files and prosecutors should return a completed assessment form (TQ1) for all such files.

- 4.57 Nationally collated figures show that 68% of all full files and 66% of youth files were fully satisfactory or sufficient to proceed and within timescales. In Hertfordshire for the quarter ending June 2001 the respective figures were 61% and 65%. The return rate of TQIs was 64%. For the figures to be accurate the return rate should be 100%.
- 4.58 JPM has not received full commitment in the past by either party. However, no other system is in place to tackle the problem of timeliness and quality of police files, which undoubtedly exists. We welcome the commitment of the ABM and Unit Heads to revisit JPM.
- 4.59 We recommend that the CCP in conjunction with police:**
- \* **reinvigorates an agreed system of JPM with the appropriate return of TQIs; and**
  - \* **reinstates regular JPM meetings to discuss file quality and timeliness, and avoidable adverse cases.**

### **Section 51 cases**

- 4.60 Indictable only cases commence in the magistrates' courts, but are sent to the Crown Court at a very early stage under section 51 Crime and Disorder Act without any substantive consideration of the case by magistrates. Where necessary the magistrates will normally allow an adjournment for a week if the CPS is uncertain about the level of charge before the case is sent to the Crown Court.
- 4.61 Police attend the preliminary hearings. If difficulties are identified, the court is normally receptive and cases requiring medical or forensic evidence are usually given separate, longer dates for service of that material. It is generally felt that these cases are dealt with well as a whole and that the Area had worked well with other agencies in introducing the new system. The guidance produced by the Area has been circulated to other Areas and we welcome such an initiative and sharing of experience.

### **Instructions to counsel**

- 4.62 It is important that counsel instructed in the Crown Court receive comprehensive instructions in a timely manner.
- 4.63 Our findings in our random sample were as follows:

Instructions sent to counsel as per the CPS/Bar standard	21/26	80.8%
Instructions which contained a summary dealing with the issues	19/28	67.9%
Instructions which dealt with acceptability of pleas	6/15	40.0%

- 4.64 Timeliness does not seem to be a problem but in large, serious cases varies from being very early to very late.

- 4.65 Instructions we saw could be unduly brief, a result perhaps of exclusive use of standard paragraphs, and Area managers accepted that the standard is variable. One error that recurs is the incorrect recording of bail conditions, and alternative acceptable pleas are not dealt with as a matter of course.
- 4.66 Instructions to counsel should be succinct and accurately and comprehensively address issues and, where appropriate, the acceptability of pleas. This will help counsel to prepare the case thoroughly and to deal with any pleas offered by the defence.
- 4.67 Our consideration of adverse cases indicated a number of inadequate briefs and the appeal sample showed that just 50% dealt with all the issues. Conversely, we noted some commendable examples and one brief in a case of living off immoral earnings was of the highest standard.
- 4.68 We recommend that the CCU Head ensures that all instructions to counsel contain an adequate summary that deals with all the issues in a case and the acceptability of pleas where relevant.**

### **Indictments**

- 4.69 Indictments are drafted by lawyers and law clerks do not deal with indictments unless they are amended. All the indictments we examined reflected the gravity of offending and enabled simple clear case presentation. Only four out of 25 required any subsequent amendment. All but one indictment were lodged in time. This is good performance in comparison to other Areas and we **commend** the Area. The main issue is to ensure that where there are appropriate alternatives, these are included earlier, which could help improve the cracked trial rate in the Crown Court.
- 4.70 Occasionally multi-count indictments had some obvious errors that could be prevented by careful checking.

### **Custody time limits**

- 4.71 Custody time limit (CTL) provisions regulate the length of time an accused may be remanded in custody. Failure to monitor the time limits, and where appropriate make an application to extend them, may result in a defendant being released on bail who should otherwise have remained in custody.
- 4.72 Area managers told us there had been no recent failures, although there had been ‘a couple of near misses’ and staff had been reminded to make clear endorsements. We saw one file outside the file sample that had been marked for allocation and CTL action on three occasions without any action being taken.
- 4.73 We examined a total of ten cases subject to CTLs; five magistrates’ court cases and five Crown court cases, including the pre committal file where appropriate. The expiry date in a s51 matter had been incorrectly calculated as 112 days after the first appearance rather than 182 days. We also found two expiry dates incorrectly calculated in the magistrates’ court file sample, one as a direct result of an incorrect endorsement which is referred to below.

4.74 Level A2 caseworkers identify cases from endorsements made by lawyers in court. We found endorsements to be unclear in two of the magistrates' court cases. Incorrect instructions were given in another and could have led to a failure if the defendant had not been released on bail. The lawyer's initial endorsement indicated that the 70 day time limit applied as the defendant had been charged with robbery. However, as the defendant was a juvenile, and the case found suitable for summary trial, the 56 day time limit applied (R v Stratford Youth Court ex p. S. (a Minor)). Endorsements were clear in all of the Crown Court cases.

### ***Systems for monitoring***

4.75 A2 caseworkers calculate the review and expiry dates using the nationally distributed ready reckoner. There is, however, a variation on the initial and second review dates endorsed on the files across the three Units. The Unit Heads will wish to adopt a uniform system in the Area allowing sufficient time for any appropriate application to be made complying with the statutory notice requirements.

4.76 All CTL files are marked with red tape on the spine of the file jacket to distinguish them from other cases. The expiry and review dates are hand written on the front of files and highlighted. This could become confusing in cases with multiple defendants and charges which attract separate CTLs. The Area may wish to use a large coloured stamp for each defendant as recommended by CPS Management Audit Services (MAS).

4.77 All expiry and review dates are entered in a manual diary that is checked on a daily basis. SCOPE print outs are used to double check diary entries but are not solely relied upon. As cases are updated the result is entered into the diary. At the initial review date, the files are given to a lawyer to decide whether an application for an extension is required.

4.78 We saw three files in the Crown Court sample where an application to extend the CTL had been made. All three demonstrated good and sufficient cause to extend the CTL and that the Crown had acted with all due expedition. They had all been sent within the statutory notice requirements. Application for extensions had been made in cases where the CTL was due to expire shortly after the hearing date in anticipation that the case might not then be effective.

4.79 The CCU uses a CTL checklist that details all of the actions required at both review dates. It ensures that the extension is completed and that the case has been listed.

4.80 The endorsements in the magistrates' court files and the calculation of expiry dates need to be addressed but the systems are otherwise sound. We **commend** the CCU's use of the CTL checklist and the thoroughness of the drafting applications to extend CTLs.

### **4.81 We recommend that:**

- \* **CTL refresher training is delivered, including instructions for dealing with multi-defendant cases, further charges and youth defendants;**



- \* **the CJU Heads adopt a uniform system with written desktop instructions to assist staff and checks on the initial entries made by staff as recommended by MAS.**

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

- 4.82 After committal the B2 allocates cases to law clerks who are then responsible for the day-to-day running of the case and liaising with counsel. Logs are kept by them of their cases, including notes of counsel's fees. Care will need to be taken to avoid delays in allocation. The caseload is not heavy in comparison to other Areas.
- 4.83 The Area lost some law clerks with an adverse effect on court coverage. Four more law clerks have been recruited and the Area now has the capacity to cover courts on an adequate basis and send law clerks to other Crown Courts to which cases have been transferred. (Caseworkers from CPS Bedfordshire will follow their cases into St Albans.)
- 4.84 The increased capacity has not yet been appreciated by other court users. We saw no lack of presence, although we did on occasion consider that law clerks might be used more efficiently. There is a stated intention to use A2s for note taking and we would encourage their increased involvement in purely administrative tasks to ensure that key parts of trials are covered by law clerks. We saw one murder trial where a police officer was in court but the law clerk came and went and when present did not take any notes. An important period of legal argument was missed. In addition, Area managers will want to ensure that the care of victims and witnesses is given high priority.
- 4.85 Generally the law clerks were well spoken of, some being particularly commended for their work.
- 4.86 DCWs have continued to cover the Crown Court one day a week, but managers will want to reconsider the use of this essentially magistrates' court resource in the light of current staffing.
- 4.87 CPS lawyers appear at the Crown Court on most days, and so are accessible for counsel to contact there.
- 4.88 Higher court advocates (HCAs) are deployed by the CCU Head and additional work is identified by the CCU case progression officer. The Area has eight HCAs and managers will want to develop clear guidelines on the use of HCAs or counsel as appropriate.

### **Special casework lawyer**

- 4.89 The Area benefits from an SCL, who is also an HCA, of considerable experience. Specific types of cases are referred to the CCP in the first instance by the Unit Heads and the CCP allocates to the SCL. The SCL manages some cases, and others he may supervise or advise on.

- 4.90 The SCL is contacted direct on occasions by other CCPs about police operations in their Areas and by the police themselves. It is clear that his contribution is greatly valued by the police and his absence on secondment to CPS London has caused police to perceive an inconsistent methodology practised by others in regard to the early involvement of counsel in serious cases. These differences may be of form rather than substance but the CCP will wish to ensure the consistent handling of serious cases and that practices are clear to the police. There is also a balance to be drawn in case ownership to ensure that CCU lawyers continue to develop their skills.
- 4.91 We hope that the CCP will take advantage of the SCL's expertise in training programmes and liaison where we have made recommendations about case review and preparation.

### **Appeals and committals for sentence**

- 4.92 Appeals comprised 11.8% of the Crown Court caseload which is a little above the national average of 10.7%. Committals for sentence stand at 15.9% against a national average of 16.6%.
- 4.93 Appeals and committals for sentence packages are prepared by CCU lawyers and then put together by case progression officers. Instructions to counsel are prepared and typed, but the accompanying bundles and enclosures are not copied initially. Most of these cases are dealt with by the HCA who is in Crown Court on the day the matter is listed, but counsel may have to be briefed at the last minute if the court listing changes or precludes the use of the HCA. Area managers will want to balance resource savings and any risks.

### **Plea and directions hearings**

- 4.94 PDHs are designed to narrow the issues in a case and, if successful, reduce trial time and cracked and ineffective cases. Concerns were raised with us about the effectiveness of PDHs. These are of two types: oral and non-oral, the latter being a paper exercise conducted in the absence of the parties. Speed is of the essence and the PDH form must go from defence counsel to the prosecution and thence to the court within a stated time. However, the defence returns are late because they do not know who to contact for discussion, albeit the Area sends details of the nominated HCA to the defence solicitors and now includes the telephone number of a case progression officer as a contact point.
- 4.95 The recurring problem at oral PDHs is compliance with the order to agree summaries of the interview transcript. The police outsource typing of transcripts to ensure accuracy and save officers' time. The contractors frequently fail to meet deadlines. Interviews are often unfocused and very lengthy which complicates both typing and editing. The situation is adversely affecting other agencies and court listing.
- 4.96 **We recommend that the CCP agrees with the police a standard for the provision of records of interview addressing both timeliness and content.**

4.97 Compliance with other orders did not appear problematic. The Area has developed a new system to log PDH orders and chase up compliance. Where timeliness is not met, officers are required to attend court to explain the delay/non-compliance. This is believed to have contributed to the recent reduction in listings for mention and we **commend** the Area's approach.

#### **File endorsements and management**

4.98 The Area considers the file endorsement by law clerks to be good, but there was no comprehensive history of hearings, for example which counsel attended and when pleas were entered, on the file cover or on a log. Neither were file contents in systematic order. Correspondence was frequently not in date order. Documentation about unused material was not kept separately. Tracing what actions had been taken or what input a lawyer may have had regarding acceptable pleas was not always clear. Our random file sample showed that court endorsements were satisfactory in 23 out of 29 files (79.3% against a national average of 87.5%).

**4.99 We suggest that the CCU Head establishes a consistent form of housekeeping of Crown Court files including a standard log of court hearings/use of file cover.**

#### **Correspondence and typing**

4.100 There was unlinked post on one CJU team in part because of shortage of staff over a period of time. On the CCU in the absence of the law clerk concerned, post would wait. Delay in dealing with correspondence was an issue raised by external consultees.

**4.101 We suggest that the Unit Heads ensure that correspondence and further evidence is linked with files and dealt with timeously.**

4.102 Communication with the police was mostly hand-written on the CJU but typed on the CCU. Some carbonated hand-written memoranda were difficult to read. The amount of typing produced seems to depend on individuals' ability to use word processors and Connect 42. Some produced the majority of their work to police and defence solicitors on their computers, taking advantage of standardised formats; others' use was limited to internal e-mails. It is clearly desirable that lawyers and law clerks progress their computer skills as quickly as possible.

4.103 Hertfordshire Police have the appropriate accreditation for security purposes, but the electronic mail system has not been up-dated. As a result, there is little use of e-mail to communicate with the police. In view of current delays, the Area will wish to ensure that the e-mail system is made effective as soon as possible. When co-location takes place the cumbersome existing courier system with the police will be reduced in any event. Planning for co-location needs to take into account the placement of typists, workflows and the skills of staff to send their own concise communication on e-mail.

### **Providing information for pre-sentence reports**

- 4.104 The CPS has agreed nationally with the Probation Service that it will provide details of the case and the defendant's previous convictions where magistrates order a pre-sentence report, or the defendant is committed to the Crown Court. This information assists the Probation Service in preparing a balanced report for the court for sentencing purposes.
- 4.105 The magistrates' courts are attempting to increase the use of Specific Sentence Reports to hasten the throughput of early first hearings (EFHs). There is also an introduction of re-using PSRs written within the previous three months, where appropriate, allowing for an update if necessary.
- 4.106 Where it could be ascertained, we found that PSR packages were provided to the Probation Service in 11 cases out of 17 (64.7% compared to 85.8%) in our random sample. Unit Heads will wish to ensure that this obligation is complied with in all appropriate cases.

**PRESENTING CASES**

**Advocacy standards**

- 5.1 Advocacy and case presentation in the courts is the public’s opportunity to see representatives of the CPS and assess the performance of those who prosecute on their behalf. It is the most visible function of the CPS and its quality has to be assured. Any assessment must be measured against fixed advocacy standards and the inspection team uses the CPS National Standards of Advocacy.
- 5.2 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. Every advocate observed by the inspection team was assessed against as many of these categories as possible.
- 5.3 The Inspectorate has introduced five assessment levels in order to measure performance against the National Standards. The middle box (level 3) indicates that an advocate meets the normal requirements of the grade in key areas set out in the preceding paragraph. Experience shows that the vast majority of advocates fall into this category. We have therefore sub-divided it in order to give a better indication of the range of performance. Inspectors assess advocates as being in the upper end of the middle box (3+) if they are above average in some respects and at the lower end (3-) if they are lacking in some aspect of their presentation. The definitions used for each marking are as follows:

<b>Marking</b>	<b>Definition</b>
1	Outstanding
2	Very good, above average in many respects
3+	Above average in some respects
3	Competent in all respects
3-	Lacking in presence or lacklustre
4	Less than competent in many respects
5	Very poor indeed, entirely unacceptable

- 5.4 During our inspection, we observed a total of 27 advocates, including CPS lawyers, agents and DCWs in the magistrates’ courts, and a CPS lawyer, HCAs and counsel in the Crown Court.

**Court coverage in the magistrates’ courts**

- 5.5 It is important that lawyer managers should undertake some advocacy. They can monitor casework quality and administration more effectively, build positive relationships with other court users and improve the standing of the Area. We were pleased to note, as recommended in the Glidewell report, that the CCP regularly

undertakes advocacy in both the magistrates' courts and the Crown Court. All the Unit Heads should ensure that they prosecute cases in court to maintain a senior management profile.

- 5.6 The Area has recently taken counsel agents on three months contracts to undertake advocacy each day. This has released in-house lawyers to conduct trial checks (see paragraph 4.34). We received positive feedback about this, as the agents deployed developed greater familiarity with CPS practices, and more effective case presentation.
- 5.7 The Area prioritises deploying its in-house lawyers in the youth court, Narey courts and remand lists, although some lists also include summary trials.

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

- 5.8 We visited all magistrates' courts in the Area and observed advocates conducting the range of magistrates' and youth court lists. We saw 14 advocates comprising CPS lawyers, agents and DCWs. Our findings on standards of advocacy were as follows:

<b>Marking</b>	1	2	3+	3	3-	4	5	Total
Crown Prosecutors	0	0	0	7	2	0	0	9
DCWs	0	0	1	0	0	0	0	1
Agents	0	0	1	2	1	0	0	4
<b>Total</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>9</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>14</b>

#### ***Crown Prosecutors***

- 5.9 Most of the advocates presented their cases competently and with assurance. The Area has a number of experienced advocates and the majority were well prepared or able to assimilate information quickly to deal with cases transferred from other courts. In particular, we noted advocates who demonstrated sensitivity towards witnesses in two trials. However, two of the advocates observed were lacklustre or lacking in presence.
- 5.10 Other criminal justice agencies considered that the standard of advocacy was variable. Some advocates were insufficiently robust in resisting defence applications for adjournments which were not necessarily justified. The decision is one for the court, but the prosecution should play a positive role in seeking to avoid delay. Whilst some lawyers were committed to trying to progress cases, others were not prepared to make decisions because they were not the allocated lawyer. This resulted in further delay and demonstrates the lack of casework responsibility referred to earlier in the report.

#### ***Designated caseworkers***

- 5.11 DCWs normally prosecute straightforward cases where a guilty plea is anticipated, having previously reviewed those cases at the police station. The Area has four DCWs and we received universal praise regarding the standard of case presentation.

5.12 The DCWs were regarded as confident and well prepared. Our court observations confirmed this view and we noted one DCW who was above average in some respects and demonstrated sensitivity in dealing with a sentencing matter where the victim had attended court.

**Agents**

5.13 Most of the Area’s agents are junior counsel. The Area also instructs local freelance solicitors, one of whom has previous CPS experience. We observed four agents and found that two were satisfactory in all respects and one was above average. However, we found that one was lacking in presence and demonstrated ignorance of the rules of evidence in one of the trials observed.

5.14 Crown Prosecutors occasionally return to the office at the end of the morning session leaving agents to complete remand lists. This could result in no CPS presence in the court building and accordingly lead to further delays because of the agents’ inability to make decisions. The use of agents in remand courts has resulted in inadequate file endorsements and witness warning failures. Some agents either collect their papers late or arrive late at court, thereby being ill-prepared or adversely affecting other court users. Particular concern was expressed to us regarding the use of agents in youth remand courts. The Area has no formal induction process for agents, although training is planned for those deployed in youth courts.

**5.15 We recommend that the CCP introduces appropriate systems of induction or training for all external lawyers to be completed before they are deployed as CPS agents, particularly in youth courts.**

**The quality of advocacy in the Crown Court**

5.16 We observed ten counsel, two HCAs and one Crown Prosecutor in the Crown Court. Our findings were as follows:

Marking	1	2	3+	3	3-	4	5	Total
HCAs	0	1	1	0	0	0	0	2
Crown Prosecutors	0	1	0	0	0	0	0	1
Counsel	0	0	2	8	0	0	0	10
<b>Total</b>	<b>0</b>	<b>2</b>	<b>3</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>13</b>

**Higher court advocates and Crown Prosecutors**

5.17 The Area has eight HCAs with full rights of audience in the Crown Court, including the CCP, CCU Head and SCL, and others distributed between the CCU and CJU. The standard of presentation amongst the HCAs is regarded as satisfactory, and in some cases very good, and their presence as a welcome development.

5.18 We observed two HCAs conducting cases at the Crown Court, and found them above average in some or many respects.

- 5.19 Crown Prosecutors from all Units conduct preliminary hearings and bail applications in the Crown Court. Their performance received favourable comment from other court users, endorsed by our own observations.

### *Counsel*

- 5.20 We observed ten counsel of different levels of seniority. Eight were competent in all respects and two were above average in some respects.
- 5.21 We were told that the quality of advocates was very good in the majority of serious cases, and variable in other cases, but that the Area regularly instructed one or two advocates who were not of the satisfactory standard. As a consequence, the conduct of less serious cases could be adversely affected on the occasions when complexities arose. We observed experienced counsel in one serious case whose presentation was less assured.

### **Returned briefs**

- 5.22 When counsel originally instructed is unable to conduct a case, different counsel has to be instructed. This is known as a returned brief.
- 5.23 We found that seven of the 21 counsel originally instructed appeared to prosecute at trial, and trial counsel appeared at the sentencing hearing in two of the ten relevant cases. Albeit unsatisfactory, in our experience this is a similar rate of returned briefs as other Areas.
- 5.24 Provided returns are timely and to counsel of sufficient ability there is not necessarily a problem. However, we were told of examples where the brief had been returned shortly before the trial in serious cases, sometimes after many conferences, with adverse results. We were also told of other cases where replacement counsel had been effective. This is a topic that would benefit from discussion at quarterly meetings with chambers.

### **Monitoring of advocacy standards**

- 5.25 We have commented upon the importance of monitoring advocacy standards in our thematic review on advocacy and previous reports. Effective monitoring is of benefit not only to the individual concerned but also to the Area as a whole, as it reinforces good performance and identifies training needs.
- 5.26 The Area's Annual Certificate of Assurance for 2001 provides that the CCP and Unit Heads will undertake advocacy monitoring of prosecutors, agents and counsel. Written feedback is sought from the Bench Chairmen and Magistrates' Court Clerks, on an exception basis and we saw some letters received from them with helpful comments. At the Crown Court, caseworkers and HCAs should monitor counsel through a process of feedback, but we were not made aware of any current monitoring being carried out. Occasionally adverse feedback was received which did not appear to have resulted in remedial action being taken.
- 5.27 We recommend that the CCP and Unit Heads monitor all prosecution advocates regularly to ensure consistently good standards of advocacy.**



## MANAGEMENT AND OPERATIONAL ISSUES

### Management of the Area

- 6.1 Hertfordshire has a very strong local economy with very low levels of unemployment. This is believed to affect ability to recruit and retain more junior staff. Senior management is therefore keen to see London weighting applied to Hertfordshire.
- 6.2 As previously mentioned, the Area has a comparatively new management team, appointing two Unit Heads from outside the Area in February 2001.

### *Leadership*

- 6.3 The CCP takes the lead on strategic and legal issues, whilst the ABM manages administrative tasks and operational matters. They are both involved in a variety of liaison groups with other criminal justice agencies.
- 6.4 There are signs of improvements in some aspects of drive to implement change. We have mentioned the successes in youth case disposals and co-operative planning for co-location in the last six months. We received feedback from other agencies that it has been difficult to persuade the CPS to engage in joint initiatives to improve performance or to tackle problems relating to file quality, pre-trial reviews and cracked and ineffective trials both at the magistrates' courts and the Crown Court. On the other hand, current initiatives, such as the inter-agency meeting organised and held by the CPS on 10 December 2001, were encouraging.
- 6.5 We recommend that the CCP actively pursues development of a more connected strategic programme with other CJS agencies.**
- 6.6 The Area sometimes appears to have difficulty in balancing empowerment and consensus management. We observed an example of delay in implementation of a new initiative as the operational managers persuaded the CCP of the benefits of the change. Greater clarity is needed as to the level of individual roles/authority so that managers gain the confidence to implement their ideas more effectively.
- 6.7 Those who have been in the Area for some time tend to take a more conservative approach to change. Whilst differing views and discussions are healthy, care needs to be taken that this is not perceived as a lack of cohesiveness.
- 6.8 Senior managers are trying to address some cultural attitudes. They believe that some progress has been made, but some staff are still resistant to change and our inspection confirmed this.
- 6.9 The membership of the Area Management Team (AMT) has recently been changed to include all level B managers. They view this positively, feeling better informed and able to contribute more. Meetings are held regularly to look at past and current issues, and to plan for the future. Minutes of meetings are circulated to staff and line managers are responsible for the flow of information.

- 6.10 The Unit Heads and ABM are involved in a wide range of meetings, many of which involve all four. While recognising that there may be differing issues for each of the Units, we consider that the attendance of so many managers is not always necessary or an effective use of time.
- 6.11 We recommend that the ABM and Unit Heads review their commitments to prioritise which meetings need to be attended and by whom.**
- 6.12 This should help the ABM to focus his efforts on the issues that need his attention most. We consider that his workload is very high, and delegation or sharing may help to reduce this.
- 6.13 Overall, the new management team has made progress, particularly on operational issues, but still has some way to go to become a cohesive, dynamic team driving forward strategic and tactical change.

### ***Strategy and planning***

- 6.14 The Area has developed a business plan, which follows the format recently adopted by most other CPS Areas. There are some local aims and objectives built in to the plan. The plan itself is fairly high level, and therefore contains limited detail as to the actions necessary to meet objectives. We were pleased to note that there are reviews of progress against the plan in a number of AMT meetings.
- 6.15 The Area has undertaken a self-assessment against the criteria of the Business Excellence Model (BEM). This involved workshops including a cross section of staff (facilitated by MAS). This produced a document indicating staff and management perceptions of Area performance. There were many areas of common understanding and a few where staff perception was somewhat different from that of managers. The Area was about to develop team based improvement plans. Managers are keen that staff should have the opportunity to be involved in plans and hope the Area Sounding Board (ASB) and level B managers will drive the initiative forward. We **commend** the Area for its commitment to this process and hope that early progress can be made, despite the current lapse in frequency of meetings and level of staff interest.

### ***Organisational structure***

- 6.16 Area implementation plans for co-located units are well advanced. As a forerunner to staff divided into functional teams at the beginning of the year, having conducted preference exercises for the allocation of lawyers and administrative staff to the units. There will be annual preference exercises followed by limited rotation to minimise disruption.
- 6.17 Some features of the structure vary from other similar Areas. These relate mainly to proposed reporting lines of the CJU Heads and the DCWs. The level D CJU Heads will report to the level E CCU Head. The CCU Head will also directly manage the Central CJU located at St Albans, although there are plans to appoint a level D Head of the Central CJU in 2002. Whilst a number of CPS Areas have Unit Heads that report to a level E and not direct to the CCP, it is most unusual for the 'functional' line to be crossed, particularly in a relatively small Area.

- 6.18 The decision to have the DCWs, who will normally spend at least four days a week in the magistrates court/police station, reporting to the CCU Head is also unusual. This partly reflects their expressed preference to be based in the St Albans office. We understand that this may be reviewed once it is known whether a police initiative which would lead to a substantial increase in traffic offence cases is to take place. These additional cases would normally be handled by the DCWs and could lead to them being fully occupied with magistrates' court work.
- 6.19 There is some risk that the CCU Head could become too involved in CJU matters and care will be needed to ensure that she can devote the appropriate time to Crown Court activity. The B2 casework manager who is based in the CCU will also be responsible for managing the administrative functions in the CJUs and so could face the same challenges. The Glidewell project plans call for a post implementation review in late April, and we would encourage the Area to pay particular attention to organisational and structural issues.
- 6.20 Co-operation between the teams is good. The possible tension between the DCWs and other members of staff is commented on in the 'management of human resources' section of this report.

### ***Glidewell***

- 6.21 After a cautious early approach, the Area has made very good progress in the last six months. It has sensibly tried to take advantage of the experiences of those who have already achieved this major change, through a mixture of consultation and site visits. It has also been greatly helped by the police appointment of a dedicated project manager with no other responsibilities during his 24 hour week.
- 6.22 The ABM has been primarily involved for the CPS, but is now receiving considerably more assistance from other staff as the detailed processes, systems and operational matters are finalised.
- 6.23 Project management disciplines have been put in place; there is a Steering Group, an Assurance Team and an Implementation Group, each with its own defined responsibilities. Project plans, GANTT charts and risk analysis have all been completed and are of a higher standard than most we have seen elsewhere.
- 6.24 Most staff were happy with the levels of communication received about progress, although understandably a little anxious that there are still a number of 'unknowns' in the ultimate effect on them.
- 6.25 The CJUs will not be structured identically, due to practical difficulties in deploying administrative staff in both organisations. Most of the CPS administrative staff have opted to remain at St Albans requiring some redistribution of tasks in the co-located units.
- 6.26 The first CJU went live in Hertford on 21 January 2002, with the others to follow. Much of the detailed work is still to be completed, and the ABM and Unit Heads will need to ensure normal operational efficiency is not disrupted as staff increasingly devote more time to Glidewell.

- 6.27 Since July, when the project began in earnest, there has been a genuine commitment and a lot of good co-operation to enable the project to reach its current position. Any occasional differences between the police and the CPS are discussed in an open, honest way – this is seen as a strength of the team and should ensure that any difficulties are addressed appropriately.
- 6.28 Overall the Area is now making good progress and we **commend** its efforts.

### ***Performance management***

- 6.29 The Area had a mixed performance in the last financial year in meeting the key targets set by the CPS, and was rated as mid range in terms of risk assessment. Whilst recognising that there have been some new initiatives in the current year, it is disappointing that a number of targets were set at a lower level than the achievements of the previous year or at the time of the 1998 inspection report.
- 6.30 There was some effective performance data collection and analysis, although the range of information was not comprehensive. Management understanding of performance is based mainly on compliance with CPS targets and the absence of overt negative feedback. Some discussion on performance against targets and adverse cases is usually held at AMT meetings.
- 6.31 Among the less common measurements are the ratio of available time spent in court by individual prosecutors, and some good detailed analysis of the early first hearing (EFH) process.
- 6.32 A much more cohesive approach to the collation and analysis of performance data, both internally and amongst the CJS agencies is needed. There has been a lack of sharing or involvement in key performance data held by one or other of the agencies, such as cracked and ineffective trials and EFH outcome data. We are pleased that there are now JPMG meetings involving representatives of the major local agencies. As a recently formed group it is still developmental and during our inspection it was agreeing its purpose and agenda and had determined to examine the handling of Narey cases, as a priority. It will be a useful vehicle for data consideration.
- 6.33 We recommend that the ABM encourages the JPMG to agree:**
- \* **what key performance data is needed;**
  - \* **how this will be collected;**
  - \* **who will collate the information; and**
  - \* **how it is to be shared with partners in the CJS.**
- 6.34 Internally, the Area reviews PI data, but this could be more focused. A wide range of figures and graphs are available, but we could not identify how these were used to effect necessary improvements. Staff have worked hard to produce the data, and we encourage development and decisions upon:

- \* key data;
- \* how it should be reported;
- \* what represents good performance; and
- \* how to use the data to improve performance.

### **Management of financial resources**

- 6.35 The Area was slightly over budget in the last financial year. The payroll budget was underspent by approximately £20,000, but the general administration expenditure was £40,000 more than budgeted. This was mainly due to higher than anticipated costs for couriers, DX and travel and subsistence. A substantial amount of this expenditure relates to cases transferred out of the Area. Towards the end of the inspection alternative accommodation options were being considered by the court which could reduce the frequency of transfers if taken up. Additionally, monies were transferred from prosecution to running costs in March to correct some mis-coding of agent expenditure. We trust that this was as a result of identified errors.
- 6.36 A sound accounting system for actual and committed spend, for payroll and general expenditure has been introduced this year. Spreadsheets are maintained in the secretariat and are reconciled with actual numbers. A monthly report is issued by its B1 that highlights performance by account line together with some potential reasons for any variation.

### ***The current year***

- 6.37 The Area had benefited from an extra £57,400 in the first round of Performance Improvement Plan (PIP) bids, which was granted to improve PYO performance and fund some casual staff. A further £39,000 was granted in the second round of bids to enable pre trial checks to be implemented, although the amount was less than the Area had hoped to receive.
- 6.38 There was also a substantial increase in running costs funding in the current financial year – 21.7% above last year’s actual spend. However, there is some concern that the pay settlement and London rates of pay could compromise the budget if no additional central funding is made available. The latest projection from the ABM suggests that without any extra central funding, the Area may overspend by around £130,000. This corresponds closely to the additional costs of the pay award.
- 6.39 Thus, whilst the AMT had agreed to increase staff by four lawyers, three law clerks and seven administrative caseworkers, and the recruitment of additional staff is well under way, the recruitment of one lawyer has been deferred.
- 6.40 The combination of additional staff and agent money from PIP bids has resulted in a reduction in court attendance by prosecutors. However, we did not see a corresponding improvement in the review and preparation of cases.

**6.41 We recommend that the ABM reviews the policy on agent spend to:**

- \* **minimise the risk of overspend; and**
- \* **identify the performance improvements/added value achieved if high spending continues.**

***Agents***

- 6.42 The spend on agents in the magistrates' courts was £103,263 in the last financial year, although the majority of this did not appear on the appropriate accounting line until the end of the financial year. This is linked to a need to journal money which has been charged to an inappropriate account.
- 6.43 Like a number of other CPS Areas, Hertfordshire deploys a considerable number of counsel agents to deal with 'special' trials in the magistrates' courts. Any full day trial is debited to this budget head (3010) which forms part of the prosecution costs of the budget and is therefore not cash limited. Some costs inappropriately billed to code 3010 were journalled to the correct code at the end of the last financial year. The spend on 3010 reduced from £150,000 in November 2000 to £129,000 by the end of March 2001.
- 6.44 However, the practice of using the 3010 account inappropriately has continued and all trials of one day or more are targeted for this account. The Area needs to review this policy in light of guidelines issued by CPS HQ on 3 December 2001.
- 6.45 Despite the substantial increase in budget and staffing levels, spend on "normal agents" still increased significantly. By the end of October 2001, expenditure had reached £94,941. It is accepted that much of the agent money comes from PIP awards and is therefore not for this purpose.

***Fees***

- 6.46 The B1 caseworkers are responsible for most standard fees. As with many Areas, case management plans in big cases are either not of the highest quality or not completed until late in the process. This has led to some cases being dealt with on an ex post facto basis.
- 6.47 We were informed that there was a backlog of fees to be settled, although the cost of these was unclear. The newly promoted B2 was taking steps to clear the backlogs, although encountering some difficulty in establishing what had already been paid in some instances, as some cases were two or three years old. The ABM will want to finalise clearance of the backlog as soon as practicable.

**Management of human resources**

- 6.48 The Area is recognised as an 'Investor in People', having received accreditation from the National Recognition Panel of Investors in People UK in March 2000.

### ***Deployment of staff***

- 6.49 Until recently, prosecutors in the CJUs have routinely spent four days in court. This situation has improved with additional funding, and staff now get more office days. Apart from clear improvements in PYO performance, as we have mentioned it is difficult to identify other tangible performance benefits as a result.
- 6.50 Staff from the CCU regularly support their colleagues in the CJUs by prosecuting in the magistrates' courts and this is indicative of the good working relationships which exist between the teams.
- 6.51 There was a problem at the time of the inspection regarding the deployment of DCWs on their 'non-court' days. Differences of opinion as to what the DCWs should do to support the CCU had led to some tensions. Area managers have told us that the issue has since been resolved.
- 6.52 Additional recruitment of law clerks has enabled an improvement in terms of court coverage. Whilst the new staff are still less experienced, the Area has been able to deploy three staff to the Crown Court on Tuesday, Wednesday and Thursday, with four on Monday and Friday.
- 6.53 The Area had hoped to secure two places on the HCA development programme but has been granted one. It already has a relatively high number of HCAs for its size. Reasonable use is made of CPS resources in the Crown Court, with staff covering preliminary hearings in s51 cases, a few PDHs and some bail applications. HCAs present most appeals against conviction and sentence, and committals for sentence. After a slow start the Area was confident that it would meet its target of 200 HCA sessions by the end of March 2002. We commented earlier about the need for Unit Heads to be regularly involved in advocacy.

### ***Training***

- 6.54 The Area has had a positive commitment to training supported by a structured approach. There is a detailed training plan which is annually reviewed and training is often discussed at AMT meetings. The Area has an Area Training Officer (ATO), managing an Area Training Committee (ATC) and supported by the Regional Training Committee. The ATO, however, is a lawyer and consequently has an already heavy timetable. It has helped to have the Regional Training Officer based on site, although this is likely to change soon.
- 6.55 Personal Development Plans are used to identify regional and Area training needs. There has been some liaison through the family group on training issues, and we would encourage the ATO to widen her network of contacts with other CPS Areas.
- 6.56 Some staff felt that the Area has relaxed its training efforts following the successful IIP assessment. However, most experienced staff are reasonably happy that their basic training requirements are met, with the appropriate level of formal and 'on the job' training. The perception of most staff in new roles is a little less positive.

- 6.57 Induction training attracted mixed views although most staff are pleased that mentors are habitually made available. There are limited desk-top instructions to assist with procedural concerns. We have made a recommendation in this regard. The Area tends to rely on the national induction package and has no formal system to deal with local issues. It was finding it difficult to obtain places on formal central induction courses.
- 6.58 We suggest that the CCP reviews the training programme in particular regarding:**
- \* **local induction;**
  - \* **further training in the effective use of IT;**
  - \* **wider management training; and**
  - \* **better evaluation of training.**
- 6.59 The Area has not been able to achieve much joint training with the police, although there are plans for some in the new year. The Area had planned to conduct a training seminar for agents by October, but it was still outstanding at the time of the inspection.
- 6.60 A major challenge for the Area in the near future will be the re-training of staff as the CJUs and CCU become fully co-located, with revised operating procedures.

### ***Communication***

- 6.61 Concerns raised in the summer occasioned an Area meeting to discuss communication. The DCWs, for instance, were not apprised of the EFH outcome analysis but generally most staff are reasonably happy about the level of information provided. It includes team meetings, minutes and electronic mail with newsletters on Glidewell issues. The minutes of some meetings are distributed to staff in hard copy instead of using the Connect 42 facility, which would be more convenient. Team meetings are being held regularly. Some meetings in the Area have very large agendas. This can be intimidating and can diminish their effect.
- 6.62 Managers will want to ensure they are selective in identifying formal agenda items.
- 6.63 Most staff are happy about the approachability of management, which is encouraging. There is an active Whitley Council and quarterly meetings are held.

### ***Managing absence***

- 6.64 The Area has developed a sound system to record and monitor sick absence. The secretariat maintains details of absences in a log, which is aggregated on a cumulative rolling six months basis. Formal discussions have taken place with staff who have reached or are approaching the limits recommended in CPS personnel guidelines.
- 6.65 Annual leave is giving rise to some concern for a number of staff. Traditionally the Area has adopted a first come, first served system for booking leave allied to a limit on the number of staff absent at any one time. People had been booking leave two and three years in advance for peak holiday times and this was leading to some staff being



disadvantaged. Management have recognised the problem and intend to have discussions through the Whitley Council.

- 6.66 Operationally, the flexi-time system is working satisfactorily. The abolition of core hours has caused a few problems, particularly on one CJU. All Units need to maintain cover to deal with late operational matters. However, one CJU receives a final court list significantly later than the other Units and so always has extra basic work to do. Staff have agreed a roster system to deal with the 'late' lists. The same practice is not necessary on the other teams as the lists are received earlier. This is perceived as 'unfair'. Managers will need to work with the individual court to improve the timeliness of the receipt of final lists.
- 6.67 The secretariat maintains a central automated diary system for annual leave. However, other types of absences are not consolidated into the one system. Managers authorising annual leave may have a false impression of staff availability.
- 6.68 We suggest that the ABM ensures that all absence data is consolidated into the central diary system to manage staff levels.**

#### **Selection and instruction of agents**

- 6.69 As mentioned, agents were being used quite extensively around the time of the inspection. Chambers in St Albans and London and three solicitor agents were being used. To engage preferred counsel, the Area was trying to prepare rosters earlier. This has enabled provisional booking of counsel at least a week and sometimes 12 days in advance.
- 6.70 The secretariat A2 determines agents on receipt of the weekly roster. A list is maintained of the quality and experience of many of the counsel used. Occasionally lawyers will identify a preference, but the work is mostly distributed evenly amongst the chambers.

#### **Selection and instruction of advocates in the Crown Court**

- 6.71 The Area has now reduced its number of "preferred" sets and the CCP believes this to be an improvement from a control, handling and service point of view. Law clerks select counsel to appear in the Crown Court from five sets of chambers. They are assisted by a list of counsel outlining their experience. The choice of counsel is discussed with the lawyer or Unit Head in serious or sensitive cases.
- 6.72 The Area is satisfied with the service and that it has a sufficiently large pool of suitably competent and experienced counsel from which to draw. This should not preclude staff from instructing counsel from outside these sets for particularly specialised cases or considering recommendations from the police. We mention in the advocacy section the concerns expressed to us in relation to some agent/counsel performance. We have discussed the need for effective monitoring of advocates and where weak counsel are identified, systems should be in place to limit or cease their instruction.

- 6.73 The Casework Manager and CCU Head attend quarterly meetings with the Chambers Clerks. This is a relatively new initiative, which we **commend**. Open discussion is the best way to deal with issues about counsel's performance and the service provided by the CPS.

### **External communication and liaison**

- 6.74 Generally speaking the Area enjoys good working relations with the other criminal justice agencies, although we have mentioned the perceived lack of commitment, drive and engagement by the CPS. We have discussed elsewhere in this report how this and other linked issues may be addressed and encourage the Area to maintain and be proactive in its membership of the ACJSC, TIG and the new JPMG. A useful vehicle to drive improved performance overall, it should not be a substitute for direct engagement between the CCP and Chief Constable on fundamental performance and strategic issues.
- 6.75 We **commend** the effective part played by the CPS in the production of a new listing protocol in the magistrates' courts, a Hertfordshire Enforcement Protocol (which relates to the respective roles of agencies in dealing with community penalties and enforcement for non-compliance) and a Guide to File Preparation (a pocket guide to police officers).
- 6.76 The police have recently reduced to three commands with three Area Commanders. Where before there was little if any engagement with the CPS at this level, we see this as a very important strategic and practical level at which to deal with performance issues, improvements in timeliness and quality of police files and CPS review and preparation. The move to co-location facilitates this development.
- 6.77 We recommend that the three Unit Heads engage the police Area Commanders in structured regular liaison to include JPM.**
- 6.78 The Area will want to engage in direct communication with the public and consultative groups whenever possible. The Area produced and distributed a high quality annual report.

### **Victims and witnesses**

- 6.79 The CPS is piloting an initiative to introduce direct contact between the CPS and victims and the roll out programme starts in April 2002. The scheme involves providing victims and their families with written confirmation of the reasons for decisions made to drop or substantially alter charges. In certain circumstances meetings will be offered. One manager has attended the external training course and there are plans to introduce training for lawyers at the office. The Area plans to use a hybrid scheme for dealing with enquiries, whereby law clerks will draft letters in less complex cases and other matters will be dealt with by lawyers. A Victim Information Bureau will also be based at the CPS office.

- 6.80 Positive relationships exist between the CPS and Victim Support. The CCP is a member of the non-executive board of Victim Support that sits bi-monthly and his support there is much appreciated as is his interest in witnesses at court. There is a need for this to encompass the rest of the AMT and beyond. The CCP and ABM have expressed a willingness to attend local volunteer meetings, and the CCP has demonstrated an interest in promoting the interests of victims and witnesses, and has attended court familiarisation meetings.
- 6.81 The Witness Service operates at both the magistrates' courts and the St Albans Crown Court. There is good co-operation between the Witness Service and CPS staff at the magistrates' courts. The Crown Prosecutors and agents usually introduce themselves to witnesses, and we saw examples of prosecutors putting witnesses at ease and keeping them informed of the progress of the case.
- 6.82 At the Crown Court, the procedure for dealing with witnesses is less defined as mentioned under external liaison. The Witness Service deals with CPS staff on a daily basis. They do not know which CPS staff will be dealing with individual cases, or which witnesses will be attending court until CPS staff arrive at court. This may be shortly before the court session starts and after the witnesses have arrived. The provision of copy witness warning forms to the Witness Service in advance would help.
- 6.83 Similarly, the CPS does not provide information about the nature of cases beforehand or those cases being transferred or big trials involving a large number of witnesses. This would assist the Witness Service to determine vulnerable witnesses, child witnesses or those with disabilities, and marshal their volunteers accordingly. Sometimes the police provide this information, which is helpful, but a contact point at the CPS office is required to provide information systematically regarding forthcoming cases.
- 6.84 There is no formal agreement for the provision of witness statements and expense forms to witnesses attending court. Some CPS staff are very helpful in providing these to the Witness Service, others less so. The Witness Service is keen to assist CPS staff, who are considered to be under pressure, and suggested that leaflets about the Witness Service could be sent to witnesses with the witness warning notice.
- 6.85 The CPS has been an active party to a new and more robust witness service level agreement about to be completed. Presently, the CPS has little engagement with witnesses at the Crown Court and there is strong reliance on the Witness Service. However, there is no established contact point in the CPS for the Witness Service and the flow of information to enable them to perform is limited and inconsistent. There is no structured liaison at senior level. The Witness Service has just been set up in the magistrate's courts and there is the opportunity to establish good communication and agreed methods of working together.
- 6.86 Our lay inspector interviewed a selection of witnesses at the Crown Court, after they had given evidence. Whilst extremely complimentary about the Witness Service, none of the witnesses had received any contact from CPS staff during the proceedings. The witnesses received no information about how to complete expense claim forms and were generally unaware of a CPS presence.

6.87 Whilst there has been recent improvement, prosecuting counsel did not, as a matter of course, introduce themselves to witnesses. Many witnesses were unable to identify prosecuting counsel after having given evidence. Nevertheless, counsel instructed in cases involving children were conscientious in identifying themselves.

**6.88 We recommend that the Unit Heads establish structured liaison with the Witness Service and agree systems to ensure effective flows of information with them.**

### **Accommodation**

6.89 The CPS office is situated conveniently near to the city centre of St Albans, the Crown Court and magistrates' court. Recent refurbishment has improved the working environment and staff are generally happy with the accommodation, which we consider to be of high standard. Some further improvements have been planned to improve the situation for disabled staff.

6.90 The Glidewell redeployments and the departure of the Service Centre staff will need to be carefully managed. The additional staff coming in to form the Central CJU and the CCU will balance out those leaving for the CJUs located in Hertford and Stevenage Police Stations. There is some limitation in the accommodation at the Hertford CJU, which might affect future staff increases.

### **Health and safety**

6.91 The Area conducts some basic health and safety checks, and has identified other improvements. Inspectors drew to the attention of Area management some issues of concern.

### **Security**

6.92 Historically, there have been some security problems and we were pleased to see that significant progress has been made.

6.93 There had been examples whereby staff had felt 'threatened' by individual incidents, but there is general satisfaction about personal safety. There have also been occasions where files have been left at court or returned to Chambers without notification.

### **Equality and diversity**

6.94 The Area has developed a family friendly approach to working practices, which is welcomed by staff. There are part time, and flexi-time working patterns.

6.95 The Area has a high percentage of both female and minority ethnic groups compared to the local working population. We were pleased to learn of a multi-agency seminar on the recruitment and retention of minority ethnic staff in the CJS. This has been commissioned by the race subgroup of the ACJSC, a group in which the ABM is an active participant.

- 6.96 There is some engagement with the local community but there is still scope for wider involvement. Activities include
- \* liaison with Hertfordshire domestic violence forum;
  - \* bi-monthly meetings with Watford Racial Harassment Working Group;
  - \* work placements and work experience for students and children; and
  - \* liaison with IMKAAN – an organisation specialising in Asian women’s refuges.
- 6.97 Overall, we found solid commitment to equality and diversity issues, although one issue that was raised concerned the timing of meetings, which have not always been held at times convenient for part time staff and those with child care commitments. Managers are conscious of the need to accommodate as many staff as possible, by holding meetings on different days and times and hopefully this will be fairly addressed. Other issues included disparity between teams’ working hours due to court listing and occasional ‘aggressive’ management style.

### **Performance indicators**

- 6.98 There were some inaccuracies in the performance indicator (PI) information in the files submitted to the Inspectorate, particularly in the discontinued and dismissed no case to answer categories. File endorsements appeared to be a significant factor in their mis-recording. It is important that lawyers endorse the outcome of each offence clearly on the front of the file.
- 6.99 The Area recently conducted a stocktake that identified a number of cases not finalised and over 200 duplicated registrations. Since identifying the issue, managers have been using SCOPE retrievals 21 and 29 to keep such instances to a minimum. The retrieval 21 is also being effectively used to chase files not returned from agents and other Crown Court centres. It is important that this is maintained in the run up to the Glidewell changes in order that SCOPE can be relied upon for case tracking purposes.
- 6.100 There are management checks in place. Unit Heads check all adverse cases before they are entered into the SCOPE system. They also use SCOPE management print outs to ensure that cases have not been entered in error. Within the file sample two errors were found in the dismissed no case to answer category. One had been correctly included in the sample but had been recorded on SCOPE as a dropped case; the other, a conviction in the magistrates court, had been wrongly included in the sample but correctly recorded on SCOPE.
- 6.101 We were assured that there was only one discharged committal during the file sample period, although there were significantly more indicated in the PIs.
- 6.102 There is also a ‘dip’ sample taken of cases finalised per person per month. This has been useful to identify training needs. Managers reported significant improvements particularly in the accurate recording of mode of trial. It may now be better to focus on monitoring new staff or those who continue to demonstrate problems.

- 6.103 The administrative managers have done much to improve the accuracy of the PIs, however, they have been hampered by the lack of available training. We understand that PI training has been arranged. This is encouraging, however, in other Areas this has tended to concentrate on caseworker and administrative grades. Some focused training should also be extended to lawyers. It is important that they understand the system and the significance of their input and do not inadvertently mislead staff with ambiguous endorsements.
- 6.104 There has been a lack of available national SCOPE courses which will affect the skill level of staff and so the accuracy of entries into the system. Law clerks on the CCU pass their cases to administrative staff to finalise. This initially led to confusion with instances of cases being archived before they are finalised. The ABM will want to provide regular PI training, and we understand that action has been taken to obtain some one-to-one SCOPE training for new staff as early as possible.
- 6.105 We understand that both lawyers and DCWs are presenting cases under section 12 of the Magistrates' Courts Act 1980 (specified proceedings). These are recorded on a manual spreadsheet and added to the PIs at the end of the month. This is likely to have a significant effect on the PI figures because of the high proportion of traffic offences which are likely to increase with the advent of hypothecation (a scheme targeting speeding offences where police and magistrates can offset operational costs with revenue from fines).
- 6.106 Issues and procedures are dealt with in the report by the National Audit Office *Criminal Justice Working Together* published in December 1999 and more recent guidance issued by CPS Headquarters – *Implementation of Section 1 of the Magistrates Courts (Procedure) Act 1998*. This covers reading of evidence in guilty pleas, the importance of an agreed listing policy for cases expected to be dealt with under section 12 of the Magistrates' Courts Act 1980 as amended and the recording of specified cases for PI purposes.
- 6.107 We recommend that the CCP agrees with the Justices' Chief Executive appropriate procedures for dealing with specified offences and ensures that the erroneous recording of specified offences in the Area's performance indicators ceases.**

## **Complaints**

- 6.108 All the senior managers have been involved in responding to complaints. Timeliness has generally been good, with 97.4% of complaints responded to within CPS guidelines last year. The figure is slightly lower at 91.3% this year due to one late response.
- 6.109 We found the quality of the content was variable and whilst some replies were well presented and fully addressed all the issues raised, others were quite poor. A small number included some curt language. Some failed to address fully the issues, others exhibited poor style. Letters can be emotive and efforts should be made to improve the standard of letter writing, particularly as the 'Direct Communication with Victims and Witnesses' programme will soon be implemented.

- 6.110 Some replies indicated that remedial actions would be taken to prevent recurrence of a particular problem, but it was not easy to establish whether any action had been undertaken.
- 6.111 The complaint logging system could be improved. Each team has its own register and a separate file is opened for each individual complaint. Even with the individual files, we found instances where much of the correspondence remained on the original case file making it difficult to gauge the quality of response, or the nature of the complaint without cross reference. The system did not facilitate learning from experience and we did not find evidence of this.
- 6.112 We recommend that the CCP reviews the system for handling complaints to ensure that:**
- \* replies deal with all issues raised;**
  - \* replies are appropriate in style and content;**
  - \* all relevant correspondence is contained on the complaint file;**
  - \* a comprehensive register is kept facilitating a managerial overview; and**
  - \* there is learning from experience.**

## CONCLUSIONS, COMMENDATIONS, RECOMMENDATIONS AND SUGGESTIONS

### Conclusions

- 7.1 Overall we found a number of aspects to commend in CPS Hertfordshire, and we were impressed by the joint work with police to plan and set up the new CJUs and CCU. The CCU was starting to show higher standards of review and preparation of Crown Court cases. The CJUs will hopefully benefit from more effective channels of communication and generally raised levels of file quality and timeliness when co-located with police.
- 7.2 Some achievements have not come as soon in Hertfordshire as they have in some other Areas. It may be that some of the impediments to earlier progress were not as great as they were perceived to be and an over readiness in some quarters to regard obstacles as insuperable needed to be set aside. In the future, a relatively new management team, with the benefit of some increased resources and staff who have gained London rates of pay, may look forward to better retention of staff at all levels and the ability to work more effectively and positively with partners in the CJS. A universally progressive approach throughout the management team and new units will raise the prospects of success in the challenges to come in the Glidewell initiatives. Managers will want to harness both the sense of team spirit in the Area and the sense of co-operation that exists within the criminal justice agencies in Hertfordshire.
- 7.3 File inspection demonstrated variability of advice and inadequacy of initial and continuing review and records of decisions, particularly in CJU cases. Reviews were generally of a higher standard in the CCU. We saw a number of omissions to tackle key issues until too late in the day, or at all. The resource implications of this for all the criminal justice agencies and the negative impact upon victims and witnesses, is clear.
- 7.4 A lack of effective initial and continuing review has allowed too many cases to drift when decisive action might either have prompted police to further investigation and provision of evidence, or led to the case being dropped sooner. Decision-making has not been fully consistent. More rigorous monitoring of advice to police, decisions to discontinue, and analysis of adverse case outcomes is necessary. Greater opportunities must be taken to learn from experience in successful as well as adverse cases across the teams, and from complaints received.
- 7.5 There is good general deployment of prosecutors in the Crown Court, which is beneficial to their development and the profile of the CPS. More needs to be done to achieve a balance of deployment across all grades in the magistrates' courts and the Crown Court.
- 7.6 We were impressed by the systems in place in the CCU but file management and the recording of case progress can be improved upon. More effective deployment of support staff in the CJUs was necessary, plus more effective back-up systems for absence across the Area. Specific and clear systems of file allocation will help implement a clearer sense of ownership and responsibility for case progress.



- 7.7 There is a need for prioritisation of management time and use of the resources within the AMT. This should be focused on continued and pro-active engagement with the other criminal justice agencies, particularly the police at senior level, and encouragement of liaison established under the PYO and Glidewell initiatives.
- 7.8 Some sound work has been undertaken with other agencies, notably in the recent significant reduction in delay in dealing with PYOs. A guide to file preparation is a user-friendly aide to all police officers, a new listing protocol has been formulated with the magistrates' courts and an enforcement agreement has been made with the Crown Court and others. Managers feel that building blocks have been laid for improvements in overall performance. Nevertheless, much remains to be done in working with police to improve file quality and timeliness, and with the magistrates' courts and Crown Court to tackle the issue of cracked and ineffective trials.

### **Commendations**

- 7.9 We commend the Area for the following aspects of the Area's performance:
1. the creation of two youth justice champions (paragraph 3.61);
  2. the introduction of a summary trial check scheme where duty lawyers check each case for trial readiness a fortnight before the trial date (paragraph 4.34);
  3. indictments are drafted to a high standard by lawyers and lodged with the Crown Court timeously (paragraph 4.69);
  4. the use of a CTL checklist and thorough drafting of applications to extend CTLs in the CCU (paragraph 4.80);
  5. the self-assessment undertaken against the criteria of the Business Excellence Model and the Area's commitment to progress this initiative through the Area Sounding Board (paragraph 6.15);
  6. the development of a compliance system re Judges' orders (paragraph 4.97);
  7. the commitment and extensive effort exhibited by the Area in effecting the Glidewell co-location initiative with the police (paragraph 6.28);
  8. the introduction of quarterly meetings with Chambers' clerks (paragraph 6.73); and
  9. the Area's involvement in the production of multi-agency agreements, namely a new listing protocol, an Hertfordshire Enforcement Protocol and a Guide to File Preparation (paragraph 6.75).

## Recommendations and suggestions

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

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

1. Unit Heads establish and monitor standards for written advice and actively review both quality and timeliness (paragraph 2.10);
2. the CCP agrees with the police standards for advice files in relation to both the content and type of case sent for advice (paragraph 2.14);
3.
  - prosecutors conduct adequate and meaningful initial and continuing reviews, addressing the Code criteria and issues in the case; and
  - Unit Heads adopt rigorous systems to monitor the quality and timeliness of review and review endorsements (paragraph 3.13);
4. the Unit Heads ensure that timeliness and quality of decision-making in discontinued cases is improved and consultation with police is undertaken (paragraph 3.37);
5. the CCP ensures that adverse case reports contain sufficient information to identify the issues in a case and that lessons to be learned are shared across all Units (paragraph 3.49);
6. the CCP agrees with the police standards of timeliness and quality in relation to the handling of unused material (paragraph 4.12);
7.
  - the CCP develops an effective system for undertaking the duties of disclosure in all appropriate cases; and
  - prosecutors and caseworkers use the standardised systems for recording decisions relating to unused material (paragraph 4.18);
8. the file allocation and ownership systems are reviewed to reduce and hasten file movement and optimise lawyer input (paragraph 4.22);
9. prosecutors actively instigate further lines of enquiry in all cases where additional evidence is desirable to enhance the prospect of conviction (paragraph 4.27);
10. the CCP seeks with the police and responsible medical authorities a service level agreement for the provision of medical evidence in prosecutions (paragraph 4.31);

11.
  - the ABM works with police to secure robust witness warning and response systems; and
  - prosecutors give early consideration to those witnesses whom it is appropriate to warn for the prosecution, those to be tendered, and those to be served under the appropriate provisions (paragraph 4.38);
12. the CCP works with the JPMG to address the cracked and ineffective trial rate in both the magistrates' court and the Crown Court (paragraph 4.47);
13. the CCU Head sets target dates for the appropriate involvement of caseworkers in committal preparation (paragraph 4.52);
14. the CCP in conjunction with police:
  - reinvigorates an agreed system of JPM with the appropriate return of TQIs; and
  - reinstates regular JPM meetings to discuss file quality and timeliness, and avoidable adverse cases (paragraph 4.59);
15. the CCU Head ensures that all instructions to counsel contain an adequate summary that deals with all the issues in a case and the acceptability of pleas where relevant (paragraph 4.68);
16.
  - CTL refresher training is delivered, including instructions for dealing with multi-defendant cases, further charges and youth defendants; and
  - the CJU Heads adopt a uniform system with written desktop instructions to assist staff and checks on the initial entries made by staff as recommended by MAS (paragraph 4.81);
17. the CCP agrees with the police a standard for the provision of records of interview addressing both timeliness and content (paragraph 4.96);
18. the CCP introduces appropriate systems of induction or training for all external lawyers to be completed before they are deployed as CPS agents, particularly in youth courts (paragraph 5.15);
19. the CCP and Unit Heads monitor all prosecution advocates regularly to ensure consistently good standards of advocacy (paragraph 5.27);
20. the CCP actively pursues development of a more connected strategic programme with other CJS agencies (paragraph 6.5);
21. the ABM and Unit Heads review their commitments to prioritise which meetings need to be attended and by whom (paragraph 6.11);

22. the ABM encourages the JPMG to agree:
  - \* what key performance data is needed;
  - \* how this will be collected;
  - \* who will collate the information; and
  - \* how it is to be shared with partners in the CJS (paragraph 6.33);
23. the ABM reviews the policy on agent spend to:
  - \* minimise the risk of overspend; and
  - \* identify the performance improvements/added value achieved if high spending continues (paragraph 6.41);
24. the three Unit Heads engage the police Area Commanders in structured regular liaison to include JPM (paragraph 6.77);
25. the Unit Heads establish structured liaison with the Witness Service and agree systems to ensure effective flows of information with them (paragraph 6.88);
26. the CCP agrees with the Justices' Chief Executive appropriate procedures for dealing with specified offences and ensures that the erroneous recording of specified offences in the Area's performance indicators ceases (paragraph 6.107); and
27. the CCP reviews the system for handling complaints to ensure that:
  - \* replies deal with all issues raised;
  - \* replies are appropriate in style and content;
  - \* all relevant correspondence is contained on the complaint file;
  - \* a comprehensive register is kept facilitating a managerial overview; and
  - \* there is learning from experience (paragraph 6.112).

7.12 We also suggest that:

1. the committals log is extended so that a continuing record is kept indicating whether cases have been committed, discharged or adjourned (paragraph 4.55);
2. the CCU Head establishes a consistent form of housekeeping of Crown Court files including a standard log of court hearings/use of file cover (paragraph 4.99);
3. the Unit Heads ensure that correspondence and further evidence is linked with files and dealt with timeously (paragraph 4.101);

4. the CCP reviews the training programme in particular regarding:
  - \* local induction;
  - \* further training in the effective use of IT;
  - \* wider management training; and
  - better evaluation of training (paragraph 6.58); and
5. the ABM ensures that all absence data is consolidated into the central diary system to manage staff levels (paragraph 6.68).

## **KEY STATISTICS**

- 8.1 The charts in 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 31 March 2001.

## **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 HERTFORDSHIRE**

File Category	Number of files examined
<b>Advice files</b>	10
<b>Magistrates' courts</b>	
guilty pleas, convictions and acquittals after trial	30
traffic offences	10
acquittals where magistrates found no case to answer	6
discharged committals	1
cases where custody time limits applied	5
discontinued cases	82
<b>Crown Court</b>	
guilty pleas, convictions and acquittals after trial	29
judge ordered acquittals	30
judge directed acquittals	5
appeals	5
cases where custody time limits applied	5
<b>TOTAL</b>	<b>218</b>

## ANNEX 2

**Table for chart 1**  
**Types of case**

	Hertfordshire		National	
	Number	Percentage	Number	Percentage
Advice	517	2.6	45,621	3.4
Summary motoring	9,214	47.0	501,129	37.3
Summary non-motoring	2,816	14.4	249,930	18.6
Either way & indictable	7,046	36.0	536,778	39.9
Other proceedings	1	0.0	11,608	0.9
<b>Total</b>	<b>19,594</b>	<b>100</b>	<b>1,345,066</b>	<b>100</b>

**Table for chart 2**  
**Completed cases**

	Hertfordshire		National	
	Number	Percentage	Number	Percentage
Hearings	14,121	74.0	934,757	72.6
Discontinuances	2,243	11.8	169,349	13.1
Committals	1,152	6.0	85,865	6.7
Other disposals	1,560	8.2	97,866	7.6
<b>Total</b>	<b>19,076</b>	<b>100</b>	<b>1,287,837</b>	<b>100</b>

**Table for chart 3**  
**Case results**

	Hertfordshire		National	
	Number	Percentage	Number	Percentage
Guilty pleas	11,907	84.1	770,570	82.1
Proofs in absence	1,413	10.0	115,068	12.3
Convictions after trial	557	3.9	36,729	3.9
Acquittals: after trial	265	1.9	14,645	1.6
Acquittals: no case to answer	14	0.1	1,561	0.2
<b>Total</b>	<b>14,156</b>	<b>100</b>	<b>938,573</b>	<b>100</b>

**Table for chart 4**  
**Types of case**

	Hertfordshire		National	
	Number	Percentage	Number	Percentage
Indictable only	459	28.4	29,168	26.0
Either way: defence election	152	9.4	15,543	13.9
Either way: magistrates' direction	557	34.5	36,807	32.8
Summary: appeals; committals for sentence	447	27.7	30,563	27.3
<b>Total</b>	<b>1,615</b>	<b>100</b>	<b>112,081</b>	<b>100</b>



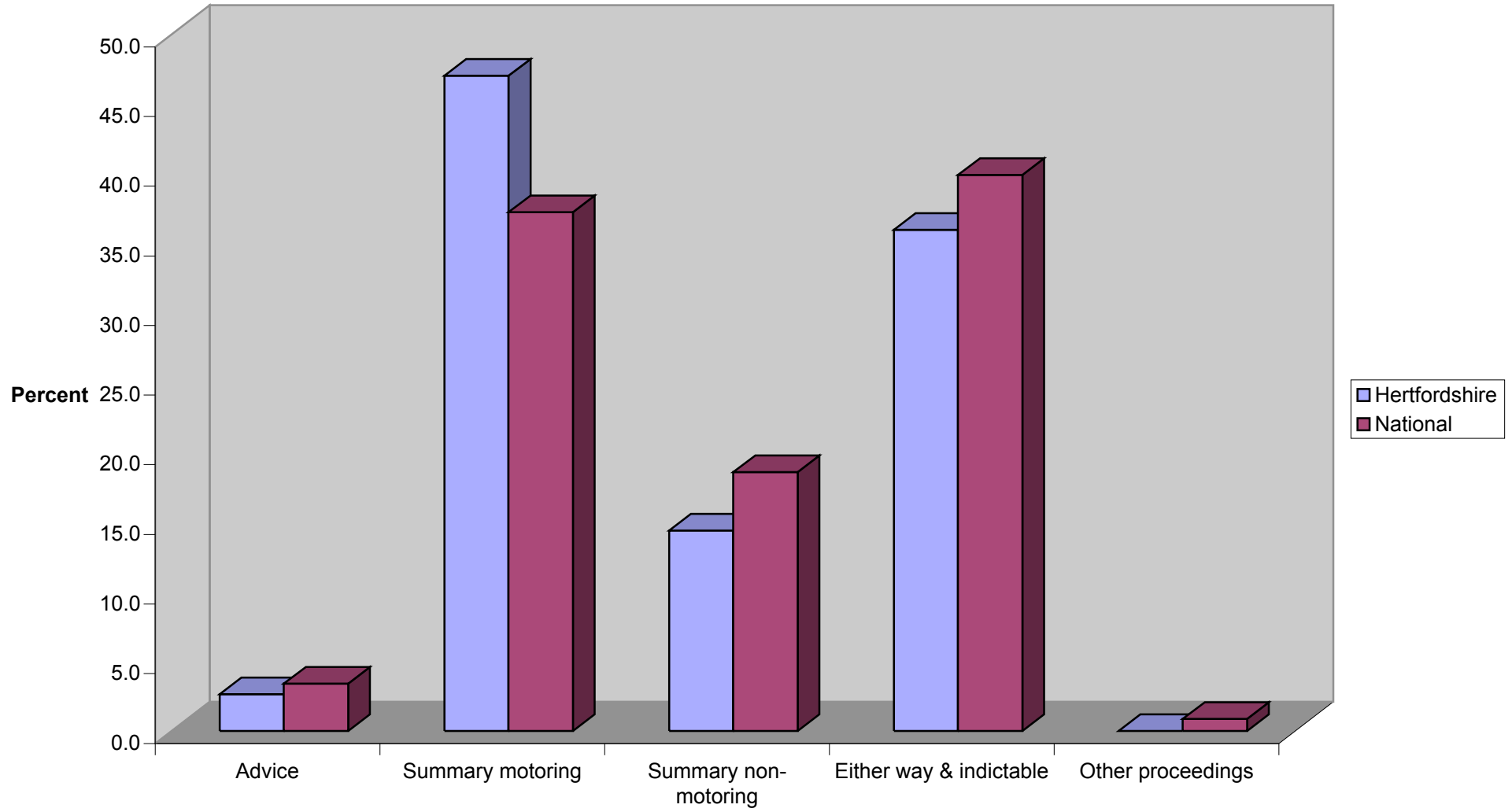
**Table for chart 5  
Completed cases**

	<b>Hertfordshire</b>		<b>National</b>	
	<b>Number</b>	<b>Percentage</b>	<b>Number</b>	<b>Percentage</b>
Trials (including guilty pleas)	985	84.3	68,115	83.6
Cases not proceeded with	152	13.0	10,732	13.2
Bind overs	19	1.6	1,415	1.7
Other disposals	12	1.0	1,257	1.5
<b>Total</b>	<b>1,168</b>	<b>100</b>	<b>81,519</b>	<b>100</b>

**Table for chart 6  
Case results**

	<b>Hertfordshire</b>		<b>National</b>	
	<b>Number</b>	<b>Percentage</b>	<b>Number</b>	<b>Percentage</b>
Guilty pleas	534	52.5	50,431	72.7
Convictions after trial	305	30.0	10,763	15.5
Jury acquittals	158	15.5	6,657	9.6
Judge directed acquittals	21	2.1	1,533	2.2
<b>Total</b>	<b>1,018</b>	<b>100</b>	<b>69,384</b>	<b>100</b>

Chart 1: Magistrates' Court - Types of case



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

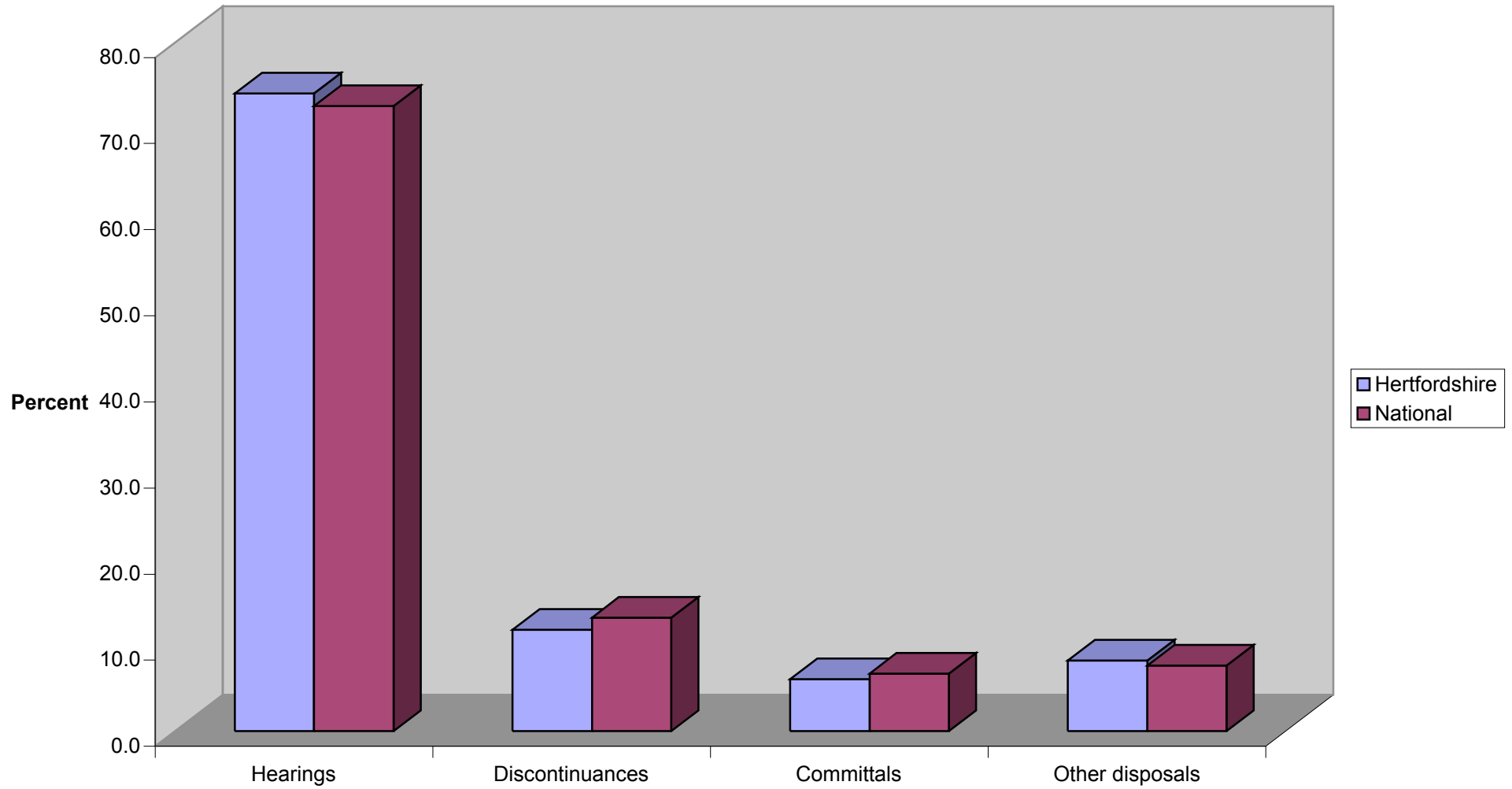


Chart 3: Magistrates' Court - Case results

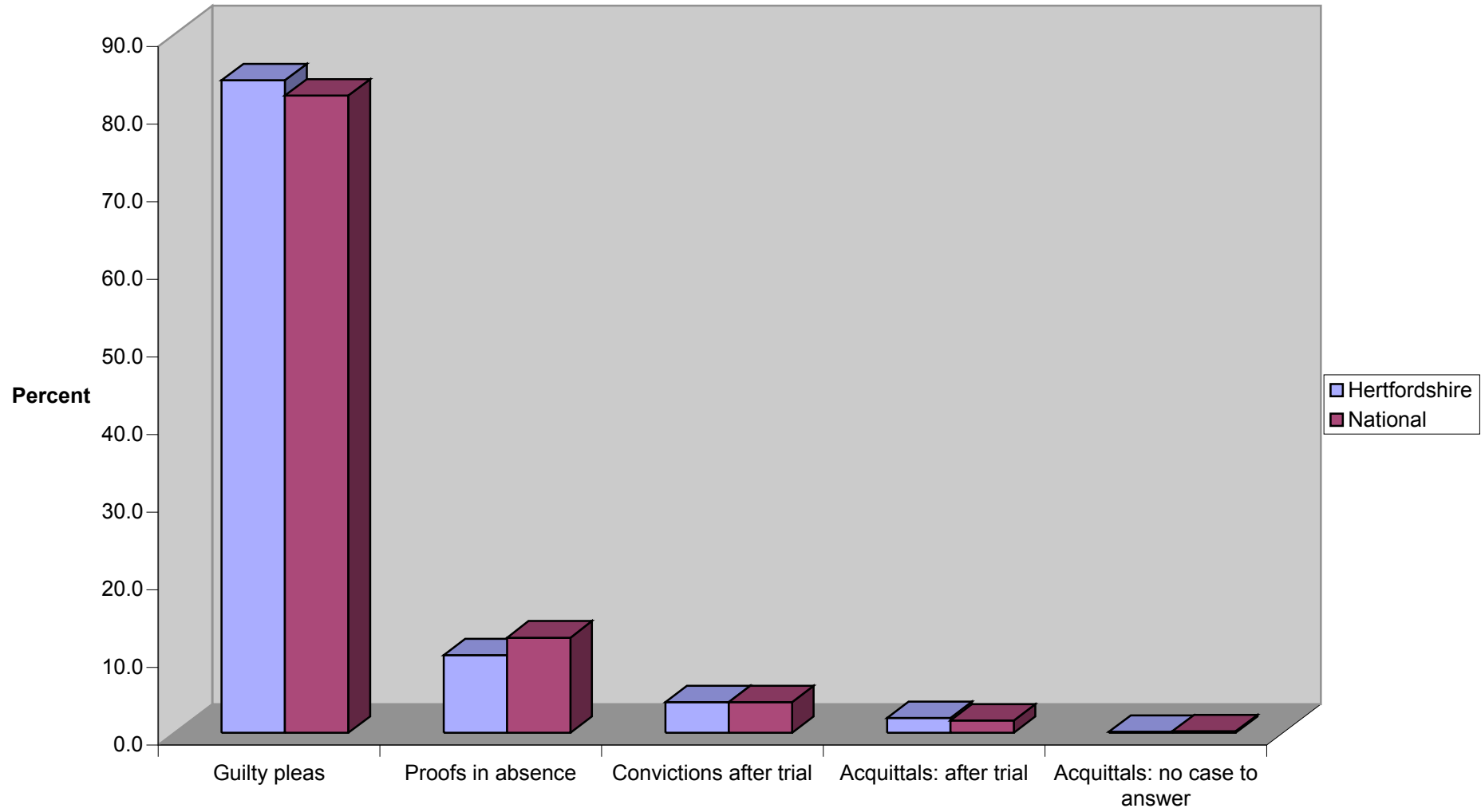


Chart 4: Crown Court - Types of case

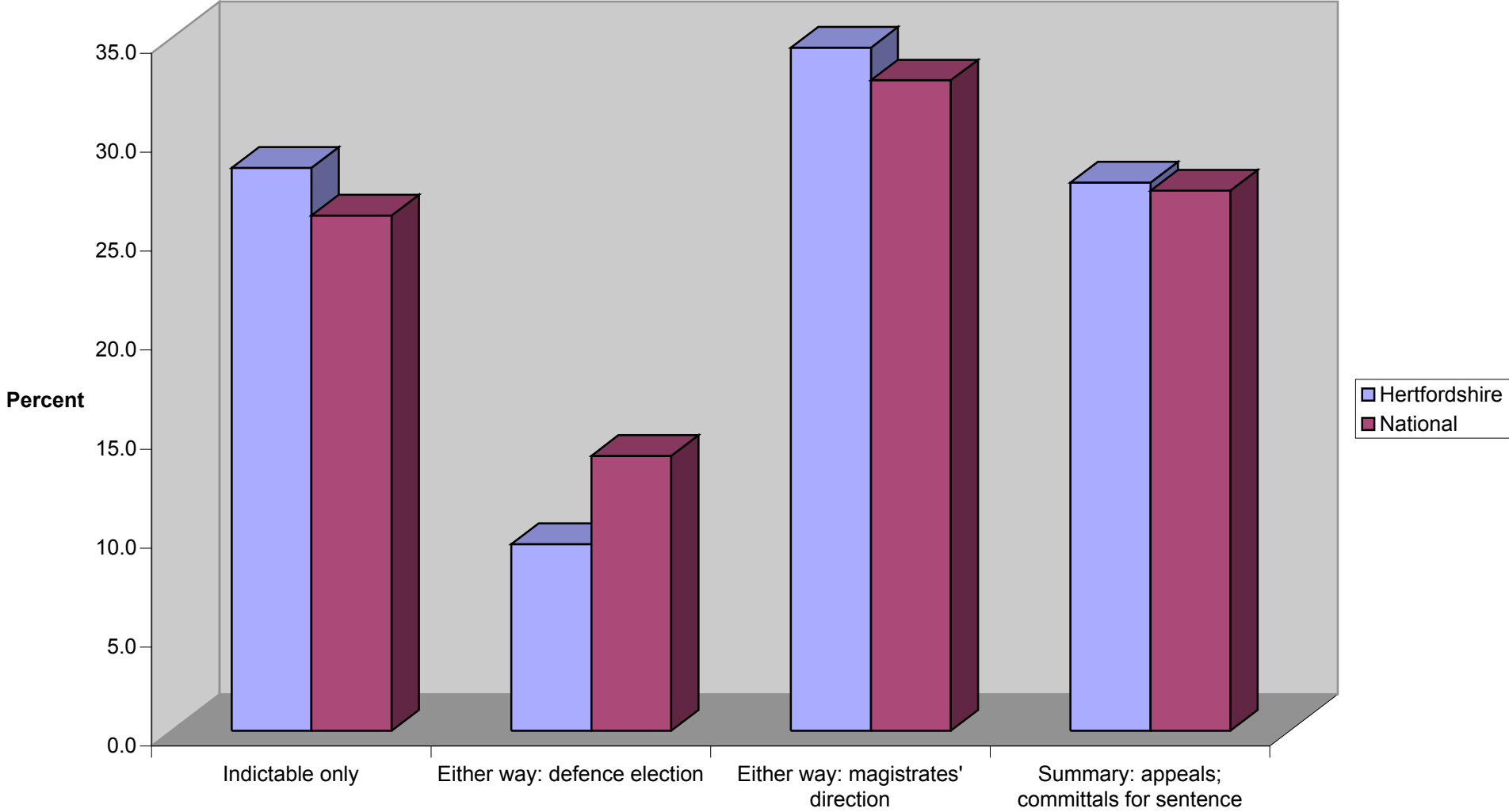


Chart 5: Crown Court - Completed cases

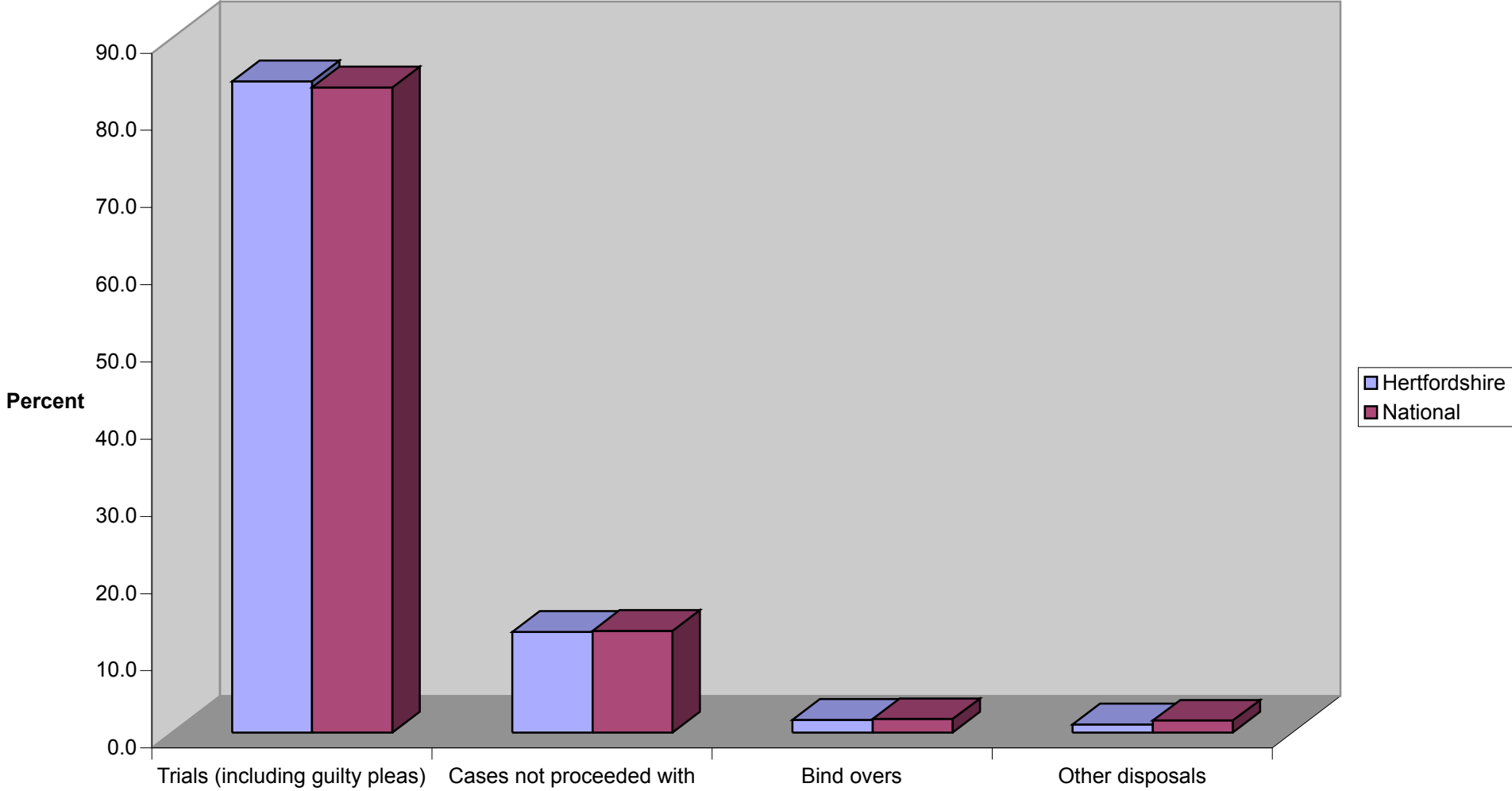
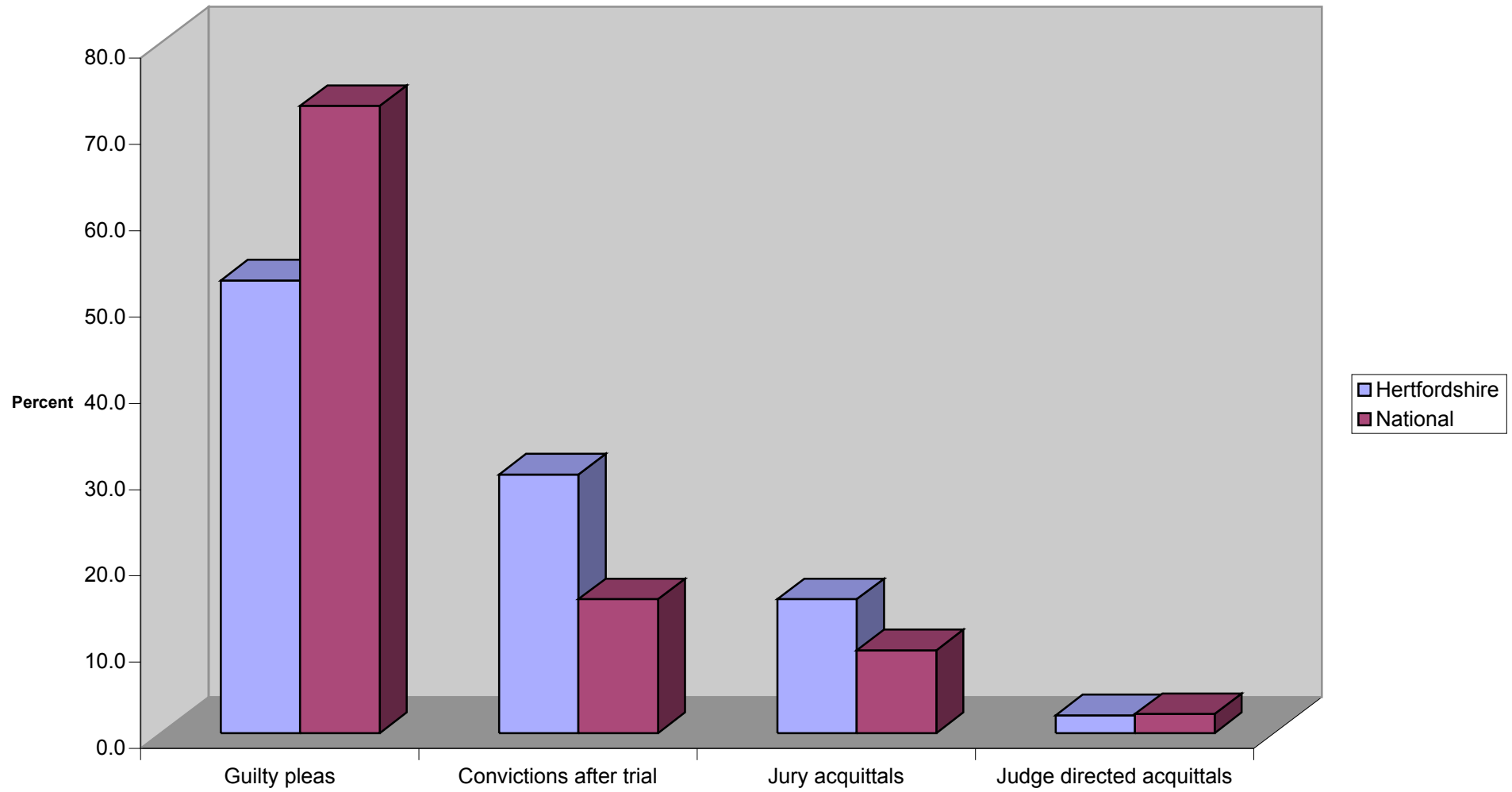


Chart 6: Crown Court - Case results



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

**Crown Court**

HHJ Findlay Baker QC  
Ms J Burfitt, Crown Court Manager

**Magistrates' Courts**

Mrs C Archer JP, Chairman of the Hertford and Cheshunt Bench  
Mrs S Baker JP, Chairman of the Stevenage Bench  
Mr A Bevan, Deputy Clerk to the Justices, West Hertfordshire Magistrates' Courts  
Mr P Fellingham, Clerk to the Justices, North and East Hertfordshire Magistrates' Courts  
Mr D Gibbs, Clerk to the Justices, Central Hertfordshire Magistrates' Court  
Mr M Hanford JP, Chairman of the Central Hertfordshire Youth Panel  
Mrs M Lewis JP, Chairman of the Central Hertfordshire Bench  
Mr P Palfry JP, Deputy Chairman of the Dacorum Bench  
Mrs J Parker JP, Chairman of the Watford Bench  
Ms H Pooley, PA to Justices' Chief Executive  
Mr J Radway, Justices' Chief Executive  
Mr P Setterfield JP, Chairman of the Magistrates' Courts Committee

**Police**

Assistant Chief Constable J Nicolson  
Detective Chief Superintendent J Alford  
Chief Superintendent A Roome-Gifford  
Chief Superintendent C Taylor  
Chief Superintendent A Wright  
Detective Superintendent A Murphy  
Detective Superintendent S Read  
Detective Superintendent R Saunders  
Detective Chief Inspector D West  
Detective Inspector H Borgeat  
Detective Inspector C Sparrow

**Defence Solicitors**

Mr S Battersby  
Mr J Fuller

**Counsel**

Ms S Cohen  
Ms P Rector  
Mr P Testar



**Probation Service**

Mr M Kelly

**Victim Support**

Ms K Belinis  
Ms H Fitzgibbons  
Mrs M Griffin

**Witness Service**

Ms F De Pencier  
Ms S Glasgow

**Youth Offending Team**

Mr T Rees

**Crime Reduction Unit**

Mr P Winter, Head of Crime Reduction Unit, Hertfordshire

## JOINT PERFORMANCE MANAGEMENT

1. The CPS and the police have agreed nationally a system of joint performance management (JPM). This provides a framework for the police and CPS to use performance information jointly in three aspects:
  - \* the timely delivery, completeness and overall quality of files sent by police to the CPS;
  - \* the discontinuance by the CPS of cases in the magistrates' courts; and
  - \* acquittals in the Crown Court.
2. It is the shared collection, analysis and interpretation of performance information of interest to the parties which is of the essence of JPM. The collection of the data is too often problematic, but a proper system that provides accurate information is a necessity before the parties can embark on meaningful discussions that enable lessons to be learned and actions taken to improve performance.
3. The CPS has agreed to respond to police about the quality and timeliness of individual files on a form TQ1. This should be done on an exception basis for expedited files, and on a locally agreed basis for full files, which may be in relation to all files, or an exception or sample basis.
4. Her Majesty's Inspectorate of Constabulary collects and collates the information on file quality and timeliness. This is published quarterly. Some of the information is used to provide the Best Value Performance Indicator 131, one of a suite of indicators which provides comparative information about police areas. BVPI 131 relates to the percentage of full files sent to the CPS that are fully satisfactory or sufficient to proceed **and** within national Pre-Trial Issue time guidelines, and the percentage of expedited files which are fully satisfactory or sufficient to proceed.

## 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 the 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.