



HM Crown Prosecution
Service Inspectorate

Audit report on the handling of warrant files in the Crown Prosecution Service

March 2011



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Chief Inspector's foreword

The efficient administration of warrants within the criminal justice system is important to ensure perpetrators of crime do not escape justice but also to avoid unnecessary arrest in those cases where there is no longer a realistic prospect of conviction.

This audit was carried out to establish whether CPS Areas were complying with guidance issued following two previous joint inspection reports¹ which highlighted concerns around the management of warrants by all criminal justice agencies.

Whilst effective joint criminal justice administrative systems are needed to manage those cases in which warrants have been issued, the role of the CPS is pivotal to ensuring this system runs smoothly. This role is to ensure that firstly, cases have been properly reviewed against the Code for Crown Prosecutors; secondly, that any necessary outstanding work on the case is completed before it is placed in the warrant filing; and thirdly that victims are informed of the decisions taken in such cases.

The audit found a number of cases with warrants outstanding which had no evidence of any review by the CPS. If a case is not properly reviewed it may be that it has to be withdrawn on evidential grounds once the warrant is executed thereby resulting in unnecessary arrests being made and wasting resources throughout the criminal justice system.

The issue of victim care was of particular concern in that the report highlights instances where victims were not informed that a warrant had been issued, or where the warrant had been withdrawn and the victims were not told the reasons for the decision to drop the case. It must be stressed that failure to keep victims of crime updated in these cases only serves to reduce confidence in the criminal justice system.

The main finding of this audit was that a proactive approach is needed in managing warrant cases. Similarly, warrant files need to be the subject of regular review and records of action taken need to be recorded. The national guidance on the timescales for warrant reviews need to be followed.

The report concludes that improved warrants administration would increase efficiency within the criminal justice system and improve the service to the victims and witnesses.

Michael Fuller
Her Majesty's Chief Inspector
March 2011

¹ A review to ascertain the circumstances in which Anthony Leon Peart, also known as Anthony Leon Joseph came to be at liberty on 29 July 2005 (Criminal Justice Joint Inspection published April 2008) and A report into the resulting and warrant withdrawal procedures used at Leeds Magistrates' Court (Criminal Justice Joint Inspection published March 2008).



Executive summary

Contextual factors and background

Dealing effectively with cases on warrant has a positive impact on the efficiency of the criminal justice system and on the lives of victims in those cases.

This audit looks at the processes and systems that the Crown Prosecution Service (CPS) has in place to manage warrant cases and was carried out to establish that CPS Areas were complying with amended guidance issued following two previous joint inspection reports. These reports highlighted concerns around the management of warrants by all criminal justice agencies.

The CPS has responsibility for ensuring that cases meet the criteria in the Code for Crown Prosecutors (the Code) before a warrant is applied for and that any outstanding work is progressed. CPS legal guidance suggests that regular reviews should be carried out on warrant files to ensure that the case continues to meet the evidential and public interest tests under the Code.

If victims are not kept informed they may not understand what has happened or the reasons for decisions taken on these cases and it may result in a loss of confidence.

Summary of findings

A significant number of warrant cases seen had no record that the evidence had been reviewed against the Code for Crown Prosecutors. A warrant should only be applied for if the case has a realistic prospect of conviction. When the defendant is brought back before the court the case would be withdrawn if a review then finds that there is insufficient evidence or that it is not in the public interest to proceed.

In a number of files seen it was clear that preparation necessary to progress the case effectively when the warrant was executed had not been completed and that this would cause delay and increase costs for the criminal justice system when the case was brought back to court.

The result of reviews to consider the withdrawal of the warrant and the offences were rarely fully recorded on the file. This was not helpful if a further review is necessary or to assist the prosecutor if the court required an explanation of the grounds for the application.

Warrant filing systems and the CPS electronic record were not accurate or up to date. Poor file endorsement was a factor in this.

National guidance and CPS legal guidance which require a review after one year on all warrant cases was not being observed in most Areas visited. Review was often prompted by the police and not as a result of any CPS proactivity.

Victim care in warrant cases was a concern. It was not evident that victims were being informed that a warrant had been issued and in the four cases seen in which the warrant and the offences had been withdrawn, there was no evidence that the victim had been informed of the reasons for the decision to drop the case.

Compliance issues with criminal justice system guidance² and CPS legal guidance

There are seven compliance points which highlight practices that should already be in place in Areas and immediate steps should be taken to ensure that Areas comply.

1 A review should be carried out and endorsed on all files before they are placed in the warrant filing and any further evidence required should be requested, followed up and dealt with when received. Any case that does not comply with the Code for Crown Prosecutors must be withdrawn (paragraph 1.3).

2 Any necessary case preparation should continue after the warrant has been issued to ensure that the case will proceed effectively when the defendant is brought back before the court (paragraph 1.5).

3 All correspondence received on warrant files should be linked to the file as soon as possible and appropriate action taken as with any other live case (paragraph 1.13).

² GDC (Getting Defendants to Court) 29 guidance issued in 2008 by the Defendant Attendance Steering Group of the Office of Criminal Justice Reform to help criminal justice agencies in managing the processes in withdrawing warrants.

4 The CPS should review all warrant cases (including Crown Court cases) after one year, unless there are exceptional circumstances, as noted in national guidance. A further review should then be carried out annually as noted in the CPS legal guidance (paragraph 2.5).

5 An endorsement of all reviews and the outcome of all applications should be clearly endorsed on the file to show:

- who instigated the review and any information provided by the police for consideration;
- the review decision and reason for this;
- clear instructions to the prosecutor about if they are to apply to withdraw the warrant, or the offence, or both; and
- the outcome and reasons for the outcome of any application (paragraph 2.13).

6 All witness care units should communicate to victims and witnesses that a warrant has been issued (paragraph 3.1).

7 Direct communication with victims letters should be sent to all victims where the case had been withdrawn (paragraph 3.5).

Good practice

1 We regard the creation of an accurate list of cases with an outstanding warrant as good practice (paragraph 1.8).

2 In one Area administrative staff when notified that a warrant had been executed, would check the case management system to ensure that files for any other outstanding cases for the particular defendant were in court (paragraph 1.17).

3 We found several examples of good practice intended to ensure that the case management system (CMS) was updated after a warrant had been executed:

- After details of the case had been faxed to the prosecutor in court, the original file was placed on a shelf to which that day's court files would be returned the next day. Administrative staff were then able to make enquiries if details of the hearing for that defendant were not returned with the court papers.
 - Administrative staff would update CMS with the new court date when they were informed that a defendant was appearing on warrant. If the file was not returned from court, CMS would create a task to update the court hearing.
 - An alert had been set up on the Crown Court Xhibit computer in the CPS office which notified them when a warrant had been executed (paragraph 1.18).
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4 The use of one form on each file to ensure that there is a clear record of updated information provided by the police and the review decisions made (paragraph 2.8).

5 The appointment of an individual in a unit to oversee the management and review of the warrants (paragraph 2.8).

6 The development and use of letters, by the witness care unit, to update witnesses with information about a warrant being issued for the defendant and the use of this communication to maintain contact with victims and witnesses at regular intervals (paragraph 3.2).



1 Keeping track of warrant files

1.1 When a warrant is issued, the CPS needs to:

- ensure that all necessary actions have been completed on the file so that, as far as possible, the case is ready to progress when the warrant is executed; and
- store the file in such a way that, when the defendant is arrested, it enables efficient retrieval and provides the prosecutor in court with sufficient information to prosecute the case.

Actions prior to filing

1.2 When considering whether to apply for a warrant the prosecutor in court must be confident that the case has been reviewed against the Code for Crown Prosecutors or has passed the threshold test before they make the application.

1.3 Cases were seen in which there was no record on the file or on the electronic case management system (CMS) of any review of the evidence against the Code. This is of particular concern. Though many of the cases were of a minor nature, it should be clear from the file that the evidence has been reviewed and judged sufficient to proceed and that it is in the public interest to do so. If not, it may be that a case has to be withdrawn on evidential grounds when the defendant is arrested after being on warrant perhaps for several years. An example of this was seen in the file sample. Failure to properly review a case could lead to arrests in cases that have no prospect of conviction.

Compliance point

A review should be carried out and endorsed on all files before they are placed in the warrant filing and any further evidence required should be requested, followed up and dealt with when received. Any case that does not comply with the Code for Crown Prosecutors must be withdrawn.

1.4 A warrant may be issued at any point during the progress of a case. Whilst in some cases, necessary work had been progressed, we also found a number of cases in which work to prepare the case had ceased at the point the warrant was issued. It may be several years before the defendant is arrested and evidence that is outstanding at the time the warrant was issued, may no longer be available or be as credible, for example if it involves taking a witness statement, several years after the offence has been committed.

Case studies

In two indictable only cases the CPS had received the full evidential file from the police but had not prepared the papers for service on the defence and the court. This would have required the prosecution asking for an adjournment to do so when the defendants were brought back to court, building in delay and increasing costs.

1.5 Staff in Areas were not certain that, after a warrant had been issued, action to prepare the case would continue. Whilst we appreciate the increasing resource difficulties in the CPS, it is in the interests of justice to ensure that cases have been reviewed and are in an appropriate state of preparation to allow the case to progress effectively when the warrant is executed.

Compliance point

Any necessary case preparation should continue after the warrant has been issued to ensure that the case will proceed effectively when the defendant is brought back before the court.

Warrant filing

1.6 Warrant files may be stored in CPS offices, at the courts or at police stations. Area offices chose the most practical location to ensure that the file or case details were available to the prosecutor in court. Each system has its own advantages and disadvantages.

1.7 Our audit found discrepancies in every Area visited between warrant cases on CMS and the warrant filing. In one Area in particular six of the 30 files (20%) selected from warrant filing had clearly been dealt with and the warrant was no longer outstanding.

1.8 Only one office was in the process of creating a comprehensive list of warrant cases and although it required significant effort, we were told that it was beginning to produce efficiencies as cases that had been dealt with were weeded out and an accurate list was produced. We regard the creation of an accurate list of cases with an outstanding warrant as **good practice**.

1.9 An annual review of warrant cases by the CPS and the police has been encouraged by guidance since 1996. This review should highlight cases in which the warrant had been executed and would assist in ensuring that CPS filing and records were kept up to date and accurate. Our findings revealed that this annual review had not taken place in many of the Areas visited.

1.10 CMS can produce reports in an Excel format which can be used to create a comprehensive list of all warrant cases relatively quickly. It is suggested that Areas produce a comprehensive list in this way and check this against the files in warrant storage to identify any discrepancies. Warrant files prior to the introduction of CMS would have to be added manually to the list.

1.11 Not all warrant cases had been finalised on CMS after three months. This will inflate an Area's live caseload figures. Areas should check that all warrant files over three months old have been finalised on CMS.

1.12 Inadequate file endorsements contribute to the problems noted above. In one Area a small number of files seen in the warrant filing had no indication on the file that a warrant had been issued although checks confirmed that a warrant was active. The CPS has recommended standard abbreviations for warrant cases which distinguish those issued with bail and those without³. Abbreviations used in Areas rarely conformed to the standard abbreviations. Poor file endorsement is of particular concern where a defendant may be remanded into custody when the warrant has been executed for the purposes of monitoring the custody time limit.

³ See glossary "Warrant execution".

1.13 Dealing with correspondence received on files which were stored in the warrant filing was a concern in some Areas. Correspondence, including further evidence, had been placed on the file but it was not apparent that it had been seen and dealt with. In one Area where the warrant files were stored at the magistrates' court, correspondence was generally kept at the office until after the warrant had been executed, in another it was placed unread on top of the file. It is possible that correspondence received may affect the review decision or prompt further preparation in the case and therefore it should be dealt with at the time it is received.

Compliance point

All correspondence received on warrant files should be linked to the file as soon as possible and appropriate action taken as with any other live case.

1.14 We found that there was an inconsistency in how warrant filing was organised, in some Areas it took staff significant amounts of time to locate warrant files. The most efficient system used in Areas was to file cases alphabetically.

File retrieval and updating

1.15 There were issues in some Areas regarding the CPS being notified that a warrant had been executed. It is not clear which agency should contact the CPS to ensure that the prosecutor in court has sufficient details of the case or the file itself and to arrange for prosecution counsel in the Crown Court. This is particularly important if the warrant files are not stored at the court and details have to be faxed to the court. It would be more efficient if the CPS agreed local arrangements with the courts for informing the CPS of warrants that have been executed.

1.16 The prosecutor in court should have full information for a defendant, including any current cases outstanding and, if possible, have the files in court. The police should be aware of this information and should pass this on to the CPS. However the warrant filing in some Areas had examples of multiple warrant cases for the same defendant with no evidence that these files had been taken to court when the defendant was in court on a new matter. Knowledge of other warrant cases for a defendant is important as it would affect the prosecutor's decision in court as to whether to oppose bail for the defendant.

1.17 We saw an example of **good practice** in one Area where administrative staff when notified that a warrant had been executed, would check CMS to ensure that any other outstanding cases for the particular defendant were in court.

1.18 We found several examples of **good practice** intended to ensure that CMS was updated after a warrant had been executed:

- After details of the case had been faxed to the prosecutor in court, the original file was placed on a shelf to which that day's court files would be returned the next day. Administrative staff were then able to make enquiries if details of the hearing for that defendant were not returned with the court papers.
- Administrative staff would update CMS with the new court date when they were informed that a defendant was appearing on warrant. If the file was not returned from court, CMS would create a task to update the court hearing.
- An alert had been set up on the Crown Court Xhibit computer in the CPS office which notified them when a warrant had been executed.



2 The role of the CPS in warrant withdrawal

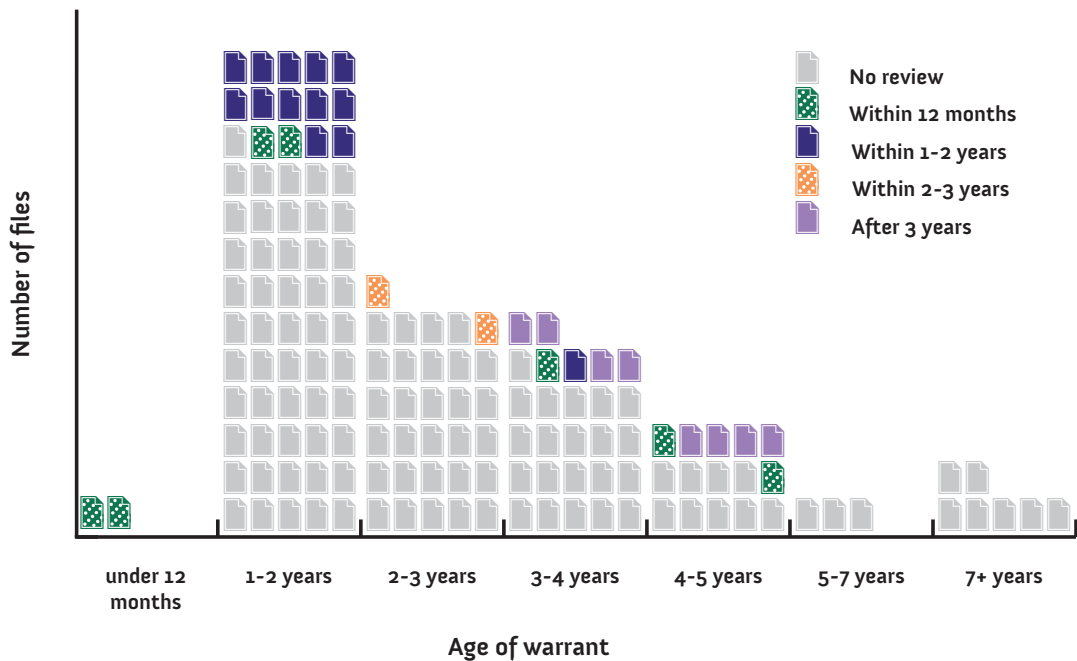
2.1 A warrant that is issued when a defendant fails to appear will remain in force until the warrant is either executed, when the defendant is arrested or surrenders, or until the warrant is withdrawn. The withdrawal of the warrant is a judicial decision but the CPS has a role in reviewing cases referred by the police to decide if it is appropriate to make the application. It is usual for the CPS to apply to withdraw the warrant where they have also decided that they should no longer proceed with the main offence. Resources can be wasted in managing warrant cases that remain outstanding when there is no longer any prospect of conviction or where it is not in the public interest to proceed.

Frequency and timeliness of consideration of warrant withdrawal

2.2 National guidance on the withdrawal of warrants states that criminal justice areas must have an inter-agency protocol in place to manage warrants. Three of the six Areas visited had protocols and in these Areas we were told that more regular CPS reviews of warrant files were prompted by the police.

2.3 Guidance suggests that reviews of both magistrates' and Crown Court cases should be carried out annually and more frequently in sensitive cases. In all the Areas visited review was only carried out by the CPS on files referred by the police and the chart below shows that few files had reviews endorsed.

Age of warrant and timing of review in the file sample



The data collected from the Area where very regular early reviews were seen has not been included in the data for this chart as it is not representative of the findings in the sample as a whole.

2.4 In two Areas very regular reviews were carried out on all magistrates' courts warrant files from very soon after the warrant had been issued. However, endorsements of these reviews were only seen in one of these Areas and they formed the majority of reviews seen in the audit. Other Areas' files were referred on an ad hoc basis by the police and the criterion for referral of files was not clear.

2.5 Crown Court cases were rarely reviewed to consider withdrawing the warrant. Only three of the 50 cases seen had some form of review endorsed in relation to the warrant and in some cases it would have been desirable to consider if the prosecution could still proceed with the main offence.

Compliance point

The CPS should review all warrant cases (including Crown Court cases) after one year, unless there are exceptional circumstances, as noted in national guidance. A further review should then be carried out annually as noted in the CPS legal guidance.

2.6 National guidance recommends that the police should not ask the CPS to consider applying to withdraw a warrant if it is under 12 months old unless there are exceptional circumstances and CPS legal guidance recommends that the CPS should review all warrant files after one year and then annually. However, in the Area where endorsements of regular reviews were seen the first reviews were done only two weeks after the warrant had been issued and then every three months, regardless of the type of offence and with no new information provided by the police. Whilst regular review is good, the timing of the review should be amended to comply with national guidance to prevent the CPS from being burdened with unnecessary reviews.

Endorsements of reviews on cases with outstanding warrants

2.7 In our file sample warrants remained outstanding on 199⁴ cases of which 152 were eligible for review under the guidance as the warrant was over a year old. Only 30 (20%) of these 152 cases had reviews endorsed.

2.8 Nearly all of these were carried out in the Area where the police prompted early review on a very regular basis. A form was used in this Area to provide updates from the police on the defendant's whereabouts, to prompt review, and to note the CPS decision. This form was considered **good practice** as it provided a clear audit trail of the consideration given to withdrawal. The appointment of a nominated member of staff in this unit to be responsible for maintaining warrant records has assisted in managing regular reviews and is also considered **good practice**.

Endorsements on files where applications to withdraw had been made

2.9 We saw 23 further cases that had been considered for withdrawal by the CPS and where the warrant had been withdrawn by the CPS. These were examined by an HMCPSI legal inspector.

2.10 In most of these cases there was no audit trail to show why the case had been referred for review, what efforts had been made by the police to find the defendant, or any note of CPS consideration of withdrawal. However, the information available on the files was thought sufficient to make a decision.

⁴ The 23 files where the warrant had been withdrawn that were provided by the audited Areas have been removed from this figure.

2.11 The decision to apply to withdraw the case or instructions to the prosecutor in court to clarify if it was both the warrant and the offence that were to be withdrawn were rarely endorsed. The result of the application and the reasons for this were often only discernable from CMS which recorded the outcome of the case. It appeared from this that the most likely reason for most applications was the length of time that the warrant had been outstanding.

2.12 In nearly all cases seen the decision to apply to withdraw the warrant and the proceedings was considered correct. However, in two traffic matters the decision was considered incorrect as these cases had been proved in the absence of the defendant and a warrant had been issued when the defendant failed to attend court to be disqualified from driving. It was considered that the withdrawal of the warrant was not necessary as it is possible for the courts to disqualify the defendants and sentence them in their absence for these types of offences.

2.13 There is no specific coding available on CMS to record accurately the outcome and reasons for the withdrawal of warrants and inappropriate codes were sometimes used.

Compliance point

An endorsement of all reviews and the outcome of all applications should be clearly endorsed on the file to show:

- who instigated the review and any information provided by the police for consideration;
- the review decision and reason for this;
- clear instructions to the prosecutor about if they are to apply to withdraw the warrant, or the offence, or both; and
- the outcome and reasons for the outcome of any application.

Legal and procedural issues where applications had been refused or had not proceeded

2.14 Most of the 30 reviews seen on outstanding warrant files confirmed that the warrant was to remain outstanding but five cases were to be listed for an application to withdraw the warrant and the offence but this had not happened. In two of these cases there was no endorsement to show why the cases had not been listed or withdrawn but in the remaining three cases applications had been made to the court but had not been granted.

2.15 Two of these had been listed for application but the magistrates ruled that the case could not be withdrawn as the defendant had been convicted. These were offences where the cases had been proved in the absence of the defendant and in similar cases in other Areas the court had allowed the proceedings to be reopened.

2.16 In the remaining case it appears that the application should not have been made. This was a Crown Court case where the indictment had been lodged but the defendant was not arraigned and prosecuting counsel advised that the case could not therefore be discontinued or withdrawn but that instead the indictment should be stayed. The matter has not yet been resolved some years later and the file remains outstanding in the Area's caseload.

3 Communication with victims and witnesses on warrant cases

3.1 Keeping victims and witnesses informed when a warrant has been issued or where a decision has been taken not to proceed with a warrant case is important to help victims of crime understand what has happened and maintain public confidence in the criminal justice system. However, there was inconsistent practice in keeping victims and witnesses informed on warrant cases. In all Areas it was expected that when a defendant failed to appear and a warrant was issued the witness care unit (WCU) would inform the victims and witnesses but examination of CMS revealed that a communication was seen in only a fifth (15) of the 76 relevant cases. In the remaining cases it was unclear how they were told.

Compliance point

All witness care units should communicate to victims and witnesses that a warrant has been issued.

3.2 We saw a significant number of cases with identified victims where the case had not been allocated to a witness care officer on CMS or where allocation had been done but no communication was seen. In two Areas communications seen on CMS from the WCU showed that witness care officers had begun more regular communication with victims to inform them that the defendant was still on warrant and this is considered **good practice**. However, this was not done consistently in these Areas. A few examples of very poor letters were seen but other letters were good and would have helped to ascertain if victims and witnesses were still willing to attend court.

3.3 The gravity or sensitive nature of the offence did not seem to be a factor in ensuring that the victim was notified and in some serious assaults, sexual offences or robbery cases there was no apparent contact. However, in one Area, a CPS paralegal officer had written to the officer in two cases involving child abuse to ensure that the victim was told that a warrant had been issued. Although commendable this is an action that should be carried out by the WCU as a matter of course.

3.4 Most of the 23 cases in our sample where the warrant and offence had been withdrawn were motoring offences and only four of these had victims. We were told that the police would attempt to contact the victims before requesting that an application to withdraw a warrant was made but none of the four relevant cases had any evidence of this recorded on the file or CMS.

3.5 When a case is withdrawn the CPS should contact the victim, under the direct communication with victims (DCV) scheme, to let them know the reason for the decision. All Areas told us that if a case was withdrawn at the same time as the warrant, the victim would receive a DCV letter. None of the four files with victims had a letter sent to inform the victim that the case and warrant had been withdrawn.

Compliance point

Direct communication with victims letters should be sent to all victims where the case had been withdrawn.



A Glossary

Code for Crown Prosecutors (the Code)

The public document that sets out the framework for prosecution decision-making. Crown prosecutors have the Director of Public Prosecutions' (DPP) power to determine cases delegated, but must exercise them in accordance with the Code and its two stage test – the evidential stage and the public interest stage. Cases should only proceed if, firstly, there is sufficient evidence to provide a realistic prospect of conviction and, secondly, if the prosecution is required in the public interest.

Committal

Procedure whereby a defendant in an either way case is moved from the magistrates' court to the Crown Court for trial, usually upon service of the prosecution evidence on the defence, but occasionally after consideration of the evidence by the magistrates.

Compass CMS

IT system for case tracking and case management used by the CPS. Compass is the new comprehensive system used in all Areas.

Counsel

Barrister at the independent Bar who may be instructed by the CPS to prosecute cases on behalf of the CPS.

Direct communication with victims (DCV)

The CPS writes directly to a victim of crime to explain a decision if a case is dropped or the charges reduced in all seriousness. In some instances a meeting will be offered to explain this.

Discontinuance

The dropping of a case by the CPS in the magistrates' court, whether by written notice (under s23 Prosecution of Offences Act 1985), withdrawal, or offer of no evidence at court.

Instructions to counsel

The papers which go to counsel setting out the history of a case and how it should be dealt with at court, together with case reports. These are sometimes referred to as the "brief to counsel".

GDC (Getting Defendants to Court) 29

GDC29 has been issued in 2008 by the Defendant Attendance Steering Group. This was issued to help criminal justice system agencies in managing the processes in withdrawing warrants.

Public interest stage

The second stage under the Code test - is it in the public interest to prosecute this defendant on this charge?

Review initial, continuing, summary trial etc

The process whereby a crown prosecutor determines that a case received from the police satisfies and continues to satisfy the legal test for prosecution in the Code. One of the most important functions of the CPS.

Warrant (Failure to Appear Warrant)

A warrant that can be issued by the court when a defendant fails to attend a hearing.

Warrant withdrawal

An application can be made to the court to withdraw a warrant if there are good reasons for doing so.

Warrant execution

A warrant is executed when a defendant is arrested and brought to court in custody (where a warrant is not backed for bail) or is arrested and bailed to attend (when a warrant is backed for bail) or when the defendant surrenders.

Witness care unit/witness care officer

Units responsible for managing the care of victims and prosecution witnesses from the point of charge to the conclusion of a case. Staffed by witness care officers and other support staff whose role it is to keep witnesses informed of progress during the course of their case. Units are often staffed with a combination of police and CPS staff (joint units).

XHIBIT

A computer system operated by the Crown Court to provide information on cases.

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