

## **Report into the Resulting and Warrant Withdrawal Procedures used at Leeds Magistrates' Court**

**(Pursuant to a reference by the Lord Chancellor and Secretary of State for Justice  
under section 60(4) of the Courts Act 2003)**

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## Chief Inspectors' Foreword

This is a special report, commissioned by the Lord Chancellor and Secretary of State for Justice under section 60 of the Courts Act 2003. It has been delivered jointly with HM Inspectorates of Constabulary, the Crown Prosecution Service and Probation and has been led by HM Inspectorate of Court Administration.

This report deals with the effectiveness and appropriateness of the current court resulting and interagency warrant withdrawal processes at Leeds Magistrates' Court. However, because accurate court records and the proper handling of warrants are at the core of the criminal justice system, we have examined not only the current arrangements but also explored the key reasons for the historic failures identified, in order to help ensure that current systems should not fail in the same way.

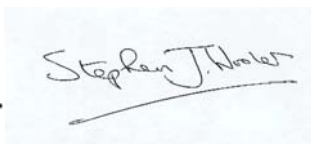
All of the agencies involved have co-operated fully with the Inspectorates. Each has demonstrated a commitment to improving services in the future and not dwelling on historic failings. We are impressed by their prompt response to our emerging findings and recommendations. In particular, we welcome the willingness of HM Courts Service to accept responsibility for the historic failings at Leeds Magistrates' Court even though they happened before the creation of HM Courts Service in 2005. We are glad to report that HM Courts Service has committed fully to identifying and rectifying all of the failures, learning lessons as appropriate and engaging openly with this process.

The public are entitled to expect that the results of court cases are properly recorded and where appropriate are accurately transferred to the Police National Computer, and that those individuals directed to attend court by the judiciary do so as appropriate. Although the report confirms that the historic failures at Leeds Magistrates' Court have now been rectified, there remain weaknesses within both processes threatening overall effectiveness. We have set out in our recommendations the steps needed to be taken to rectify these weaknesses. We intend to continue to oversee HMCS efforts to regularise all court records. The challenge remains for all of the agencies involved, and HMCS in particular, to establish practices at Leeds Magistrates' Court, and throughout West Yorkshire, that are a model of good practice.

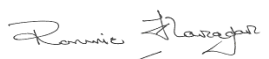
Finally, we are grateful to the Head of Internal Assurance at the Ministry of Justice, District Judge Tony Browne (whose separate judicial investigation we have supported), the Chief Executive and Senior Managers of HMCS for their assistance and cooperation. In addition we are grateful to the staff and local management at West Yorkshire Police, West Yorkshire Crown Prosecution Service, West Yorkshire Probation and Leeds Magistrates' Court for their co-operation and collaboration in this inspection. It has demonstrated the ability of the criminal justice inspectorates to respond quickly, and work effectively together on matters of high risk or concern to the public and Ministers.



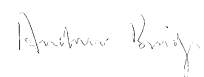
Eddie Bloomfield



Stephen Wooler CB



Sir Ronnie Flanagan GBE QPM



Andrew Bridges CBE

## Executive Summary and Recommendations

### Introduction

1. This is a report on the Resulting and Warrant Withdrawal Processes used at Leeds Magistrates' Court.
2. The concerns about Leeds Magistrates' Court relate to two issues:
  - Firstly, we were asked to report on the effectiveness and appropriateness of the current systems in place that enable a record of every court adjudication to be entered in the court register at Leeds Magistrates' Court and appropriate adjudications to be entered subsequently onto the Police National Computer (PNC). We were asked to do this because of the discovery, by HMCS, of an historic failure by Leeds Magistrates' Court to record the outcomes of cases and the consequent incomplete updating of recordable offences onto the PNC. In doing so we have quantified the numbers and types of offences and other matters (for example drug treatment and testing orders and breaches of bail).
  - Secondly, we were asked to report on the effectiveness and appropriateness of the interagency systems in place to enable the withdrawal of warrants issued by the court for the arrest of defendants who fail to appear at Leeds Magistrates' Court. We have inspected the systems and processes currently in place do this within the West Yorkshire Police, West Yorkshire Probation, West Yorkshire CPS and Leeds Magistrates' Court. In doing this we also inspected how the agencies manage the processes internally and how they interact and communicate with each other to ensure that they provide an effective end-to-end process. In addition we have also responded to the discovery, by HMCS, of an historic practice of withdrawing warrants in legal adviser-only courts in which legal advisers withdrew warrants and related offences issued by the court and withdrew offences where a finding of guilt had been made. An independent judicial investigation is examining the exercise of the judicial responsibilities of legal advisers at Leeds Magistrates' Court. We have supported this separate judicial investigation and provided verification of the numbers by identifying and quantifying all cases in which warrants and related offences have been withdrawn in a legal adviser-only court.

### Terms Of Reference

3. On 29 November 2007, the Lord Chancellor and Secretary of State for Justice made a Written Ministerial Statement about the issues at Leeds Magistrates' Court and directed HMICA to report on the court resulting and warrant withdrawal procedures in place there. The following terms of reference have been followed:
4. *Under Section 60(4) of the Courts Act 2003 and working with HM Chief Inspector of Constabulary and HM Chief Inspector of CPS; the Chief Inspector of Court Administration will report to the Secretary of State for Justice, the Home Secretary and the Attorney General as necessary on:*

- i) *The effectiveness and appropriateness of the systems enabling a record of every court adjudication to be entered in the magistrates' court register at Leeds Magistrates' Court.*
- ii) *The effectiveness and appropriateness of the systems enabling court registers to be conveyed to the police from Leeds Magistrates' Court.*
- iii) *The effectiveness and appropriateness of the systems enabling court adjudications from Leeds Magistrates' Court to be placed on the PNC.*
- iv) *The effectiveness and appropriateness of the interagency systems in place to manage warrant withdrawal in Leeds Magistrates' Court.*

*The Chief Inspector of Court Administration will support the separate and independent judicial investigation of the judicial responsibilities of Legal Advisers at Leeds Magistrates' Court, as appropriate.*

- 5. In addition to the above, HM Chief Inspector of HMICA was also asked to verify the number of cases involved, the breakdown of offences and the position regarding the Police National Computer (PNC).
- 6. On HMICA realising early in the inspection that twelve of the warrants in question resulted from breaches of community penalties, HM Chief Inspector of Probation was also invited to contribute. This contribution was achieved by examining the cases, assessing what action was taken, confirming that they presented no continuing un-addressed risks and assessing current procedures within the West Yorkshire Probation Area.

## **Findings**

### **Recording Court Adjudications**

- 7. Between 2001 and 2007 an estimated 320,000 criminal cases and breaches were completed in Leeds Magistrates' Court. In 2007 alone, 31,611 criminal cases and breaches of orders were started in Leeds Magistrates' Court, with 31,258 being finalised. The more serious offences were finalised in the Crown Court.
- 8. Each case should have the outcome recorded, and where appropriate transferred to the PNC. Resulting is a term used in this report to describe the processes where by a final adjudication made in the magistrates' court is officially recorded. There has been an historic failure identified at Leeds Magistrates' Court to record consistently the outcomes of cases and the consequent incomplete updating of recordable offences onto the PNC.
- 9. The historic failure to manage the number and age of unresulted court adjudications at Leeds Magistrates' Court resulted in the creation and use of a disk to store cases with missing adjudications, the use of artificial court registers on four occasions in 2002 to clear missing results administratively and the manufacturing of court adjudications on at least one occasion in 2004. These issues are described more fully in the report.

10. HMCS has now improved the controls in place to manage the number of unresulted court adjudications. All court adjudications are now included in the court register.
11. However Inspectors are concerned that weaknesses elsewhere in the resulting system continue to put at risk the ability of Leeds Magistrates' Court to effectively and appropriately record all adjudications on the court register.
12. These weaknesses are centred on: a failure to assure the accuracy and quality of in-court record keeping; weaknesses in the quality assurance controls of administrative processes; the effectiveness of the training model; and frequent IT failings.
13. Also, we were concerned to find during the inspection that adjudications made on 19 September 2007, on cases previously found to be missing a result, had been entered into the court register incorrectly. Although this mistake has been rectified and there was no adverse impact on the PNC, it is illustrative of our view that risks remain in the process.
14. The report makes recommendations to help HMCS make improvements in these areas.
15. In addition we were asked to verify the numbers involved.
16. We have provided HMCS with a list of offences and other matters that have not been accurately recorded and they have already begun the process of tracing the missing results. HMCS has prioritised its activity to focus on the most serious offences. During the inspection we have already been able to verify the accuracy of the traced adjudications for 62 of the most serious offences, and can confirm that the correct adjudication is recorded on the PNC where appropriate. Appendix 1 of the report therefore contains a breakdown of the remaining missing results.
17. Now that HMCS has a definitive list of offences and other matters that that have not been accurately recorded, it is likely that HMCS will be able to trace many of them, and in the fullness of time reduce the number further. Also, at the time of the original hearing the court may have determined a defendant as innocent of some of these offences.
18. However, it remains unacceptable that court records at Leeds Magistrates' Court do not have an accurate result for 3260 offences and other matters, relating to 2206 defendants, and the worse case scenario is that 1200 defendants have not had the results for 1568 offences passed to the PNC.
19. The earliest date of offence for which an adjudication is not recorded is 1980 and the latest date of offence for which an adjudication is not recorded is April 2004.
20. The current position is summarised below. Appendix 1 contains full details of the type of offences and other matters involved, and Appendix 1a contains a breakdown of the numbers involved.

**Table 1: Total Number and Breakdown of Results Currently Missing 1980- 2007**

Total number of defendants currently missing an adjudication	2206
Total number of offences and other matters currently missing an adjudication	3260
Number of recordable offences currently missing an adjudication	1568
Number of defendants currently missing an adjudication for a recordable offence	1200

### **Placing court adjudications onto the PNC**

21. The systems enabling court registers to be conveyed to the police and subsequently entered onto the PNC are effective and appropriate. There are good quality assurance controls in place and good systems to manage performance. The training model used for new entrants to the Police Resulting Team is excellent and priority adjudications are treated appropriately.

### **Interagency warrant withdrawal procedures**

22. On average, approximately 3500 warrants are issued at Leeds Magistrates' Court each year, and on average, approximately 600 are withdrawn each year.

23. Inspectors have identified that at least as early as 1998 there was a particular practice in use at Leeds Magistrates' Court for the withdrawal of outstanding warrants.

24. In July 2003, this practice was ratified and agreed (known as the 2003 agreement) jointly between Leeds Magistrates' Court, West Yorkshire CPS and West Yorkshire Police.

25. The practice involved legal advisers withdrawing warrants and related offences issued by the court, and withdrawing offences where a finding of guilt had been made.

26. An independent judicial investigation is examining the exercise of judicial responsibilities of legal advisers at Leeds Magistrates' Court.

27. Inspectors have supported the separate judicial investigation and this report provides verification regarding the number of warrants and related offences withdrawn in accordance with the 2003 agreement. We have done this by quantifying the number of warrants and related offences withdrawn, the types of offences and the impact on the PNC by identifying and quantifying all cases in which warrants and related offences have been withdrawn in a legal adviser-only court, based on the information available.

28. The earliest recorded occurrence of the practice was in August 1999. The last recorded occurrence was August 2004.



29. The current position is summarised below. Appendix 2 contains a full breakdown of the type of offences withdrawn; Appendix 2a contains a breakdown of the overall number of defendants, warrants and offences involved.

**Table 2: Total Number And Breakdown Of Warrants And Related Offences Withdrawn Under The 2003 Agreement**

Total number of defendants with warrants and related offences withdrawn	555
Total number of warrants withdrawn	561
Total number of offences withdrawn	1709
<b>Recordable Offences</b>	
Number of defendants with recordable offences withdrawn	318
Number of recordable offences withdrawn	551
<b>Convicted Offences</b>	
Number of defendants with convicted offences withdrawn	200
Number of convicted offences withdrawn	689
<b>Convicted Recordable Offences</b>	
Number of defendants with convicted recordable offences withdrawn	67
Number of convicted recordable offences withdrawn	115

30. Inspectors noted that the historic practice of legal advisers withdrawing warrants and related offences has stopped. The last recorded occurrence was August 2004 and a bench of magistrates' or a District Judge within Leeds Magistrates' Court is now performing these functions, following an application by the relevant prosecuting authority.
31. Evidence from interviews, file analysis and IT interrogation confirms that all warrants have been adjudicated upon by a bench of Magistrates, or a District Judge in 2007
32. However, Inspectors are concerned that weaknesses elsewhere in the interagency process put at risk the overall effectiveness of the systems used to manage the withdrawal of warrants and related offences.
33. Staff within each agency do not receive a strategic lead with regard to interagency warrant withdrawal processes, and the awareness of policy and guidance from OCJR regarding the withdrawal of warrants is low.
34. Although the agencies have processes in place that mirror most of the principles contained within the interagency guidance, this has not been as a result of a coordinated, joined up approach. Instead this has been achieved in isolation and has resulted in fragmented communication and interagency processes. These include the lack of appropriate scrutiny, premature applications and the withdrawal of proceedings where convictions had previously been recorded, and which put at risk

the overall effectiveness of the systems used to manage the withdrawal of warrants and related offences.

35. In January 2008 the West Yorkshire Local Criminal Justice Board (LCJB) drafted an interagency protocol for the withdrawal of warrants and related offences. Once implemented we believe it will enable the LCJB to provide the strategic leadership to the individual agencies that has been missing and that it can help them to deliver a joined up and efficient interagency process. We also believe that the LCJB should champion compliance with the interagency protocol within West Yorkshire Police, West Yorkshire Probation, West Yorkshire CPS and West Yorkshire HMCS.

### **Recommendations (in the order that they appear in the report)**

36. **Recommendation 1:** That HMCS investigate on what authority the artificial court registers were produced and considers appropriate action.

37. **Recommendation 2:** That HMCS, working in partnership with the police, and with the oversight of HMICA, ensure that, where possible, the additional missing results are identified and if appropriate recorded on the Police National Computer. For results that cannot be traced the matters should be properly disposed of under judicial oversight.

38. **Recommendation 3:** That HMCS ensures that in-court record keeping is accurate, timely and legible at Leeds Magistrates' Court in order to ensure that the register produced is a definitive document of record.

39. **Recommendation 4:** That HMCS ensure that its operating procedures are being applied consistently and that staff have the necessary skills to perform their role effectively.

40. **Recommendation 5:** That the West Yorkshire CPS assure itself:

- that the review of cases put forward for the withdrawal of warrants should adequately distinguish between the decision to withdraw the warrant and the decision to withdraw the proceedings
- that the review fully takes into account existing guidance
- that the review and instruction is fully recorded
- that review decisions are subject to quality assurance

41. **Recommendation 6:** That the Local Criminal Justice Board:

- implement an interagency warrant withdrawal protocol and champions its compliance within the West Yorkshire Police, West Yorkshire Probation, West Yorkshire CPS and West Yorkshire HMCS.
- provide strategic leadership of the interagency systems managing warrant withdrawals at all Courts in HMCS West Yorkshire.
- oversee the establishment of regular interagency fora to enable criminal justice agencies to reconcile their outstanding warrants.

42. **Recommendation 7:** That HMCS ensure that Criminal Records Bureau (CRB) checks have not been compromised as a consequence of the historic failings at Leeds Magistrates' Court.

## Chapter 1: Context of the Report

### Background

43. HM Courts Service (HMCS) was established in April 2005 following the implementation of the Courts Act 2003. Prior to this the administration of the magistrates' courts was a matter for 42 independent Magistrates' Courts Committees (MCCs).
44. Until April 2005 Leeds Magistrates' Court was managed by the West Yorkshire Magistrates' Court Committee. It now forms part of the North and West Yorkshire Area of HMCS.
45. The concerns about Leeds Magistrates' Court relate to two issues:
- Firstly, we were asked to report on the effectiveness and appropriateness of the current systems in place that enable a record of every court adjudication to be entered in the court register at Leeds Magistrates' Court and the subsequent entering of appropriate adjudications onto the Police National Computer (PNC). We were asked to do this because of the discovery, by HMCS, of an historic failure by Leeds Magistrates' Court to record the outcomes of cases and the consequent incomplete updating of recordable offences onto the PNC. In doing so we have quantified the numbers and types of offences and other matters (for example drug treatment and testing orders and breaches of bail).
  - Secondly, we were asked to report on the effectiveness and appropriateness of the interagency systems in place to enable the withdrawal of warrants issued by the court for the arrest of defendants who have failed to appear at Leeds Magistrates' Court. We have inspected the systems and processes currently in place to do this within the West Yorkshire Police, West Yorkshire Probation, West Yorkshire CPS and Leeds Magistrates' Court. In doing this we also inspected how the agencies manage the processes internally and how they interact and communicate with each other to ensure that they provide an effective end-to-end process. In addition we have also responded to the discovery, by HMCS, of an historic practice of withdrawing warrants in legal adviser-only courts in which legal advisers withdrew warrants and related offences issued by the court and withdrew offences where a finding of guilt had been made. An independent judicial investigation is examining the exercise of the judicial responsibilities of legal advisers at Leeds Magistrates' Court. We have supported this separate judicial investigation and provided verification of the numbers by identifying and quantifying all cases in which warrants and related offences have been withdrawn in a legal adviser-only court.

## The Inspectorates' involvement

46. Inspection reports by the Magistrates' Courts' Service Inspectorate (MCSI) in 1997 and 2002 highlighted concerns about Leeds Magistrates' Court that related to register production and staff training.
47. In 2005 HM Inspectorate of Court Administration (HMICA) took over the functions of the MCSI.
48. In May 2007, as part of a thematic inspection of HMCS performance management systems, HMICA became aware of historic issues related to court resulting in Leeds Magistrates' Court.
49. The Chief Inspector sought assurances from HMCS about these issues, and the actions being taken. Discussions continued between the inspectorate and HMCS between May 2007 and November 2007.
50. On 29<sup>th</sup> November 2007 the Lord Chancellor and Secretary of State for Justice made a Written Ministerial Statement about the issues at Leeds Magistrates' Court and directed HMICA to lead a review into the court resulting and warrant withdrawal procedures in place there. The following terms of reference were laid:

### 51. Terms of Reference

*Under Section 60(4) of the Courts Act 2003 and working with HM Chief Inspector of Constabulary and HM Chief Inspector of CPS; the Chief Inspector of Court Administration will report to the Secretary of State for Justice, the Home Secretary and the Attorney General as necessary on:*

- i) *The effectiveness and appropriateness of the systems enabling a record of every court adjudication to be entered in the magistrates' court register at Leeds Magistrates' Court.*
- iii) *The effectiveness and appropriateness of the systems enabling court registers to be conveyed to the police from Leeds Magistrates' Court.*
- iii) *The effectiveness and appropriateness of the systems enabling court adjudications from Leeds Magistrates' Court to be placed on the PNC.*
- iv) *The effectiveness and appropriateness of the interagency systems in place to manage warrant withdrawal in Leeds Magistrates' Court.*

*The Chief Inspector of Court Administration will support the separate and independent judicial investigation of the judicial responsibilities of Legal Advisers at Leeds Magistrates' Court, as appropriate.*

52. In addition to the above, HM Chief Inspector of HMICA was also asked to verify the number of cases involved, the breakdown of offences and the position regarding the Police National Computer (PNC).

53. On HMICA realising early in the inspection that twelve of the warrants in question resulted from breach of community penalties HM Chief Inspector of Probation was also invited to contribute. This contribution was achieved by examining the cases, assessing what action was taken, confirming that they presented no continuing un-addressed risks and assessing current procedures within the West Yorkshire Probation Area.

## Chapter 2: Resulting - verification of the numbers involved

### The resulting process

54. In 2007 a total of 31,611 criminal cases and breaches of orders were started in Leeds Magistrates' Court with 31,258 being finalised, the more serious offences were finalised in the Crown Court.
55. Resulting is a term used in this report to describe the processes where by a final adjudication made in the magistrates' court is officially recorded.
56. The requirement for courts to produce a court register and the information it should contain is set out in Rule 6.1 of the Criminal Procedure Rules (reproduced in Appendix 7)
57. Each register relates to the adjudications made in a particular courtroom in the same sitting by the same adjudicator (i.e. a bench of magistrates, a District Judge or a Legal Adviser using delegated powers). It consists of a record of adjudications made by the court and recorded by the legal adviser. The court register is the definitive record of all adjudications made by the court and as such the accuracy of the register is paramount.
58. *HMCS Magistrates' Courts Accounting Manual (MCAM)* Section C1 contains guidance on the steps to be followed when producing a court register (reproduced in Appendix 8).
59. This is supplemented by *HMCS Management Assurance Program (MAP)* check number 14, which stipulates the checks required to provide assurance that the MCAM guidance has been followed. (Reproduced in Appendix 9).
60. Not all court adjudications are recordable on the PNC. Offences that carry the option of imprisonment and the offences listed in the National Police Records (Recordable Offences) Regulations 2000 are known as recordable offences. (The National Police Records (Recordable Offences) Regulations 2000 are reproduced at Appendix 10). Recordable offences have the record of the final court adjudication entered onto the PNC.
61. In 1991 a target was introduced for the courts to supply the police with copies of verified court results within three working days of each day's sitting. This target remained unchanged until January 2007, when the HMCS Chief Operating Officer and Director of Crime and Strategy wrote to Area and Regional Directors to gain assurance that court results were reaching the police in a timely manner. That letter contained a directive that 95% of court registers were to be sent to the police within three working days and all other cases within six working days after the court hearing.
62. Current systems do not enable the date on which the police receive a court register from the court to be recorded, and so there is no specific target for the police, although there is a joint police/HMCS target for 75% of all cases to be entered onto the PNC within ten calendar days after the date of hearing.

63. The need to provide accurate and timely court results was highlighted by the Richard Report (2004) into intelligence based record keeping. Recommendation 7 of the report sought to improve the accuracy and timeliness of court resulting.
64. During the inspection we have identified all of the cases where an accurate record of the adjudication has not been entered onto the court register (appendix 1). HMCS is now using the definitive list of these cases, and they have already begun the process of tracing the missing results. HMCS has prioritised its activity to focus on the most serious offences. During the inspection we have already been able to verify the accuracy of the traced adjudications for 63 of the most serious offences, and can confirm that the correct adjudication is recorded on the PNC.

### **The disk**

65. HMCS first became aware of the historic failure of Leeds Magistrates' Court to produce an accurate record of court adjudications following the discovery of a computer disk in 2005.
66. We know that in September 2002 a Lord Chancellor's Department Internal Audit report concluded that at Leeds Magistrates' Court, (then part of the West Yorkshire Magistrates' Courts Committee) 1250 un-resulted cases had accumulated on the local computer system. An un-resulted case is a case that has not had an adjudication entered onto the court register.
67. Appropriate management action was not taken to address the issue of the un-resulted cases, and in 2003, the computer system used within Leeds Magistrates' Court was replaced, requiring all data to be transferred from the old system to the new system.
68. The number of un-resulted cases had increased to around 3500, and some of these cases were not transferred onto the new system but were downloaded on to a computer disk.
69. The disk was retained for separate management action, though none was taken.
70. In July 2005, West Yorkshire Police contacted HMCS to report that a number of court adjudication results from Leeds Magistrates' Court were missing from the PNC.
71. HMCS investigated the complaint and discovered the disk referred to above. No action had been taken on the cases stored on the disk since it was created in 2003.
72. Court papers in Leeds Magistrates' Court are not available before May 2002. The original court case papers before this date, and thus most of the cases referred to on the disk, have been destroyed. This is in keeping with the normal rules for keeping court papers.
73. Local staff in Leeds Magistrates' Court, examined each case listed on the disk and then working with the police and other agencies, as appropriate, traced as many results as possible

74. On 19<sup>th</sup> September 2007 those cases where the adjudication results could not be traced, were listed before magistrates. On that day, the magistrates ordered 588 cases to be marked as: "Previous adjudications untraceable. Court determined not to make any further adjudication in this matter".
75. During the inspection we were concerned to find that all but three of these adjudications had been inaccurately entered into the court register as: "CONVICTED. Previous adjudications untraceable. Court determined not to make any further adjudication in this matter".
76. This happened because HMCS commissioned the creation of an IT code to automatically enter "Previous adjudications untraceable. Court determined not to make any further adjudication in this matter" on the court register upon the input of a specific result code by court staff. However the IT code defaulted the results to a convicted status upon entry.
77. Poor communication and a failure to recognise that the IT system had, by default, created a convicted status resulted in these cases being inaccurately recorded on the court register.
78. The mistake has now been rectified and the convicted status removed from the court register. Although this was an isolated incident and the convicted status was not entered onto the PNC, the error is unacceptable, as it is unknown if the court did make a finding of guilt in any of these cases. If not for the diligence of the inspection team, it is likely that the court register would still contain an inaccurate record of these cases.
79. The wording of the pronouncement by magistrates in each of these cases allows any of the case to be resurrected and the original court result to stand, should it ever be traced. Indeed some results have since been found and the original court adjudication has replaced the adjudication applied on 19<sup>th</sup> September 2007.
80. However, there are still 523 cases originating from the disk for which the actual adjudication cannot be traced. The earliest date of offence for which a result cannot be traced is March 1996 and the latest date of offence for which a result cannot be traced is February 2003. HMCS has concluded that it is unlikely that any of these results can ever be traced.
81. A summary of the missing results from the disk follows, and Appendix 3 contains a full breakdown of the type of offences and other matters involved.



**Table 3: Number And Breakdown Of Missing Results Identified From The Disk 1996-2003**

Total number of defendants missing an adjudication	458
Total number of offences and other matters missing an adjudication	771
Number of recordable offences missing an adjudication	324
Number of defendants missing an adjudication for a recordable offence	254

82. HMCS investigated the reasons behind the creation of the disk and the failure to record all court adjudications. As a result a formal disciplinary hearing was conducted on 21<sup>st</sup> April 2006. Two managers were found guilty of gross misconduct on the basis of neglecting official duties and failing to ensure accurate records were maintained. A separate disciplinary investigation concluded in March 2006 that no disciplinary action should be taken against a particular senior manager.

### **Artificial court registers**

83. During the inspection four court registers were identified, dated between July and October 2002, which we conclude were created artificially to deal with missing court adjudications and which were sent to the Police Resulting Team.

84. These court registers are artificial in the sense that they contain cases where the court adjudication was in the majority of cases shown as “Entered in Error - Audit Cleardown”, “Entered in Error” or “Dealt With”.

85. Clearly these court registers are not an accurate record of the court adjudication. We conclude that they were an administrative solution to remove those un-resulted cases from the court computer system, for which the actual court adjudication could not be traced. Therefore a record of the adjudication for these cases is still missing.

86. These court registers therefore contain artificial results. The earliest date of offence for which an artificial result has been recorded is 1980 and the latest date of offence for which an artificial result has been recorded is November 2002.

87. The content of the four registers are summarised below, and appendix 4 contains a full breakdown of the type of offences and other matters involved, with appendices 4a-d providing the same details for each register individually.

**Table 4: Number And Breakdown Of Results Currently Missing Identified From The Artificial Court Registers 1980- 2002**

Total number of defendants currently missing an adjudication	1728
Total number of offences and other matters currently missing an adjudication	2451
Number of recordable offences currently missing an adjudication	1226
Number of defendants currently missing an adjudication for a recordable offence	932

88. We found no further evidence of the practice since 2002, and although further work may determine the actual adjudication made by the court on these matters, it was clearly unacceptable and currently has a detrimental effect on the integrity of the data held on the PNC.

**89. Recommendation 1: That HMCS investigate on what authority the artificial court registers were produced and considers appropriate action.**

#### **Manufactured court results**

90. Separate disciplinary investigations are underway into matters at Leeds Magistrates' Court, during which a manufactured court register has been identified.

91. This term 'manufactured' is used to describe the action of guessing the result of a case where the true court adjudication could not be traced. This differs from the artificial registers described above, because the results appear legitimate, due to the terminology used.

92. In view of the fact that these investigations are subject to formal proceedings it would not be appropriate for HMICA to attempt to second guess or attempt to quantify the full impact of this practice, beyond noting the fact that a register of potential manufactured results has been identified.

93. For the purposes of this report we have accepted the numbers arising from the HMCS investigation. We have not attempted to repeat the analysis carried out by the investigation and cannot verify the conclusion that the scale and extent of the practice is not quantifiable, although the conclusion seems reasonable.

94. However, during the inspection we have identified additional examples of potential cases of manufactured results. The details of these cases have been passed to HMCS for further investigation. We have included these examples within the numbers contained in the table below.

95. The earliest date of offence for which a manufactured result has been recorded is March 2004 and the latest date of offence is April 2004.

96. A summary of the manufactured results follows, and Appendix 5 contains a breakdown of the type of offences involved.

**Table 5: Number And Breakdown Of Results Currently Missing Identified From The Manufactured Court Register 2004**

Total number of defendants currently missing an adjudication	12
Total number of offences currently missing an adjudication	27
Number of recordable offences currently missing an adjudication	7
Number of defendants currently missing an adjudication for a recordable offence	6

**Missing results identified by the Police national Computer (PNC)**

97. The police have been assisting staff at Leeds Magistrates' Court to identify and correct missing results. The PNC system has been analysed to identify results missing from Leeds Magistrates' Court up to November 2007.

98. The earliest date of offence for which a result is missing is March 2001 and the latest date of offence is September 2002:

99. The summary of number of missing results identified by the PNC follows; Appendix 6 contains a full breakdown of the type of offences involved.

**Table 6: Number And Breakdown Of Missing Results Identified by the PNC 2001-2002**

Total number of defendants currently missing an adjudication	8
Total number of offences currently missing an adjudication	11
Number of recordable offences currently missing an adjudication	11
Number of defendants currently missing an adjudication for a recordable offence	8

**PNC impact, types of offences and verification of the numbers involved**

100. We have provided HMCS with a list of offences and other matters that have not been accurately recorded and they have already begun the process of tracing the missing results. HMCS has prioritised its activity to focus on the most serious offences. During the inspection we have already been able to verify the accuracy of the traced adjudications for 62 of the most serious offences, and can confirm that the correct adjudication is recorded on the PNC where appropriate. Appendix 1 of the report therefore contains a breakdown of the remaining missing results, subject to the caveat at paragraph 93.

101. Now that HMCS has a definitive list of offences and other matters that have not been accurately recorded, it is likely that HMCS will be able to trace many of them, and in the fullness of time reduce the number further. Also, at the time of

the original hearing the court may have determined a defendant as innocent of some of these offences.

102. However, it remains unacceptable that court records at Leeds Magistrates' Court do not have an accurate result for 3260 offences and other matters, relating to 2206 defendants, and the worse case scenario is that 1200 defendants have not had the results for 1568 offences passed to the PNC.
103. The earliest date of offence for which a result is not recorded is 1980 and the latest date of offence for which a result is not recorded is April 2004.
104. The total number of adjudications currently missing, the number of defendants and the types of offences and other matters are summarised below. A detailed breakdown of the type of offences and other matters is contained at Appendix 1.

**Table 7: Total Number and Breakdown of Results Currently Missing 1980- 2007**

Total number of defendants currently missing an adjudication	2206
Total number of offences and other matters currently missing an adjudication	3260
Number of recordable offences currently missing an adjudication	1568
Number of defendants currently missing an adjudication for a recordable offence	1200

105. **Recommendation 2: That HMCS, working in partnership with the police, and with the oversight of HMICA, ensure that, where possible, the additional missing results are identified and if appropriate recorded on the Police National Computer. For results that cannot be traced the matters should be properly disposed of under judicial oversight.**

## Chapter 3: Resulting- current systems

### Terms of Reference (i)

***Do the processes and systems at Leeds Magistrates' Court enable all court adjudications to be placed on to the court register promptly and accurately?***

#### **Conclusion**

**We conclude that HMCS has improved the controls in place to manage the use of suspense accounts and that all adjudications are now included in the court register. However, we are concerned that weaknesses elsewhere in the resulting system continue to put at risk the ability of Leeds Magistrates' Court to effectively and appropriately record all adjudications on the court register. The weaknesses are centred on a failure to assure the accuracy and quality of in-court record keeping, weaknesses in the quality assurance controls of administrative processes, the effectiveness of the training model; and frequent IT failings.**

#### **Suspense accounts**

106. We were asked to report on the effectiveness and appropriateness of the current systems in place that enable a record of every court adjudication to be entered in the court register at Leeds Magistrates' Court. We were asked to do this because of the discovery, by HMCS, of an historic failure by Leeds Magistrates' Court to record the outcomes of cases and the consequent incomplete updating of recordable offences onto the PNC
107. In doing so, we have identified key reasons for the historic failure. A key reason of the historic failure at Leeds Magistrates' Court was a failure to manage the number and age of missing adjudications.
108. Court registers are compiled from a record of the hearing outcome recorded on court papers. On occasions endorsements by legal advisers on the court papers can be unclear or illegible, leading to a delay in recording and verifying results.
109. The magistrates' court have a target of 95% of all their court registers to be sent to the police within three working days after the date of hearing, and 100% within six days.
110. In trying to meet the target, court staff, then and now, take the decision, where a small number of individual results are missing or cannot be verified, not to withhold the entire register from the police, but rather to withhold the small number of missing or unverified results which then remain in a suspense account.
111. The remainder of the court register is then forwarded to the police, who update the PNC.
112. When the results in the suspense account are traced and verified, the results can then be entered onto a court register and sent to the police to update the PNC. The ultimate aim of this practice is to ensure that only those results that are missing or unverified are delayed being put onto the PNC.

113. In the past, the number and age of results held within this suspense account remained unchecked and results were not traced, verified and subsequently forwarded to the PNC.
114. Today the staff at Leeds Magistrates' Court have learnt the lessons from the historic failure to manage the number and age of un-resulted cases held in the suspense account. Although a suspense account is still used by the administrative staff responsible for transferring court adjudications from court papers onto the court register, robust management checks are now in place to manage its use. The number of occasions that it is used, and the reasons for its use is reviewed and managed by senior managers and action is taken as appropriate.
115. An increased focus on the quality and accuracy of the results provided by the court to the PNC, and successfully tracing of previously missing results, has had a negative impact on how quickly Leeds Magistrates' Court is providing a copy of the court register to the Police Resulting Team. Leeds Magistrates' Court has failed to meet its timeliness targets for register production since August 2007.

**Table 8: Leeds Magistrates' Court register production timeliness performance for 2007**

	April	May	June	July	Aug	Sept	Oct	Nov	Dec
3 Day Target	91%	64%	94%	42%	0%	49%	78%	66%	66%
6 Day Target	100%	100%	100%	100%	74%	78%	91%	79%	98%

116. This slow down in timeliness supports our view that although systems are now in place to manage the number of un-resulted court adjudications and the use of suspense accounts, failings elsewhere in the resulting process continue to re-create the pressures that led to the historic failure of Leeds Magistrates' Court to provide results to the Police Resulting Team.

## **Record keeping**

117. Though processes are in place to manage the use of the suspense accounts, the need for staff to trace missing or unverified court results remains. A cause of missing or unverified results lies in the failure of legal advisers to maintain accurate, timely and legible in-court records. The quality of many of the records seen by inspectors is poor, with often illegible and unclear results.
118. The requirement to keep accurate and timely in-court records is specified as part of the core competencies and job descriptions for legal advisers working in the courtroom.
119. In-court records are the basis from which the court register is produced. The court register is the definitive record of all adjudications made by the court and as such the accuracy of the register is paramount.

120. Weak systems are currently in place in Leeds Magistrates' Court to assure management that the adjudication declared by a bench of Magistrates' or a District Judge in court, is the same as the adjudication recorded on the court papers and subsequently on the court register. They do not include in-court observations or quality checks to assure the accuracy, completeness, legibility and timely completion and production of in-court records. Feedback regarding the quality and accuracy of in-court record keeping is not routinely provided to staff by management.
121. **Recommendation 3: That HMCS ensure that in-court record keeping is accurate, timely and legible at Leeds Magistrates' Court in order to ensure that the register produced is a definitive document of record.**

### **Administrative staff training and management checks**

122. *HMCS Magistrates' Courts Accounting Manual (MCAM)* Section C1 contains guidance on the steps to be followed when producing a court register (reproduced at Appendix 8).
123. This is supplemented by *HMCS Management Assurance Program (MAP)* check number 14, which stipulates the checks required to provide assurance that the MCAM guidance has been followed (reproduced at Appendix 9).
124. Processes and assurance systems are then developed locally to reflect local practice, workloads, IT systems and resource levels.
125. Local processes are then recorded on site within a procedures manual. The procedures manual is regularly updated and reflects current operating practice, with updates being communicated during team briefings and via email.
126. In September 2004 the then Department of Constitutional Affairs issued a document "Guidance for the Crown Court and Magistrates' Courts on sending Court results for entry on to the PNC" (version 2). However staff did not have an awareness of this document, nor was it used to support the resulting process.
127. Although the staff interviewed possess a good understanding of their own roles within the resulting system, and have a sound understanding of the processes and targets to which they work, interviewees confirmed that the procedure manuals do not drive and shape the process in place. Interviewees also confirmed that the procedure manuals are not used widely by staff and are not a core feature of induction training for new staff. In addition, the current assurance systems do not robustly test whether processes comply with the procedures manual and as a result HMCS are unable to assure themselves that its operating processes are being applied consistently.
128. Interviews with staff and managers revealed that formal, structured training has been minimal, with new entrants trained on-site using a 'buddy' system.
129. New entrants shadow an experienced team member and receive on-the-job training. On average this training lasts for one week for each of the work functions, at which point the new entrant is considered competent to undertake the task. Also

on average, it takes six months to cover all of the different work functions performed by the post-court team.

130. Although individual performance reporting on the new entrant continues for the first six months, the reporting system does not contain management observation of tasks, nor management checks on the quality and accuracy of the new entrant's work.
131. Staff turnover in Leeds Magistrates' Court is high, with vacancies currently being carried. A consequence of this model is that ultimately, the experienced staff that are providing training for the new staff will not have benefited from a consistent, structured training programme. The net result of the training model is to dilute the skill level of the organisation.
132. For example, some staff at Leeds Magistrates' Court have a poor understanding of the functionality of the IT system used to administer cases. Interviewees confirmed that when the current IT system was introduced in 2003, staff received an average of one hour of training, with no follow-up or refresher training thereafter. New entrants are currently trained to use the IT system, using the 'buddy' system by team members who themselves have a low skills base.
133. Currently managers do not routinely perform quality checks on an individual's work in order to assess skill levels and training needs. As a result, managers are unable to assure themselves that staff have the necessary skills and support to enable them to perform their role effectively.
134. **Recommendation 4: That HMCS ensure that its operating procedures are being applied consistently and that staff have the necessary skills to perform their role effectively.**

## IT support

135. The current IT system used at Leeds Magistrates' Court has been in place since 2003. It is due to be replaced in 2008 by the magistrates' court Libra IT system.
136. Throughout 2007 register production has been delayed on a number of occasions owing to failings in IT functionality. In June, July, August and November IT downtime and printer problems impacted on the timely production of the court register.



## Terms Of References (ii and iii)

***Are the processes and systems enabling adjudications from Leeds Magistrates' Court to be conveyed to the police and entered onto the PNC promptly and accurately, effective?***

### Conclusion

**We conclude that the systems enabling court registers to be conveyed to the police and subsequently entered on to the PNC are effective and appropriate. There are good quality assurance controls in place and good systems to manage performance. The training model used for new entrants to the Police Resulting Team is excellent and priority adjudications are treated appropriately.**

137. There is a joint police / HMCS target to ensure that 75% of all recordable adjudications are entered onto the PNC within ten days after the date of hearing.
138. This target has been achieved consistently during the last six months throughout the West Yorkshire area, with performance above the England and Wales average.

**Table 9: Percentage of recordable offences entered onto the PNC within ten days**

	July	Aug	Sept	Oct	Nov	Dec
West Yorkshire	85.9%	80%	82.3%	80.4%	80.3%	78.3%
England & Wales	77.0%	76.1%	77.1%	77.6%	77.6%	75.3%

### Entry of Adjudications by the Police onto the PNC

139. Validated court registers are transmitted from Leeds Magistrates' Court to the agreed police reception point promptly and securely.
140. The process begins with the validated court register being sent electronically from the computer system at Leeds Magistrates' Court securely to a print room within the Police Resulting Team.
141. Upon receipt of the court register the Police Resulting Team log according to date and time and allocate staff for inputting the data onto the PNC, using an appropriate and auditable tracking system.
142. Following the implementation of the Code of Practice for Victims of Crime in 2005, an additional target was introduced for both the magistrates' and Crown Courts for those cases involving vulnerable or intimidated victims.
143. All cases involving vulnerable or intimidated victims should be resulted and sent to Witness Care Units, within one working day and three working days for other victims. This includes first hearing bail/remand applications, all subsequent

hearings (including any resulting in a significant amendment to the sentence originally passed) and all adjournments and postponements of scheduled hearings.

144. In addition there is a particular requirement that some court adjudications are placed onto the PNC as soon as possible. Examples include bail conditions and adjudications concerning vulnerable or intimidated victims.
145. Inspectors verified that adjudications concerning vulnerable and intimidated victims are treated as a priority by staff at both Leeds Magistrates' Court and the Police Resulting Team.

### **Guidance and protocols**

146. National operating guidelines and protocols directing the Police Resulting Team are detailed in two manuals, which are kept under review by the National Policing Improvement Agency (NPIA) in order to reflect changes in policy and legislation.
147. The guidance is well communicated and understood by the Police Resulting Team and robust and auditable management checks confirm they are being implemented on site.
148. Staff skill levels are good and all the staff interviewed possessed high levels of technical knowledge with regard to PNC systems, targets and processes.

### **Training**

149. Training programmes are structured, well organised and ensure users are highly skilled.
150. Managers undertake regular reviews with staff and perform frequent quality assurance checks of work to ensure competency levels.

#### **Good Practice**

New staff are trained in how to input results onto the PNC by a trainer who is qualified to a national standard.

New staff undergo formal and structured training courses that include an examination and minimum pass mark. It is a condition of service that new staff achieve the required standard.

After completing initial training, quality checks are applied to new staff on 100 per cent of their work by the line supervisor. As the new entrant gains experience the percentage of the work that is checked is reduced.

In addition, quality checks are applied to a percentage of work on all staff by a line supervisor on an on-going basis.

The PNC will automatically forbid access to any user who has not logged in during the previous six months.

Staff returning to work after prolonged absence follow the process applied to staff who have recently completing initial training.

### **Quality control and management checks**

151. The Police Resulting Team have effective and robust management controls that ensure all adjudications received from Leeds Magistrates' Court are entered onto the PNC accurately and in a timely fashion.
152. Performance is regularly reviewed and supported by robust performance management systems, which are based on timely and relevant data.
153. Variations in performance are challenged at an appropriate level and action plans to improve poor performance are well managed.
154. Anomalies and queries in the court register are logged and queried with a point of contact in Leeds Magistrates' Court through secure email.
155. Outstanding queries are passed up the management chain for action at the appropriate level.

### **IT support**

156. IT systems support the activity of the Police Resulting Team, with good use of IT auditing software to track impending prosecutions and missing results.
157. 'Impending Prosecutions' are a record of prosecutions that have been started but have yet to be resulted.
158. An independent PNC auditor from within HM Inspectorate of Constabulary (HMIC) reviews the number of Impending Prosecutions within the Police Resulting Team every month. The Police Resulting Team is held to account by both internal management and HMIC on performance in this area through regular performance reviews and action plans to improve performance.
159. Cases from the Impending Prosecutions report within the PNC can be removed by the use of a 'No Result Available' classification.
160. The use of the 'No Result Available' classification must be approved by management, and only used when the police are satisfied that all attempts to trace the missing adjudication have been exhausted.
161. The historic use of this classification was more common due to the poor production of court adjudications from Leeds Magistrates' Court. The classification has been used just 13 times since 2005 across the whole of the West Yorkshire Police area, representing a significant improvement.

## **Interagency impact**

### **The Probation Service**

162. Interviews with staff from West Yorkshire Probation Area (WYPA) and examination of those FTA warrant cases resulting from breach of community penalties indicated some discrepancies between their records and the court register produced at Leeds Magistrates' Court.
163. We have anecdotal evidence of one case in particular when an additional condition of residence should have been added to a community-based penalty; although this issue was resolved. However instances of this happening in recent months have not been identified.
164. WYPA staff in court record the outcomes of hearings at the time of sentence. In order to ensure timely commencement, orders are commenced by WYPA based on their court officers' record.
165. When Orders are received, probation records should be crosschecked with the court records and any discrepancies addressed. However, it is not clear that these processes are consistently applied as yet.
166. Failure to identify and address discrepancies may leave probation unable to properly enforce breach of conditions.
167. The procedures between probation and Leeds Magistrates' Court to reconcile and address discrepancies in recording are not sufficiently robust.

## **Chapter 4: Withdrawal of Warrants: the numbers**

### **The warrant system**

168. On average, approximately 3500 warrants are issued at Leeds Magistrates' Court each year, and on average, approximately 600 are withdrawn each year.
169. The Court may issue a warrant when a defendant, having been previously bailed, fails to attend. Other warrants requiring the attendance at court of a defendant may be issued for a number of reasons. One such example is where a defendant, having been convicted, is required to attend for sentence and frequently for disqualification.
170. The warrant requires the executing agency, normally the police, to arrest and bring the individual before the court.
171. If the warrant is not executed within a reasonable time the prosecution or other enforcement authority, (sometimes the Probation Service), may request to have the warrant and sometimes the offence withdrawn. This may be for a number of reasons. The defendant may have surrendered themselves voluntarily, have been unable to attend through no fault of their own, or indeed have died.
172. It may also be that police enquiries to trace the defendant have been exhausted. After an appropriate period of time it may be no longer in the public interest for these warrants to remain in force. The executing authority may request that a review take place, though the decision to apply to have the warrant withdrawn is for the prosecuting authority, in practice this is normally the CPS.
173. In conducting a review of the case a Crown Prosecutor must apply the Code for Crown Prosecutors to the facts available which includes the information provided by the police. Additionally, guidance was issued in 2006 from the Office for Criminal Justice Reform 'GDC19' (The guidance is reproduced at appendix 11).
174. Together these detail a number of factors that should be considered before applying for a warrant to be withdrawn. These include the seriousness of the offence, the age of the warrant and factors appertaining to the offence and the offender.
175. In considering these applications the reviewing lawyer must decide whether it is appropriate for the warrant or the offence proceedings, or both, to be withdrawn.
176. If the CPS lawyer or the Probation Officer decides that the warrant is suitable for withdrawal, they will cause the case to be listed for an application to be made. This hearing will take place before a District Judge or magistrates and will be by personal application by the prosecutor.

### **The 2003 Agreement**

177. During the inspection we have identified that at least as early as 1998 there was a particular practice in use at Leeds Magistrates' Court for the withdrawal of

outstanding warrants. This practice was ratified and formally recorded in 2003. An aim of the agreement was to clear the warrants backlog within 15 weeks.

178. In July 2003, this practice was ratified and agreed jointly between Leeds Magistrates' Court, West Yorkshire CPS and West Yorkshire Police.
179. The agreement is referred to in this report as the 2003 agreement. It is fully documented and is reproduced at Appendix 12. It outlines the following procedures for withdrawing outstanding warrants and related offences:
  180. Staff at Leeds Magistrates' Court were to review all warrants that had been outstanding for over four months. All warrants identified during the review were listed and passed to the police.
  181. The police were to carry out a similar review and identify all warrants that had been outstanding for over four months. The two lists were combined.
  182. The combined list of outstanding warrants would then be passed to the CPS. The CPS were to consider the cases on the list and, if they agreed that the withdrawal of the warrant, or the warrants and related offence, was appropriate, they were to pass the case details to staff at Leeds Magistrates' Court, who were to list the cases in a legal adviser-only court.
  183. A legal adviser-only court is a court in which a bench of magistrates' or a District Judge does not sit, and instead a legal adviser conducts the court using delegated legal powers.
  184. The legal adviser would withdraw the warrant and if no conviction was recorded on the offence(s) to which the warrant related, then the legal adviser was to withdraw the offence(s).
  185. If a conviction was already recorded against the offence(s) to which the warrant related, then the legal adviser was to record no separate penalty against the offence(s). However, in practice this was not done, and instead where offences had a recorded conviction they were withdrawn in addition to the warrant.
186. In addition, an examination of the records of hearings has shown that this process often took place in the absence of a prosecutor.
187. An independent judicial investigation is examining the exercise of judicial responsibilities of legal advisers at Leeds Magistrates' Court.
188. Inspectors have supported the separate judicial investigation and provided verification to Ministers regarding the number of warrants and related offences withdrawn in this way. We have done this by quantifying the number of warrants and related offences withdrawn in accordance to the 2003 agreement, the types of offences and the impact on the PNC by identifying and quantifying all cases in which warrants and related offences have been withdrawn in a legal adviser-only court, based on the information available.

## PNC Impact and verification of the numbers involved

189. Using the information available we have quantified the number of defendants, warrants, related offences and the type of offences withdrawn in accordance to the 2003 agreement. The majority of these were for minor offences but they also included warrants that related to more serious offences and some were for cases in which a finding of guilt had already been made.
190. The earliest recorded occurrence of the practice described in the 2003 agreement was in August 1999. The last recorded occurrence was August 2004.
191. Appendix 2 contains a full breakdown of the offences by type withdrawn. Appendix 2a contains a detailed breakdown of the numbers involved.

**Table 10: Total Number And Breakdown Of Warrants And Related Offences Withdrawn In Accordance With The 2003 Agreement**

Total number of defendants with warrants and related offences withdrawn	555
Total number of warrants withdrawn	561
Total number of offences withdrawn	1709
<b>Recordable Offences</b>	
Number of defendants with recordable offences withdrawn	318
Number of recordable offences withdrawn	551
<b>Convicted Offences</b>	
Number of defendants with convicted offences withdrawn	200
Number of convicted offences withdrawn	689
<b>Convicted Recordable Offences</b>	
Number of defendants with convicted recordable offences withdrawn	67
Number of convicted recordable offences withdrawn	115

## Chapter 5: Withdrawal of warrants: current systems

### Terms of Reference (iv)

*Are interagency systems to manage the withdrawal of warrants issued at Leeds Magistrates' Court appropriate and effective?*

#### Conclusion

We conclude that the withdrawal of warrants and related offences are no longer performed by a legal adviser, and that all such matters are now performed by a bench of magistrates or a District Judge, on the personal application of a prosecutor. However, we are concerned that weaknesses elsewhere in the interagency process put at risk the overall effectiveness of the system used to manage the withdrawal of warrants and related offences.

Although the agencies have in place processes that mirror most of the principles contained within the interagency guidance, this has not been as a result of a coordinated, joined up approach. Instead this has been achieved in isolation and has resulted in fragmented communication and interagency processes. This includes the lack of appropriate scrutiny and premature applications; putting at risk the overall effectiveness of the systems used to manage the withdrawal of warrants and related offences.

In January 2008 the West Yorkshire Local Criminal Justice Board (LCJB) drafted an interagency protocol for the withdrawal of warrants and related offences. Once implemented, we believe it will enable the LCJB to provide the strategic leadership for the individual agencies that has been missing, and that it can help them to deliver a joined up and efficient interagency process. We also believe that the LCJB should champion compliance within West Yorkshire Police, West Yorkshire Probation, West Yorkshire CPS and West Yorkshire HMCS to the interagency protocol.

#### Leeds Magistrates' Court

192. Inspectors note that the historic practice of legal advisers withdrawing warrants and related offences has stopped and that the last recorded warrant withdrawn under the practice ratified in the 2003 agreement was August 2004.
193. A bench of magistrates or a District Judge within Leeds Magistrates' Court is now performing these functions, following an application by the relevant prosecuting authority.
194. A task group has been established to conduct a joint review of the cases withdrawn under the practice ratified in the 2003 agreement.
195. The task group consists of senior officials from HMCS, CPS and the police and in appropriate instances a judicial determination on matters will be sought.
196. The task group have reviewed the case papers that relate to the warrants and related offences withdrawn between 25 September 2003 and 5 August 2004,



excluding some non-recordable motoring offences. Further work to review the remaining withdrawal of warrants and related offences will be subject to the findings of the separate judicial investigation.

197. Evidence from interviews, file analysis and IT interrogation confirms that all warrants have been adjudicated upon by a bench of magistrates, or a District Judge in 2007
198. During the inspection we identified an inappropriate administrative practice used by staff at Leeds Magistrates' Court, when dealing with warrants on the Police Warrant Management system before a judicial decision had been made. This practice (described below) stopped in December 2007, following intervention by the inspection team.
199. The Police Warrant Management system is an electronic database of the warrants in force within the West Yorkshire Police area. The system has a link with IT used by administrative staff within Leeds Magistrates' Court and with the PNC.
200. Upon receipt of a request to withdraw a warrant, administrative staff would make arrangements to have the case listed before a bench of magistrates or a District Judge.
201. At the same time as listing the case for the application to be made, and in advance of the judicial decision regarding the status of the warrant, administrative staff at Leeds Magistrates' Court accessed the Police Warrant Management system and updated the system to show that the proceedings were due to be considered for withdrawal.
202. Although the listing might not have been scheduled for three weeks, the effect of the action by staff was to show on the PNC that the warrant was suspended for this period of time. This was a serious risk. If a defendant was located and detained by the police during this period the PNC would not show that the warrant was outstanding and the defendant may have been inappropriately released.
203. The ultimate result of the practice was to suspend the execution of the warrant in anticipation of a decision to withdraw it by a bench of magistrates or a District Judge. Inspectors conclude that this was an over-zealous response to the possibility of wrongful arrest where there is a possibility that a warrant will be withdrawn. This practice has now been stopped.

## **The police**

204. The computerised Police Warrant Management system has been used since October 2004 to record and manage all outstanding warrants from Leeds Magistrates' Court.
205. West Yorkshire Police follow most stages described within GDC19 that relate to the withdrawal of warrants, though this is not as a result of the guidance, but rather adherence to internal policy.

206. However the police have only recently adopted the practice of reviewing outstanding warrants that are over twelve months old as described in the guidance, having previously reviewed after just six months.
207. Reviews are performed regularly on all outstanding warrants and, if judged appropriate for withdrawal, a request is made by secure email to the CPS or Probation as appropriate.
208. However, the police do not always proactively provide a strong and detailed case, nor all the necessary information, to support the application to enable the CPS to make a decision, as directed by GDC19.

### **Crown Prosecution Service**

209. When a warrant is issued in court, the West Yorkshire CPS retain the file in its Leeds office. This allows the file to be accessed if the warrant is executed or there is an early need to consider whether the warrant should be withdrawn.
210. Early applications for warrant withdrawal can occur when the CPS obtains additional information that requires the warrant to be reconsidered. There are good interagency arrangements in place between the administration office at the CPS and staff at Leeds Magistrates' Court that enable early applications to withdraw warrants to be dealt with efficiently and promptly.
211. Where warrants have been outstanding for some time a review of the warrant is usually initiated by the police and communicated by email to the relevant CPS administrator. A list of names together with the details of the enquires made to execute the warrant or trace the offender are usually included in the details provided to the CPS.
212. The police should only be putting forward cases that fall within the guidelines in GCD19. In recent times some of the cases on which a review has been requested have fallen outside the guidelines.
213. An examination of case files that relate to warrants withdrawn during 2007 confirms that cases involving low-level offences, minor traffic and non-imprisonable offences were in the main considered at an appropriate time and the details provided by the police were adequate.
214. The decisions taken in these cases by the CPS to request that the offence and the warrant should be withdrawn were sound.
215. However, among the files considered were a number of cases relating to more serious offences, some of which carried imprisonment or mandatory disqualification. When requesting that the CPS review these warrants, the police did not initially provide evidence that additional enquiries appropriate to the more serious nature of the cases had been carried out. Further enquiries were only requested by the CPS on one occasion.
216. In serious cases, such as those offences carrying imprisonment or mandatory disqualification or those when there was an identifiable victim, the review

was inadequate and the decision often taken prematurely. A more detailed explanation of the enquiries made by the police should have been requested.

217. In cases involving an identifiable victim there was a failure to consider the impact of the decision upon the victim or take into account the obligations under the Prosecutors' Pledge (reproduced at Appendix 14) to provide ongoing information. None of the files in our sample with identifiable victims (4 out of the twenty) have any record of an explanatory letter being sent to the victim as required under the *Direct Communication with Victims Code*.
218. The recording of the warrant review was not entered on the CPS Case Management System (CMS) as stipulated in the West Yorkshire CPS file endorsement manual.
219. There was no proper record of the consideration given to a file – just a brief note indicating that the warrant should be withdrawn. The decision (and reasons) together with any instructions should be clearly stated to enable an administrator to complete the further actions required. They were frequently ambiguous and misunderstood. Likewise the recording of proceedings in court were sometimes inaccurate on the manual file. These were not entered on CMS. The manual files were subsequently not always readily available.
220. There was no evidence that serious, complex or sensitive cases were referred for the consideration of a manager or that any management quality assurance had taken place.
221. In the light of this inspection West Yorkshire CPS have reviewed the process and intend to implement a system that will provide proper management assurance of the decisions.
222. During a review of 80 cases listed in 2007, 15 files were not readily located. Appendix 13 contains a summary of the CPS case file analysis.
223. **Recommendation 5: That the West Yorkshire CPS assure itself:**
- **that the review of cases put forward for the withdrawal of warrants should adequately distinguish between the decision to withdraw the warrant and the decision to withdraw the proceedings**
  - **that the review fully takes into account existing guidance**
  - **that the review and instruction is fully recorded**
  - **that review decisions are subject to quality assurance**

## **Probation**

224. Failure To Attend warrants can be issued for a failure to attend court in response to breach of community-based penalties and the decision to request withdrawal of these warrants is based on a robust set of criteria which specifies that issues of public protection must be considered.
225. Warrant details are then held with the relevant case file in a filing cabinet within the Probation court office until they are executed.

226. Examination of the twelve cases originally in question proved problematic due to the lack of records retained pertaining to the warrants. However no cases were identified where there was evidence of continued risk of harm that had not been addressed. In four cases there was evidence that the offender had subsequently been re-sentenced for the original offences and in one case there was evidence of a subsequent decision by Probation to apply for withdrawal in the interests of justice. In only one case was there evidence of a continued high risk of offending which had yet to be addressed; in this case it was confirmed that current warrants relating to the original breaches remained active.
227. An appropriate internal process to manage the review and withdrawal of warrants has been developed. However internal recording processes are not sufficiently robust to give confidence that there is full awareness and control of existing warrants, that West Yorkshire Probation can appropriately prioritise the reviews nor maintain adequate records of the progress of warrants, including the maintenance of adequate records once a case is closed.

### **Strategic leadership**

228. Although policy and guidance from OCJR regarding the withdrawal of warrants exists, awareness of it is low, with operational staff responsible for the withdrawal of warrants within criminal justice agencies having little awareness of the guidance available.
229. The agencies have in place processes that mirror most of the principles contained within the interagency guidance. However, this has not been as a result of a coordinated, joined up approach, but instead this has been achieved in isolation and resulted in fragmentation of communication and interagency processes.
230. In January 2008 the West Yorkshire Local Criminal Justice Board (LCJB) wrote to the OCJR confirming that it was implementing an interagency system, based on GDC19, to manage the withdrawal of warrants.
231. An opportunity exists for the West Yorkshire LCJB to provide the strategic leadership to the individual agencies they are currently lacking. By providing a strategic steer it can help them to deliver a joined up and efficient interagency process.
232. We would like to see the LCJB develop an assurance framework that will enable it to champion compliance with its interagency protocol within the West Yorkshire Police, West Yorkshire Probation, West Yorkshire CPS and West Yorkshire HMCS.

### **Record keeping**

233. The poor quality of record keeping has been a constant cause for concern throughout the inspection. Records concerning the withdrawal of warrants within Leeds Magistrates' Court, the CPS and Probation are poor.

234. Internal recording processes within Leeds Magistrates' Court, the West Yorkshire Probation Service and West Yorkshire CPS are not sufficiently robust to give confidence that they have full awareness and control of existing warrants, that they can appropriately prioritise reviews and maintain adequate records of the progress of warrants.

235. **Recommendation 6: That the Local Criminal Justice Board:**

- **implement an interagency warrant withdrawal protocol and champions its compliance within the West Yorkshire Police, West Yorkshire Probation, West Yorkshire CPS and West Yorkshire HMCS.**
- **provide strategic leadership of the interagency systems managing warrant withdrawals at all Courts in HMCS West Yorkshire.**
- **oversee the establishment of regular interagency fora to enable criminal justice agencies to reconcile their outstanding warrants.**

## **Related matters**

### **Individual possibly imprisoned twice for the same offence**

236. During the inspection we became aware of the possibility that an individual may have been imprisoned twice for the same offence.

237. HMCS senior managers are aware of the case and are currently investigating.

## **The Criminal Records Bureau**

238. The Criminal Records Bureau (CRB) carries out checks on prospective employees to ensure their suitability when working in sensitive jobs or with vulnerable people.

239. The CRB checks are a snap shot of an individual's behaviour, including sex offences, based on records held on a number of databases, including the PNC.

240. Adjudications that cannot be traced have been resulted very late and inappropriately withdrawn adjudications and warrants have an impact on the integrity of the PNC and Criminal Records Bureau checks.

241. **Recommendation 7: That HMCS ensure that Criminal Records Bureau checks have not been compromised as a consequence of the historic failings at Leeds Magistrates' Court.**

## Appendix 1: Overall Summary of Offences and other matters: Missing Results

2206 Defendants with 3260 Offences and other matters where there are currently missing results

Summary of offences and other matters as follows:

GBH	4	Indictable Only Offences
Wounding with Intent	1	
Escape from Custody	1	
Possession of Firearm	8	
Possession of Ammunition	2	
	16	
False claim regarding a bomb	1	Either Way Offences
Wounding	3	
Possession of Imitation Firearm	3	
Witness Intimidation	1	
Produce Cannabis	1	
Possess Class A/B/C drug with intent to supply	5	
ABH	32	
Breach of Restraining Order	1	
Burglary	42	
Robbery	1	
Attempt Burglary	1	
Possess Class A/B/C drug	24	
Handling/Receiving Stolen Goods	26	
Theft	202	
Aggravated taking vehicle without consent	2	
Breach of Non-Molestation Order	2	
Obtain by Deception	9	
Use False Instrument to obtain by deception	1	
Going Equipped	5	
Falsifying Documents	6	
Forgery	1	
Evasion of Duty	2	
Abstracting Electricity	1	
Make off without payment	3	
Harassment	6	
Dangerous Driving	4	
Breach of ASBO	1	
Possess Offensive Weapon	10	
Criminal Damage	49	
Affray	23	
Attempt Theft	6	
Criminal Attempt	3	

Violent Disorder	1
	478
Indecent Exposure	1
Taking vehicle without consent	23
Common Assault	40
Assault PC	6
Assault by beating	9
Drive whilst Disqualified	43
Driving whilst unfit through drink/drugs	2
False representation to obtain benefit	5
Disorderly Conduct	7
Over prescribed limit	26
Threatening Behaviour	17
Resist/Obstruct PC	11
Taking vehicle without consent Carried	7
Fail to Provide Specimen	15
Dangerous Dog	3
Vehicle Interference	1
Attempt Vehicle Interference	12
Fail to Surrender	625
Fail to comply with Health & Safety	1
Fail to act on Environmental Protection complaint	1
False information regarding transport of animals	1
Prostitution	3
Offences against the companies act	3
Offences against the insolvency act	1
Drive without Due Care and Attention	6
Speeding	22
Breach of Licence	13
Breach of Orders	110
Breach of Football Banning Order	1
Fail to send child to school	5
Not complying with Education Supervision	2
Not comply with noise abatement	1
Drunk entering a sports ground	1
Drunk & Disorderly	32
Begging	9
Solicit Money	1
Breach of the Peace	7
Breach of Curfew	4
Breach of Bind Over	1
Breach of Conditional Discharge	14
Fail to stop after accident	8
Fail to report accident	4
Offensive language on railway	2
No Insurance	282
No Driving Licence	192
No Test Certificate	186
Unlicensed Vehicle	23
Motoring (Minor)	175
No TV Licence	13
	1977

Summary Only Offences

Miscellaneous Applications	472	Summary Only Offences
Awaiting Charge Sheet	4	
Non Standard Offence	18	
No Offence Stated	79	
Breach of Bail	180	
Drug treatment and testing order Review	11	
Non Payment	25	
	789	
Total	3260	



**Appendix 1a: Total numbers of Defendants and Offences (including other matters) currently missing a result**

	<u>Defendants</u>	<u>Offences</u>	<u>Recordable</u>	<u>Defendants with Recordable Offences</u>
<u>Disc</u>	458	771	324	254
<u>Artificial Registers</u>				
<b>20/07/2002</b>	239	281	185	154
<b>27/07/2002</b>	520	758	375	297
<b>07/09/2002</b>	474	582	255	205
<b>05/10/2002</b>	495	830	411	276
<u>Police Missing Results</u>	8	11	11	8
<u>Manufactured Results</u>	12	27	7	6
<u>TOTAL</u>	2206	3260	1568	1200

For collation purposes some breach offences have been classified as recordable

## Appendix 2: Total Offences by Type: Warrants

555 Defendants with 1709 Offences withdrawn.

Summary of offences as follows:

Attempt to pervert the course of justice	1	Indictable Only Offences
	1	
Gross Indecency	1	Either Way Offences
Indecent Assault	3	
Wounding	1	
Threats to Kill	2	
ABH	13	
Robbery	2	
Possess Class A/B/C drug with intent to supply	12	
Supply Class A/B/C Drug	5	
Burglary	16	
Possess Class A/B/C drug	25	
Harassment	1	
Possess Offensive Weapon	7	
Handling/Receiving Stolen Goods	9	
Theft	104	
Criminal Damage	11	
Aggravated taking vehicle without consent	3	
Dangerous Driving	4	
Affray	5	
Obtain by Deception	25	
Attempt to obtain by deception	4	
Criminal Attempt	5	
Going Equipped	1	
Forgery	3	
Tendering Counterfeit currency note	1	
Custody/Control of Counterfeit currency note	1	
	264	
OVER PRESCRIBED LIMIT	50	Summary Only Offences
Indecent Exposure	1	
Common Assault	12	
Assault PC	2	
Assault by beating	1	
Taking vehicle without consent	2	
Threatening Behaviour	3	

Drive whilst Disqualified	47	
Driving whilst unfit through drink/drugs	1	
Disorderly Conduct	6	
Resist/Obstruct PC	19	
Taking vehicle without consent Carried	2	
Fail to Provide Specimen	21	
Vehicle Interference	1	
Fail to Surrender	51	
Drive without Due Care and Attention	16	
Speeding	29	
Breach of Licence	1	
Breach of Orders	9	
Not observing restriction on employment	1	
Conspiracy to defraud social security	1	
Fail to notify change of circumstance re: benefits	1	
Entering a sports ground during an event	1	
Drunk & Disorderly	28	
Found on enclosed premises	1	
Begging	3	
Fail to stop after accident	12	
Fail to report accident	10	
Use driving licence with intent to deceive	1	
No Insurance	396	
No Driving Licence	300	
No Test Certificate	254	
Unlicensed Vehicle	8	
Motoring (Minor)	153	
	1444	
	1709	

**Appendix 2a: Warrants :Total numbers involved**

	Defendants	Warrants Withdrawn	Offences Withdrawn	Recordable Offences Withdrawn	Defendants with Recordable Offences Withdrawn	Convicted Offences Withdrawn	Defendants with Convicted Offences Withdrawn	Convicted Recordable Offences Withdrawn	Defendants with Convicted Recordable Offences Withdrawn
CURRENT COMPUTER SYSTEM (MCS)	358	363	1234	444	244	561	164	103	58
PREVIOUS COMPUTER SYSTEM (LCIS)	57	58	192	37	26	128	36	12	9
	140	140	283	70	48	Unknown	Unknown	Unknown	Unknown
TOTAL	555	561	1709	551	318	689	200	115	67

**Key**



= Unable to substantiate figures as no court files available

### Appendix 3: Disk 19 September 2007: Offences and other matters by Type: Missing Results

Register examined: - 458 Defendants and 771 Offences and other matters where there are missing results.

Summary of method of adjudication

768 entered as "Convicted - Previous adjudication untraceable. Court determine not to make any further adjudication in this matter"

2 entered as "Finding of guilt - Previous adjudication untraceable. Court determine not to make any further adjudication in this matter"

1 entered as "Previous adjudication untraceable. Court determine not to make any further adjudication in this matter"

Summary of offences as follows:

ABH	2	Either Way Offences
Possess Class A/B/C drug with intent to supply	4	
Burglary	6	
Breach of Non-Molestation Order	1	
Possess Class A/B/C drug	4	
Harassment	3	
Possess Offensive Weapon	2	
Aggravated taking vehicle without consent	2	
Handling Stolen Goods	7	
Theft	61	
Criminal Damage	5	
Make off without payment	1	
Criminal Attempt	3	
Attempt Theft	1	
Breach of ASBO	1	
Abstracting Electricity	1	
	104	
Drive whilst unfit	1	Summary Only Offences
Indecent Exposure	1	
Common Assault	6	
Assault PC	1	
Assault by beating	5	
Taking vehicle without consent	5	
Resist/Obstruct PC	3	
OVER PRESCRIBED LIMIT	2	
Drive whilst Disqualified	9	
Threatening Behaviour	6	
Taking vehicle without consent Carried	3	
Fail to Provide Specimen	2	
Evasion of Duty	1	

Fail to Surrender	107	
False Information regarding transport of animals	1	
Speeding	11	
Breach of Licence	1	
Breach of Orders	43	
Drunk entering Sports ground	1	
Drunk & Disorderly	6	
Breach of the Peace	2	
Breach of Bail	10	
Breach of Conditional Discharge	4	
Breach of Bind Over	1	
Fail to report accident	1	
No Insurance	121	
No Driving Licence	98	
No Test Certificate	84	
Begging	7	
Solicit Money	1	
Not comply with noise abatement	1	
Unlicensed Vehicle	2	
Motoring (Minor)	36	
No TV Licence	1	
	584	
Drug treatment and testing order Review	3	Other Matters
Non Payment	10	
Miscellaneous Applications	51	
Non Standard Offence	18	
No Offence found	1	
	83	
	771	

For collation purposes some breach offences have been classified as recordable

**Appendix 4: Total of all Artificial Court Registers: Offences and other matters by Type: Currently Missing Results**

Register examined: - 1728 Defendants with 2451 Offences and other matters where there are currently missing results

Summary of offences as follows:

Robbery	1	Indictable Only Offences
GBH	4	
Wounding with Intent	1	
Escape from Custody	1	
	7	
Wounding	3	Either Way Offences
ABH	30	
Witness Intimidation	1	
Burglary	35	
Attempt Burglary	1	
False claim regarding a bomb	1	
Produce Cannabis	1	
Possession of Firearm	8	
Possession of Ammunition	2	
Possession of Imitation Firearm	3	
Possess Class A/B/C drug	18	
Breach of Restraining Order	1	
Harassment	3	
Breach of Non-Molestation Order	1	
Make off without payment	1	
Possess Offensive Weapon	8	
Handling/Receiving Stolen Goods	19	
Theft	138	
Criminal Damage	42	
Violent Disorder	1	
Dangerous Driving	4	
Obtain by Deception	9	
Use False Instrument to obtain by deception	1	
Attempt Theft	4	
Going Equipped	5	
Affray	23	
Evasion of Duty	1	
Forgery	1	
Falsifying Documents	6	
	371	

Common Assault	33	
Assault PC	5	
Assault by beating	4	
Taking vehicle without consent	18	
Resist/Obstruct PC	8	
Over prescribed limit	24	
Drive whilst Disqualified	33	
Threatening Behaviour	11	
Driving whilst unfit through drink/drugs	1	
False representation to obtain benefit	5	
Disorderly Conduct	7	
Taking vehicle without consent Carried	4	
Fail to Provide Specimen	13	
Dangerous Dog	3	
Vehicle Interference	1	
Attempt Vehicle Interference	12	
Fail to Surrender	517	
Fail to comply with Health & Safety	1	
Fail to act on Environmental Protection complaint	1	
Prostitution	2	
Offences against the companies act	3	
Offences against the insolvency act	1	
Drive without Due Care and Attention	6	
Speeding	11	
Breach of Licence	12	
Breach of Orders	67	
Breach of Football Banning Order	1	
Fail to send child to school	5	
Not complying with Education Supervision	2	
Drunk & Disorderly	24	
Begging	2	
Breach of the Peace	4	
Breach of Curfew	4	
Breach of Conditional Discharge	10	
Fail to stop after accident	7	
Fail to report accident	4	
Offensive language on railway	2	
No Insurance	156	
No Driving Licence	90	
No Test Certificate	96	
Unlicensed Vehicle	21	
Motoring (Minor)	134	
No TV Licence	12	
	1377	
Breach of Bail	170	
Drug treatment and testing order Review	8	
Non Payment	15	
Miscellaneous Applications	421	
Awaiting Charge Sheet	4	
No Offence Stated	78	
	696	
Total	2451	

Summary Only Offences

Other Matters



**Appendix 4a: Artificial Court Register 1: Offences and other matters by Type:  
Currently Missing Results**

**Register date: 20 July 2002**

Register examined: - 239 Defendants with 281 Offences and other matters where there are currently missing results.

Summary of offences as follows:

ABH	1	Either Way Offences
Burglary	1	
	2	
Fail to Surrender	180	Summary Only Offences
Breach of Orders	1	
Drunk & Disorderly	1	
Breach of Curfew	1	
No Insurance	1	
No Driving Licence	1	
No Test Certificate	1	
Motoring (Minor)	1	
	187	
Breach of Bail	38	Other Matters
Non Payment	1	
Miscellaneous Applications	51	
None Stated	2	
	92	
	281	

## Appendix 4b: Artificial Court Register 2: Offences and other matters by Type: Currently Missing Results

Register date: 27 July 2002

Register examined: - 520 Defendants with 758 Offences and other matters where there are currently missing results.

Summary of offences as follows:

GBH	1	Indicible Only Offences
	1	
ABH	7	Either Way Offences
Burglary	9	
Possess Class A/B/C drug	5	
Produce Cannabis	1	
Harassment	1	
Possess Offensive Weapon	2	
False claim regarding Bomb	1	
Handling/Receiving Stolen Goods	14	
Theft	46	
Criminal Damage	12	
Obtain by Deception	6	
Violent Disorder	1	
Attempt Theft	2	
Affray	3	
Forgery	1	
Falsifying documents	6	
	117	
Over prescribed limit	20	Summary Only Offences
Common Assault	9	
Assault PC	1	
Taking vehicle without consent	8	
Taking vehicle without consent Carried	1	
Threatening Behaviour	3	
Resist/Obstruct PC	1	
Attempt Vehicle Interference	12	
Drive whilst unfit through drug/drink	1	
Drive whilst Disqualified	11	
Disorderly Conduct	1	
Fail to Provide Specimen	3	
Fail to Surrender	128	
Fail to comply with Health & Safety	1	
Dangerous Dog	3	
Drive without Due Care and Attention	2	
Speeding	4	
False representation to obtain benefits	2	
Fail to act on Environmental Protection complaint	1	
Breach of Licence	6	

Breach of Orders	23
Fail to send child to school	3
Not complying with Education Supervision	2
Drunk & Disorderly	7
Breach of the Peace	1
Breach of Conditional Discharge	5
Fail to stop after accident	3
Fail to report accident	2
No Insurance	54
No Driving Licence	31
No Test Certificate	28
Begging	2
Unlicensed Vehicle	6
Motoring (Minor)	69
No TV Licence	11
	465
Breach of Bail	20
Non Payment	5
Miscellaneous Applications	138
None Stated	12
	175
Total	758

Other  
Matters

## Appendix 4c: Artificial Court Register 3: Offences and other matters by Type: Currently Missing Results

7 September 2002

Register examined:- 474 Defendants with 582 Offences and other matters where there are currently missing results.

Summary of offences as follows:

Possess Class A/B/C drug	1	Either Way Offences
Burglary	4	
Theft	9	
Possess Offensive Weapon	2	
Dangerous Driving	2	
Receive/Handling Stolen Goods	1	
Make off without payment	1	
Criminal Damage	5	
Going Equipped	1	
Attempt Theft	1	
	27	
Drive whilst Disqualified	3	Summary Only Offences
Common Assault	2	
Taking vehicle without consent	3	
Threatening Behaviour	1	
Resist/Obstruct PC	2	
Vehicle Interference	1	
False Representation to obtain benefit	3	
Offences against companies act	3	
Offences against insolvency act	1	
Fail to Surrender	201	
Breach of Licence	1	
Breach of Orders	3	
Fail to attend school	1	
Drunk & Disorderly	2	
Breach of Conditional Discharge	1	
No Licence	4	
No Insurance	10	
No Test Certificate	6	
Unlicensed Vehicle	1	
Motoring (Minor)	2	
	251	
Breach of Bail	98	Other Matters
Non payment	2	
Miscellaneous Applications	204	
	304	
Total	582	

## Appendix 4d: Artificial Court Register 4: Offences and other matters by Type: Currently Missing Results

Register Date - 5 October 2002

Register examined:- 495 Defendants with 830 Offences and other matters where there are currently missing results

Summary of offences as follows:

GBH	3	Indictable Only Offences
Wounding with Intent	1	
Robbery	1	
Escape from Custody	1	
Possession of Firearm	8	
Possession of Ammunition	2	
	16	
Wounding	3	Either Way Offences
Possession of Imitation Firearm	3	
ABH	22	
Witness Intimidation	1	
Burglary	21	
Attempt Burglary	1	
Possess Class A/B/C drug	12	
Harassment	2	
Possess Offensive Weapon	4	
Handling/Receiving Stolen Goods	4	
Theft	83	
Criminal Damage	25	
Affray	20	
Dangerous Driving	2	
Obtain by Deception	3	
Use False Instrument to obtain by deception	1	
Attempt Theft	1	
Going Equipped	4	
Breach of Restraining Order	1	
Breach of Non-Molestation Order	1	
Evasion of Duty	1	
	215	
Over prescribed limit	4	Summary Only Offences
Resist/Obstruct PC	5	
Taking vehicle without consent Carried	3	
Threatening Behaviour	7	
Taking vehicle without consent	7	
Assault PC	4	
Assault by beating	4	
Common Assault	22	
Drive whilst Disqualified	19	
Disorderly Conduct	6	
Fail to Provide Specimen	10	

Fail to Surrender	8
Prostitution	2
Drive without Due Care and Attention	4
Speeding	7
Breach of Licence	5
Breach of Orders	40
Breach of Football Banning Order	1
Fail to send child to school	1
Drunk & Disorderly	14
Breach of the Peace	3
Breach of Curfew	3
Breach of Conditional Discharge	4
Fail to stop after accident	4
Fail to report accident	2
Offensive language on railway	2
No Insurance	91
No Driving Licence	54
No Test Certificate	61
Unlicensed Vehicle	14
Motoring (Minor)	62
No TV Licence	1
	474
Breach of Bail	14
Drug treatment and testing order Review	8
Non Payment	7
Miscellaneous Applications	28
Awaiting Charge Sheet	4
No Offence Stated	64
	125
	830

Other Matters

**Appendix 5: Manufactured Court Register: Offences by Type: Currently Missing Results**

12 Defendants with 27 Offences deemed as currently missing results.

Summary of offences as follows:

Possession of drugs with intent to supply	1	Either Way Offences
Attempted theft	1	
		Summary Only Offences
Driving whilst disqualified	1	
Breach of the peace	1	
Prostitution	1	
Drunk and disorderly	1	
Fail to surrender	1	
No Insurance	5	
No Driving Licence	4	
No Test Certificate	6	
Minor Motoring	5	
	27	

## Appendix 6: Missing results identified by the PNC: Offences by Type

8 Defendants with 11 Offences where there are missing results.

Summary of offences as follows:

Burglary	1	Either Way Offences
Possess Class A/B/C Drugs	2	
Make off without payment	1	
Theft	3	
Criminal Damage	2	
	9	
Drunk & Disorderly	1	Summary Only Offences
Common Assault	1	
	2	
	11	



## **Appendix 7: Rule 6.1 of the Criminal Procedure Rules**

### Rule 6.1 Criminal Procedure Rules 2005

#### 6.1 Magistrates' court register

- (1) A magistrates' court officer shall keep a register in which there shall be entered—
  - (a) a minute or memorandum of every adjudication of the court; and
  - (b) a minute or memorandum of every other proceeding or thing required by these Rules or any other enactment to be so entered.
- (2) The register may be stored in electronic form on the court computer system and entries in the register shall include, where relevant, the following particulars—
  - (a) the name of the informant, complainant or applicant;
  - (b) the name and date of birth (if known) of the defendant or respondent;
  - (c) the nature of offence, matter of complaint or details of the application;
  - (d) the date of offence or matter of complaint;
  - (e) the plea or consent to order; and
  - (f) the minute of adjudication.

## Appendix 8: HMCS Magistrates' Courts Accounting Manual (MCAM) Section C1

### C1 Court papers/court register

#### Introduction

The court register records details of all monetary impositions and their subsequent enforcement.

#### Objective

To ensure that the court register is an accurate record of the court's proceedings.

#### Procedures

##### Court papers

A suitable system of control must be implemented to ensure that all court papers are properly filed and retained for use and for dealing with enquiries prior to hearing and after final disposal.

Court papers, which support the details in the court register, must be filed on a daily basis.

When court papers are taken out, there must be a logbook or some other form of record sheet to contain details of the date, defendant, and the name of the user of the court papers.

When the papers are returned, they must be signed back in again.

##### Court register

Courts using a computer system may produce a register printed on continuous stationery. Where the register is in loose-leaf form, numbering must control each register sheet.

External monetary impositions such as Crown Court penalties and transfer of fine orders must be recorded in either the primary Court Register or a separate register/log book.

Any variation of adjudication by a higher court on appeal must be distinctively recorded in the court register against the original entry. The location of the higher court and the date of hearing must also be shown.

Any remission made by the court must be recorded in the register..

Compensatee details must be recorded in full in the register.

Adjudications must be input to the computer either by the clerk or an assistant in court or from the Court Clerk's record of results. A checking register must then be produced and checked to ensure accurate details have been input to the computer system.

Any errors or amendments to the checking register must be clearly identified and re-input.

Amendments to the checking register must be independently checked to an amendments checking list or checked on screen.

The checking officer must also examine the report listing amendments to the checking register to ensure there have been no unauthorised amendments to results since the checking register was produced.

JCEs/Designated Officers must devise systems for satisfying themselves of the accuracy of court records. A pro forma certificate can be used for this purpose, which can also provide a checklist of each of the register validation functions and space for the validating officer to evidence, by signature, the completion of each task. In signing the pro forma, **the validating officer** is

certifying that the prescribed validation controls have been carried out so the register contains an accurate record of court results. These certificates must be kept for five years. <sup>(1)</sup>

**Note**

- . *Rules 66(2) and 66(9) of the Magistrates' Courts Rules 1981 as amended by Rule 32(1) and (2) of the Magistrates' Courts (Miscellaneous Amendments) Rules 2003.*

## Appendix 9: HMCS Management Assurance Program (MAP) check number 14

14	MCAM REF Section C1	SUBJECT Court register	FREQUENCY Quarterly	OBJECTIVE To ensure that the court register is a reliable record of the court's proceedings.	RISK OF NON-COMPLIANCE Incorrect court results, registers, orders and accounts.
<b>CONTROL</b>			<b>RECORD OF MAP CONTROL CHECKS CARRIED OUT AND FINDINGS</b>		<b>RECORD REMEDIAL ACTION REQUIRED, ALREADY TAKEN OR, IF CONTROL CONFIRMED, "SATISFACTORY"</b>
<p>A) Select a sample of the court's registers. Confirm, from trial registers or other records, there is evidence that each was:</p> <ul style="list-style-type: none"> <li>i) Checked by an independent officer(s) after the initial input of results;</li> <li>ii) An independent officer confirmed (from the computer-generated amendments report) that all and only authorised corrections have been input;</li> <li>iii) The accuracy of the court register is certified by the clerk who took the court (see MCAM C1 4.10).</li> </ul>			<p><i>Record dates of registers examined. Note findings.</i></p>		
<p>B) Confirm that the delay between the court hearing and the final register is within operational targets.</p>			<p><i>Select several dates at random, and note date that register for those dates was finalised.</i></p>		<p>MAP Check conducted by: _____ Date: _____</p>

## Appendix 10: The National Police Records (Recordable Offences) Regulations 2000

### Statutory Instrument 2000 No. 1139

#### **The National Police Records (Recordable Offences) Regulations 2000**

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STATUTORY INSTRUMENTS

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**2000 No. 1139**

**POLICE**

## The National Police Records (Recordable Offences) Regulations 2000

<i>Made</i>	<i>17th April 2000</i>
<i>Laid before Parliament</i>	<i>4th May 2000</i>
<i>Coming into force</i>	<i>1st June 2000</i>

The Secretary of State, in exercise of the powers conferred upon him by section 27(4) of the Police and Criminal Evidence Act 1984[1], hereby makes the following Regulations:

1. These Regulations may be cited as the National Police Records (Recordable Offences) Regulations 2000 and shall come into force on 1st June 2000.

2. The National Police Records (Recordable Offences) Regulations 1985[2], the National Police Records (Recordable Offences) (Amendment) Regulations 1989[3] and the National Police Records (Recordable Offences) (Amendment) Regulations 1997[4] are hereby revoked.

3. - (1) There may be recorded in national police records -

(a) convictions for; and

(b) cautions, reprimands and warnings given in respect of, any offence punishable with imprisonment and any offence specified in the Schedule to these Regulations.

(2) In paragraph (1) above -

(a) the reference to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under any enactment on the punishment of young offenders;

(b) "caution" has the same meaning as in Part V of the Police Act 1997[5]; and

(c) "reprimand" and "warning" mean a reprimand or, as the case may be, a warning given under section 65 of the Crime and Disorder Act 1998[6].

(3) Where the conviction of any person is recordable in accordance with this regulation, there may also be recorded in national police records his conviction for any other offence of which he is convicted in the same proceedings.

*Charles Clarke*  
Minister of State

Home Office  
17th April 2000

### SCHEDULE

## Regulation 3

### SPECIFIED OFFENCES

The following offences are specified for the purposes of section 27(4) of the Police and Criminal Evidence Act 1984, that is to say, an offence under:

- 1.** section 5 of the Children and Young Persons Act 1933[7] (offence of giving intoxicating liquor to children under five);
- 2.** section 11 of the Children and Young Persons Act 1933 (offence of exposing children under twelve to risk of burning[8]);
- 3.** section 12 of the Children and Young Persons Act 1933 (offence of failing to provide for safety of children at entertainments)[9];
- 4.** section 91 of the Criminal Justice Act 1967[10] (offence of drunkenness in a public place);
- 5.** section 139(1) of the Criminal Justice Act 1988[11] (offence of having article with blade or point in public place);
- 6.** section 2 of the Crossbows Act 1987[12] (offence of purchasing or hiring a crossbow or part of a crossbow by person under the age of seventeen);
- 7.** section 3 of the Crossbows Act 1987 (offence of possessing a crossbow or parts of a crossbow by unsupervised person under the age of seventeen);
- 8.** section 5(6) of the Firearms Act 1968[13] (offence of failing to deliver up authority to possess prohibited weapon or ammunition);
- 9.** section 22(3) of the Firearms Act 1968 (offence of possessing an assembled shotgun by unsupervised person under the age of fifteen);
- 10.** section 22(4) of the Firearms Act 1968 (offence of possessing an air weapon or ammunition for an air weapon by unsupervised person under the age of fourteen);
- 11.** section 22(5) of the Firearms Act 1968 (offence of possessing in a public place an air weapon by unsupervised person under the age of seventeen);
- 12.** section 2 of the Football (Offences) Act 1991[14] (offence of throwing missiles);
- 13.** section 3 of the Football (Offences) Act 1991[15] (offence of indecent or racialist chanting);
- 14.** section 4 of the Football (Offences) Act 1991 (offence of unlawfully going on to the playing area);
- 15.** section 30 of the Game Act 1831[16] (offences of trespassing in daytime on land in search of game, etc.);

**16.** section 31 of the Game Act 1831 (offence of refusal of person trespassing in daytime on land in search of game to give his name and address);

**17.** section 32 of the Game Act 1831 (offence of five or more persons being found armed in daytime in search of game and using violence or refusal of such persons to give name and address);

**18.** section 12 of the Licensing Act 1872[[17](#)] (offence of being drunk in highway or public place);

**19.** section 45 of the Licensing Act 1964[[18](#)] (offence of obstructing a constable or local authority official inspecting premises which are the subject of an application to be registered as a club);

**20.** section 172 of the Licensing Act 1964 (offence of licensee permitting drunkenness, etc. on licensed premises);

**21.** section 174(2) of the Licensing Act 1964 (offence of failing to leave licensed premises when requested to do so);

**22.** section 175 of the Licensing Act 1964 (offence of allowing prostitutes to assemble on licensed premises);

**23.** section 176 of the Licensing Act 1964 (offence of permitting licensed premises to be a brothel);

**24.** section 178 of the Licensing Act 1964 (offence of allowing constables to remain on licensed premises while on duty, supplying liquor or refreshments to constables on duty or bribing a constable);

**25.** paragraph 21 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982[[19](#)] (offence of making false statement in connection with an application for a sex establishment licence);

**26.** section 1 of the Malicious Communications Act 1988[[20](#)] (offence of sending letters etc. with intent to cause distress or anxiety);

**27.** section 13 of the Nurses, Midwives and Health Visitors Act 1997[[21](#)] (offence of falsely claiming a professional qualification);

**28.** section 1 of the Night Poaching Act 1828[[22](#)] (offence of taking or destroying game or rabbits by night, or entering any land for that purpose);

**29.** section 90(2) of the Police Act 1996[[23](#)] (offence of wearing police uniform with intent to deceive);

**30.** section 90(3) of the Police Act 1996 (offence of unlawful possession of article of police uniform);

**31.** section 5 of the Public Order Act 1986[[24](#)] (offence of causing harassment, alarm or distress);



- 32.** section 11 of the Public Order Act 1986 (offence of failing to give advance notice of public procession);
- 33.** section 12(5) of the Public Order Act 1986 (offence of failing to comply with conditions imposed on a public procession);
- 34.** section 13(8) of the Public Order Act 1986 (offence of taking part in a prohibited public procession);
- 35.** section 14(5) of the Public Order Act 1986 (offence of failing to comply with conditions imposed on a public assembly);
- 36.** section 14B(2) of the Public Order Act 1986[[25](#)] (offence of taking part in a prohibited assembly);
- 37.** section 14C(3) of the Public Order Act 1986[[26](#)] (offence of failing to comply with directions);
- 38.** section 6 of the Road Traffic Act 1988[[27](#)] (offence of failing to provide specimen of breath);
- 39.** section 25 of the Road Traffic Act 1988 (penalisation of tampering with vehicles);
- 40.** section 1 of the Sexual Offences Act 1985[[28](#)] (offence of kerb crawling);
- 41.** section 2 of the Sexual Offences Act 1985 (offence of persistently soliciting women for the purpose of prostitution);
- 42.** section 1(2) of the Sporting Events (Control of Alcohol Etc.) Act 1985[[29](#)] (offence of allowing alcohol to be carried on public vehicles on journey to or from designated sporting event);
- 43.** section 1(4) of the Sporting Events (Control of Alcohol Etc.) Act 1985 (offence of being drunk on public vehicles on journey to or from designated sporting event);
- 44.** section 1A(2) of the Sporting Events (Control of Alcohol Etc.) Act 1985[[30](#)] (offence of allowing alcohol to be carried in vehicles on journey to or from designated sporting event);
- 45.** section 2(2) of the Sporting Events (Control of Alcohol Etc.) Act 1985 (offence of trying to enter designated sports ground while drunk);
- 46.** section 5B(3) of the Sporting Events (Control of Alcohol Etc.) Act 1985[[31](#)] (offence of consuming or taking alcohol at designated sports ground while unauthorised);
- 47.** section 5C(4) of the Sporting Events (Control of Alcohol Etc.) Act 1985 (consuming or obtaining alcohol during designated sporting events other than at registered premises);
- 48.** section 5C(5) of the Sporting Events (Control of Alcohol Etc.) Act 1985 (offence by officials of club in relation to supplying alcohol at designated sports ground);
- 49.** section 5D(3) of the Sporting Events (Control of Alcohol Etc.) Act 1985 (offence of consuming or obtaining alcohol during designated sporting event other than when sold by retail);

**50.** section 1 of the Street Offences Act 1959[32] (offence of loitering or soliciting for purposes of prostitution);

**51.** section 43 of the Telecommunications Act 1984[33] (offence of improper use of public telecommunications system); and

**52.** section 12(5) of the Theft Act 1968[34] (offence of taking or riding a pedal cycle without owner's consent).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and replace the National Police Records (Recordable Offences) Regulations 1985 (the 1985 Regulations), as amended. They provide for the recording in national police records of convictions, cautions, reprimands, and warnings for the offences specified in the Schedule and for any offence which is punishable with imprisonment in the case of an adult.

The changes made by these Regulations are-

(a) the inclusion of cautions, reprimands and warnings as matters which may be recorded; and

(b) the addition of offences under sections 2 and 3 of the Crossbows Act 1987 (purchase, hire and possession of crossbow by person under seventeen) and offences under sections 2, 3 and 4 of the Football (Offences) Act 1991 (missile throwing and chanting at designated football matches and unlawfully going onto the playing area).

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*Notes:*

[1] 1984 c. 60; section 27 was amended by paragraph 61 of Schedule 8 to the Crime and Disorder Act 1998 (c. 37).[back](#)

[2] S.I. 1985/1941.[back](#)

[3] S.I. 1989/694.[back](#)

[4] S.I. 1997/566.[back](#)

[5] 1997 c. 50.[back](#)

[6] 1998 c. 37.[back](#)

[7] 1933 c. 54.[back](#)

[8] Section 11 was amended, Schedule 13, paras. 2, 3(c) of the Children Act 1989 (c. 41) and Schedule, para. 1 of the Children and Young Persons (Amendment) Act 1952 (15 and 16 Geo 6 and Eliz c. 50).[back](#)

[9] Section 12 was amended by the Cinemas Act 1985 (c. 13), Schedule 2, para. 2, Schedule 3 and Schedule 8, para. 5 of the Local Government Act 1985 (c. 51).[back](#)

[10] 1967 c. 60.[back](#)

[11] 1988 c. 33.[back](#)

[12] 1987 c. 32.[back](#)

[13] 1968 c. 27.[back](#)

[14] 1991 c. 19.[back](#)

[15] Section 3 was amended by section 9 of the Football (Offences and Disorder) Act 1999 (c. 21).[back](#)

[16] 1 and 2 Will 4 c. 32.[back](#)

[17] 35 and 36 Vict c. 94.[back](#)

[18] 1964 c. 26.[back](#)

[19] 1982 c. 30.[back](#)

[20] 1988 c. 27.[back](#)

[21] 1997 c. 24; the whole Act is repealed, with effect from a day to be appointed, by Schedule 5 to the Health Act 1999 (c. 8).[back](#)

[22] 9 Geo 4 c. 69.[back](#)

[23] 1996 c. 16.[back](#)

[24] 1986 c. 64.[back](#)

[25] Section 14B was inserted by section 70 of the Criminal Justice and Public Order Act 1994 (c. 33).[back](#)

[26] Section 14C was inserted by section 71 of the Criminal Justice and Public Order Act 1994.[back](#)

[27] 1988 c. 52.[back](#)

[28] 1985 c. 44.[back](#)

[29] 1985 c. 57.[back](#)

[30] Section 1A was inserted by Schedule 1, Part 1, paras. 1 and 2 to the Public Order Act 1986 (c. 64).[back](#)

[31] Sections 5B to 5D were inserted by Schedule 1, Part 1, para. 4 to the Public Order Act 1986.[back](#)

[32] 1959 c. 57; section 1(2) was substituted by the Criminal Justice Act 1982 (c. 48), section 71.[back](#)

[33] 1984 c. 12.[back](#)

[34] 1968 c. 60.[back](#)

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## Appendix 11: GDC19

### GDC19: SHOULD I TO APPLY WITHDRAW AN FTA WARRANT? – A CHECKLIST

This paper aims to help:

- The police decide whether to ask the CPS to apply to withdraw an FTA warrant<sup>1</sup>; and
- LCJBs develop an inter-agency approach so that warrants can be withdrawn in appropriate circumstances.

It focuses on processes initiated by police and / or court enforcement officers<sup>2</sup> as part of the regular reviews they should be undertaking of outstanding FTA warrants. If the police wish to apply to withdraw a warrant, the CPS will review the request and, if appropriate, apply to the court. A checklist is included which may be adapted to suit local needs.

This paper does not cover:

- withdrawal of warrants issued in error;
- withdrawals as a result of a case review initiated by the CPS; or
- cases where the CPS is not the prosecuting authority (although the checklist could be adapted to meet these needs).

The decision to apply to withdraw a warrant issued after a finding of guilt or a guilty plea (normally in conjunction with an application to withdraw an offence) should only be taken in exceptional circumstances.

**Keep until cancelled or replaced.**

#### Context

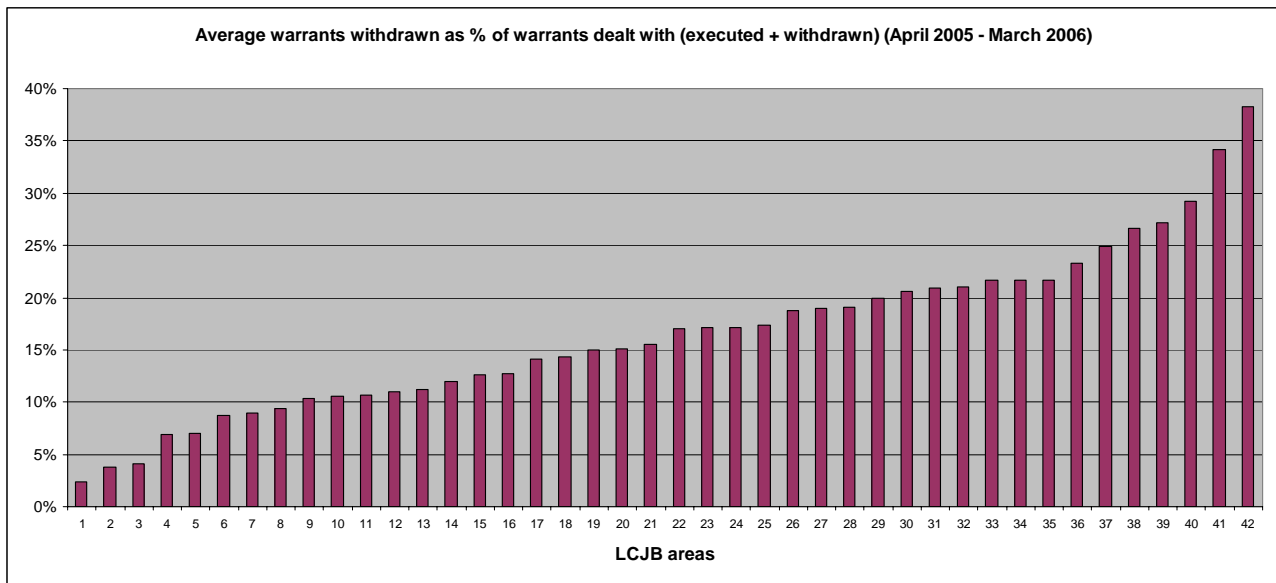
Areas have been submitting information on the withdrawal of FTA warrants since April 2005. An examination of this data has highlighted significant differences in withdrawal rates (as a percentage of warrants dealt with, ie executed + withdrawn) across England and Wales. The table below demonstrates this. It shows the monthly warrants withdrawn as a percentage of warrants dealt with for each LCJB area averaged over the year April 2005 to March 2006. Areas have been anonymised.

The decision to withdraw a warrant is a judicial one. There is no 'correct' withdrawal rate. It is possible that ongoing work to audit large backlogs of outstanding FTA warrants has led to high withdrawal rates in some areas in the short term. If this is the case, withdrawal rates should be expected come down in the long term. The Office for Criminal Justice Reform (OCJR) will continue to monitor the situation. If the disparity between LCJB areas continues (a factor of ten between low and high withdrawal areas) there may be questions to be asked about the way in which bail compliance and enforcement is managed locally between the police, CPS and HMCS.

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<sup>1</sup> The CPS are responsible for the prosecution of the majority of police cases, where the CPS are not involved in the prosecution of police initiated proceedings (ie specified proceedings), it will be for the police to make any applications to withdraw related FTA warrants. Exact arrangements will be a matter for local agreement.

<sup>2</sup> The court enforcement officer's role in this process is limited to action taken to execute the warrant. CEOs will not have all the information relating to the wider case and will not be in a position to take an initial view on whether an application to withdraw the warrant should be made. This will be for the police.



### General principles

- The overriding principle is that all warrants should be executed quickly as possible.
- It may be appropriate in certain circumstances, to seek to withdraw an FTA warrant. Applications to withdraw warrants must never be made on the grounds of expediency alone.
- It is likely that there will be very few circumstances where it is appropriate to seek to withdraw an FTA warrant issued after a finding of guilt or a guilty plea
- The withdrawal of an FTA warrant is a judicial decision.
- In most cases, the decision to apply to withdraw an FTA warrant is for the CPS (based on information provided by the police). It will be linked to a decision on the principal offence. In making their decision whether to apply, the CPS should also have regard to whether it is appropriate to withdraw a warrant even though the principal offence is to proceed. For example:
  - If the defendant is already in custody for another offence, a Home Office Production Order may be appropriate to secure attendance and the warrant may be withdrawn.
  - If the defendant is wanted on several warrants and one has been executed, it may be possible to put all outstanding matters before one court and withdraw the remaining warrants.
  - Where there are local arrangements for the voluntary surrender of the defendant.
- It is also possible to terminate the substantive proceedings, but retain the FTA warrant so that the Bail Act offences can be pursued.
- All outstanding warrants should be reviewed on a regular basis by the police (or court enforcement officers). The purpose of such a review is to consider what action has been taken to execute a warrant and decide what further action is necessary to execute the warrant. Where withdrawal of the warrant is considered the most appropriate course of action by the police, they must be able to make a strong and detailed case to the CPS.

- As part of this review the police should consider the evidential and public interest tests set out in the Code for Crown Prosecutors.
- An application for a warrant to be withdrawn should be supported by details of all attempts made to execute that warrant.
- The views of the victim (where there is one) should be actively sought and taken into consideration when deciding whether to apply for a warrant to be withdrawn.

### **Checklist for the police when considering asking the CPS to apply for the withdrawal of an FTA warrant**

1. Is the FTA warrant over 12 months' old?
2. If the warrant is less than 12 months' old, are there exceptional circumstances which mean the withdrawal of the warrant should be considered (for example: death of defendant, where a death certificate is available; or receipt of a substantial custodial sentence in relation to a separate offence; or clear identification evidence that demonstrates that the person named on the warrant is fictitious)?

*You must be able answer 'Yes' to one of the questions above before continuing checking the following points on this list*

3. How serious is the case?	The more serious the case, the less likely an application to withdraw the warrant should be sought.
4. What is the likely penalty for the principal offence?	The higher the penalty, the less likely an application to withdraw the warrant should be sought.
5. Is there still a realistic prospect of conviction for the principal offence? Evidence may have changed in the intervening period e.g. witnesses no longer available or willing to give evidence (including police witnesses)	If yes, it is less likely an application to withdraw the warrant should be sought.
6. Is the defendant also liable for prosecution for a Bail Act offence as a result of his non-attendance?	If yes, it is less likely that an application to withdraw the warrant should be sought. NB: Consideration should be given to retaining the warrant to enable the Bail Act offence to be dealt with, even in cases where it is decided not to proceed with prosecution of the substantive offence.
7. Is there still a realistic prospect of arresting the defendant?	If yes, it is less likely an application to withdraw the warrant should be sought.
8. Are you satisfied that efforts to execute the warrant are exhaustive?	If yes, it is more likely that an application to withdraw the warrant should be sought.
9. Are there any further avenues of investigation that could now enhance the evidence (changes in forensics, admissibility of evidence changes etc)?	If yes, it is less likely an application to withdraw the warrant should be sought.
10. Are the case papers and exhibits to support the prosecution for the principal offence still available?	If yes, it is less likely an application to withdraw the warrant should be sought.
11. Is the defendant known to be abroad and, if so, is the offence one serious enough for extradition to be considered? If so, does the UK have an extradition agreement with the country concerned? Or can a European arrest warrant be used?	If yes, it is less likely an application to withdraw the warrant should be sought.

12. What is the status of the defendant (i.e. on life licence or similar)?	If the defendant is on life licence or similar, it is less likely that an application to withdraw the warrant should be sought.
13. Have identification issues been settled? And if not, would they now be viable if conducted after arrest?	If identification has been settled (or would be viable after arrest), it is less likely that an application to withdraw the warrant should be sought.
14. Are there other matters outstanding against the same defendant (including other warrants)?	If yes, it is less likely an application to withdraw the warrant should be sought.
15. Has the defendant been dealt with here or abroad for other matters that may affect the public interest considerations? The seriousness of any such offence may have a bearing as it is possible that the defendant would have received an overall sentence for all offences rather than a separate sentence for this offence.	If yes, it is more likely that a warrant to withdraw the warrant should be sought.
16. Is there an individual complainant (not a company) and are they vulnerable? (eg because of their age)	If yes, it is less likely an application to withdraw the warrant should be sought.
17. Has there been a delay in the prosecution of the offence, other than the defendant's non-attendance at court, which suggests the continuance of the proceedings will not be in the public interest?	If yes, it is more likely an application to withdraw the warrant should be sought.
18. Is there a pressing need to pursue the matter on public interest grounds for other reasons (eg to get the defendant on the sex offenders register)?	If yes, it is less likely an that application to withdraw the warrant should be sought
19. Are there any other issues that might impact on the case?	

The list is not definitive, but should help to provide a structure for the decision making process. The CPS Legal Manual also includes a number of factors particularly relevant to the consideration of applications to withdraw warrants issued against persistent young offenders (see Annex A for relevant extract).

Go to [http://www.cps.gov.uk/legal/section14/chapter\\_n.html](http://www.cps.gov.uk/legal/section14/chapter_n.html) for the full CPS guidance on the withdrawal of FTA warrants.

### Initial review

FTA warrant enforcement standard 8 (GDC 13) states that 'Outstanding FTA warrants should be reviewed by the police or court staff (where court staff are responsible for the execution of any FTA warrants) and the CPS, on a regular basis.' In practice, the review will probably be conducted by the police and, if withdrawal is considered appropriate, discussion with the CPS will be initiated. This applies to all FTA warrants, whether issued pre- or post-conviction and/or sentence.

It is for areas to determine what 'regular' means, but we would expect that each individual outstanding warrant should be the subject of an initial review after 3 months and periodic reviews thereafter. These reviews will consider what action has been taken or should be taken to execute the warrant before considering whether there are grounds for making an application to withdraw the FTA warrant. The checklist set out in this paper should assist with this process.

Any initial review of their warrants conducted by court enforcement officers will be limited to a consideration of the efforts made to execute a warrant and what further action should be taken.



Where all attempts have been exhausted, court enforcement officers should forward details to the police for consideration.

Where a decision is taken by the police to ask the CPS to apply for the withdrawal of a warrant, the police should provide all the necessary information to allow the CPS to make this decision (including, where appropriate information from the court enforcement officers on execution attempts). A 'Withdrawal of an FTA Warrant' form is attached at Annex B.

### The role of the CPS

The decision to apply to withdraw an FTA warrant will, in most cases, be made by the CPS. That decision is not taken in isolation. The CPS will also review the substantive offence in accordance with the Code for Crown Prosecutors to consider whether there has been a change of circumstances so that the evidential sufficiency or the public interest criteria are no longer met. The decision will also be taken in line with the CPS Legal Manual (which contains advice on the withdrawal of bench warrants). NB: The CPS cannot terminate a case after a conviction (including a guilty plea). The CPS Legal Manual suggests that in such cases, the prosecutor should invite the court to direct a change of plea followed by the prosecutor terminating the case order an absolute discharge. Go to [http://www.cps.gov.uk/legal/section3/chapter\\_f.html#\\_Toc44573536](http://www.cps.gov.uk/legal/section3/chapter_f.html#_Toc44573536) for full details.

If the CPS decides to request that the case and/or the warrant is withdrawn, they should arrange with the Court for the case to be listed and the application made. After the hearing, the CPS should return the withdrawal application form suitably endorsed to the police (and court enforcement officers where appropriate).

If the CPS decides not to pursue the application to withdraw an FTA warrant, the form should be suitably endorsed and returned immediately to the police (and court enforcement officers where appropriate).

### Updating systems

The Court may publish the result of the application on the Court Register.

If the warrant is withdrawn, the police/court enforcement officers should ensure the warrant notification is removed from PNC and that local systems are updated as soon as possible.

### Contact point

If you need additional guidance on this checklist, please e-mail the FTA Warrants Team in OCJR on [FTAwarrants@cjs.gsi.gov.uk](mailto:FTAwarrants@cjs.gsi.gov.uk).

## Extract from the CPS Legal Manual - Withdrawal of Bench Warrants **Warrants and persistent young offenders**

To ensure that PYOs continue to be dealt with expeditiously, it is essential that warrants for their arrest are prioritised. The Case Progression Officer should review outstanding warrants on at least a monthly basis, and more frequently if necessary. A system should be agreed with the police to provide updated information as to what actions have been taken to execute warrants involving PYOs.

Warrants to be executed in another police area must be clearly marked if a PYO is involved. Regular checks on progress need to be carried out by the exporting force with the importing one. These checks should be maintained as part of the periodic checks of outstanding warrants.

As with all cases involving warrants, it may be appropriate to consider withdrawing the warrant against the PYO. However, warrants must not be withdrawn on the grounds of expediency alone. The same process of review and consideration of the Code tests will apply to warrants issued for PYOs as for other offenders. Clear, full and accurate file endorsements are essential if a decision to withdraw a warrant can be justified to the court and, where appropriate, to the victim.

### **Decision to withdraw a PYO warrant - factors to consider**

Where a warrant for a PYO remains unexecuted and may be withdrawn, the factors to consider will vary from case to case but are likely to include the following:

- The age of the accused;
- The staleness or otherwise of the offence;
- The likely penalty, bearing in mind the delay between offence and sentence;
- The strength of evidence, bearing in mind the passage of time;
- The accused's character and antecedents (including bail history);
- The nature of the offence and impact upon the victim, and redress available to him or her;
- Effort made to execute the warrant;
- Whether the accused has been sentenced at another court since the warrant was issued;
- Any contact between the PYO and other agencies such as Youth Offending Teams;
- The sentence imposed on any co-accused;
- Whether the accused has re-offended (if not, it may indicate that the pattern of offending has ceased);
- Any other applicable public interest factors in the Code must also be borne in mind.

**Withdrawing an FTA Warrant**

**SECTION A (to be completed by the police)**

**Name of Accused:**

**Warrant Ref No:**  **PYO/PPO/Other** (delete as appropriate)  
**If 'other' please specify:**

**Offence(s):**

**Convicted:**  Yes / No (delete as appropriate)

**Brief Circumstances of alleged offence(s):**

**Warrant issued by:**

**Date warrant issued:**

**Prosecution File URN:**

	Y/N	Comment
<b>Can all Exhibits be located?</b>	<input type="text"/>	<input type="text"/>
<b>Can all witnesses be traced?</b>	<input type="text"/>	<input type="text"/>
<b>Can the victim be traced?</b>	<input type="text"/>	<input type="text"/>

**Enquiries made to execute the warrant** (Tick if completed) [**amend as necessary**]:

[Name force IT systems]	<input type="checkbox"/>	[DSS]	<input type="checkbox"/>	Court Check	<input type="checkbox"/>
PNC	<input type="checkbox"/>	[CTO]	<input type="checkbox"/>		<input type="checkbox"/>
Home Visit	<input type="checkbox"/>	Prison Check	<input type="checkbox"/>		<input type="checkbox"/>

**Other information on execution attempts (include the date and time of each attempt). Who was responsible for making the execution attempts?**

**Consultation with the Victim**

**Consultation with the OIC**

Dated		Signed		Tel.

**Comments of Line manager**

Dated		Signed		Tel.

**SECTION B (to be completed by the CPS)**

**CPS Case Number**

**Can the Prosecution file be located?**

Y/N		Comment
<input style="width: 40px; height: 15px;" type="text"/>		

**Application for Withdrawal to be made?**

If 'Yes', Listed for Hearing:

Date: ..... Venue .....Mags/Crown Court

If 'No', explain why below and return papers to police (and, where appropriate, court enforcement officers):

Dated		Signed		Tel.

**Warrant withdrawn by Court?** Yes / No (delete as appropriate)

Comment

Dated		Signed		Tel.

**CPS to return these papers suitably endorsed to the Police [name] / Court enforcement officer [name] immediately after hearing.**

List of GDC papers current as at 14 June 2006

- GDC1 Letter to Area Directors, JCEs, Group Managers etc re managing bail warrants**
- GDC6 Reminder systems for defendants to attend court**
- GDC11a Operation Turn-Up: summary closing report and evaluation**
- GDC11b Operation Turn-Up: closing report and evaluation**
- GDC12 FTA warrants – secure notification templates**
- GDC13 Updated Failure to Appear Warrant Enforcement Standards**
- GDC14 Status of papers in the GDC series as at 10 November 2005**
- GDC15 High level overview of data reporting requirements from 1 April 2006 and beyond**
- GDC16 Detailed guidance on data reporting requirements from 1 April 2006**
- GDC17 The enforcement of out of area FTA warrants – a checklist**
- GDC18 Defendant warning letters – a good practice guide**
- GDC19 Should I apply to withdraw an FTA warrant? – a checklist**
- GDC20 Out of area warrant execution request – form and training material**

## Appendix 12- The 2003 Agreement

### OUTSTANDING WARRANTS - 21.7.03

Present:

It was agreed that there were two separate issues:

1. How to deal with the outstanding backlog of warrants
2. To develop a system for dealing with warrants in future which took account of partners obligations under NJG

#### 1. BACKLOG OF OLD WARRANTS

It was agreed that a system was needed to get rid of the significant number of outstanding warrants. The following procedures were agreed for all warrants pre-dating March 2003. The target was to clear the backlog of such warrants within a 15 week period. This would be done in four separate alphabetical slots.

A - E; F - K; L - Q; R - Z

The following procedure was agreed:

1. Court will immediately submit to Warrant Office a list of cases for defendants whose surname begins with A - E where the Court computer shows there is an outstanding warrant but where there is no record of this on the Warrant Office list of outstanding warrants (List 1).
2. The Warrant Office will add to that list details of live warrants pre-dating March 2003 for defendants whose surnames begin A - E. (List 2).

Note: The list will have the following headings:

NAME	DOB	CASE NUMBER	OFFENCE	WARRANT ISSUED	CPS OBJECT TO WARRANT BEING FINALISED Y/N	RESULT
	5.12.74	0280419	RTA 2.5.97 (D)	1.12.97	N	W/D

Additionally if it is a RTA offence the Court will indicate on the list whether or not the offence is imprisonable, ie

RTA non- imprisonable - (D)

RTA imprisonable (I)

3. Within a 3 week period the Warrant Officer will return list to the Court
4. The Court will submit copies of List 1 and List 2 to CPS with details of a hearing date 3 weeks after the list was submitted.
5. If CPS has any warrant cases which pre-date March 2003 where the Defendants surname ends with A – E these will be automatically archived.
6. The list will be passed to the CPS designated warrant DCP DCP  
endorses list as to whether CPS have any objection to the proceedings being withdrawn or otherwise finalised.
7. If DCP indicates that CPS object to the case being finalised, CPS Admin will locate file and submit standard letter to CJSU. This will indicate that there is an outstanding warrant and request an update as to what efforts have been made to execute the warrant.
8. CPS return the endorsed lists to the Court.
9. On the returnable Court date outlined when the list was initially submitted to CPS all matters will be listed before a Legal Adviser only Court (Courtroom No. 5, List No. 35).  
Any case where CPS do not object to the warrant being withdrawn and the case finalised will be dealt with by the Legal Advisor in the following way.
  - if no conviction recorded warrant and offences to be marked withdrawn.
  - After conviction – warrant to be withdrawn and no separate penalty imposed ( eg RTA document offences which have been proved in absence).

Any case where CPS have indicated they do object to the warrant being withdrawn will be listed before a Bench 4 weeks hence.

At that hearing the Lawyer in Court will make a decision as to whether the warrant can be withdrawn or whether the case should be further adjourned. By that point the Lawyer should have the response from the CJSU asking for a progress report on the warrant.
10. The Court returns the completed list to CPS with details of the result.
11. If the case has been finalised CPS Admin will update CMS and archive.  
Otherwise the case will be put in the drawer for the hearing date.

## **2. SYSTEM FOR DEALING WITH WARRANTS WHICH POST DATE MARCH 2003**

1. Immediately after the warrant has been issued CPS Admin will put in a warrant drawer and diarise for the file to be actioned 3 months after the date of that court hearing.

2. At the 3 month stage if it appears the warrant is still outstanding CPS will fax details to the Warrant Office who will confirm the warrant is still outstanding.
3. If the answer to 2 above is yes – CPS Admin will request all category A Warrants to be listed before a Legal Advisor Clerk with a view to the warrants being withdrawn.
4. If it is a category B warrant the file will be booked to the Reviewing Lawyer to review the case further to see if the warrant should remain outstanding. This will be subject to the guidance to be circulated by the Unit Head taking account of the distinction between recorded and non-recorded offences as part of the West Yorkshire Narrowing the Justice Gap Action Plan.
5. If a category B warrant is to be withdrawn CPS Admin will advise the Court that the matter should be listed in a Legal Advisor only Court.

#### Category A Warrants

Warrants issued more than 3 months ago  
Non-recorded  
Non-imprisonable

#### Category B Warrants

Any warrant not coming within the above categories.



### Appendix 13: Summary of the CPS case file analysis results

The Inspectorate asked to see 80 files listed in court during 2007. 65 were produced. With regards to the missing files we cannot give any assurance that these files were properly reviewed.

Of the 65 files examined, 20 were selected at random for detailed analysis. Of these one was incomplete with the jacket which would contain the endorsements missing.

#### The time of the warrant review decision. ( 19 cases)

<b>Total less than 12 months</b>	<b>13/19</b>	<b>68.4%</b>
<b>Imprisonable cases</b>	<b>5/9</b>	<b>55%</b>
<b>Injury traffic</b>	<b>1/2</b>	<b>50%</b>
<b>Traffic</b>	<b>5/6</b>	<b>83.3</b>
<b>Non imprisonable</b>	<b>2/2*</b>	<b>100%</b>

\*both these cases were appropriately withdrawn early due to a change in circumstances.

**Ambiguous endorsement** (includes failing to differentiate between whether the warrant or the proceedings were to be withdrawn)

<b>Total number with ambiguous endorsement</b>	<b>16/19</b>	<b>84.2%</b>
<b>Imprisonable cases</b>	<b>8/9</b>	<b>88.9%</b>
<b>Injury Traffic</b>	<b>2/2</b>	<b>100%</b>
<b>Traffic</b>	<b>6/6</b>	<b>100%</b>
<b>Non imprisonable</b>	<b>0/2</b>	<b>0%</b>

#### Cases withdrawn with convictions recorded. 9/19

<b>Total number where convictions recorded</b>	<b>9/19</b>	<b>47.4%</b>
<b>Imprisonable offences</b>	<b>3/9</b>	<b>33%</b>
<b>Injury traffic</b>	<b>1/2</b>	<b>50%</b>
<b>Traffic</b>	<b>5/6</b>	<b>83.3%</b>
<b>Non imprisonable</b>	<b>0/2</b>	<b>0%</b>

In six of the nine cases where convictions were set aside the endorsements of the CPS papers failed to indicate that the conviction had been lawfully set aside.

## Appendix 14: The Prosecutors' Pledge

### The Prosecutors' Pledge

**Wherever there is an identifiable victim, the Crown Prosecution Service (CPS) will follow the commitment given in THE PROSECUTORS' PLEDGE**

**As a victim, or a member of a victim's family, you can expect the CPS to:**

**PLEDGE: Take into account the impact on the victim or their family when making a Charging decision**

The prosecutor will work closely with the police to build the best possible case and seek to ensure that the charge reflects the seriousness of the crime against you. Where appropriate, the prosecutor will also take into account the likely effect that the type of crime you have suffered may have on your local community.

**PLEDGE: Inform the victim where the charge is withdrawn, discontinued or substantially altered.**

You will be contacted by letter and informed as to the reasons that this course of action was taken. In certain crimes you may also be offered the opportunity of meeting the prosecutor in person who will explain the decision.

**PLEDGE: When practical seek a victim's view or that of the family when considering the acceptability of a plea.**

Where you have had to attend court and at that stage the defendant indicates that he or she intends to plead guilty, the prosecutor will, wherever possible, speak to you to ensure that your views are taken into account when considering whether to accept the plea.

**PLEDGE: Address the specific needs of a victim and where justified seek to protect their identity by making an appropriate application to the court.**

Prior to coming to court you will have been contacted by the police/CPS Witness Care Unit who will have kept you informed of developments in the case and considered with you the best way for you to give evidence. You may also have had contact with the Witness Service who will also have provided support. You may also have been given the opportunity to visit the court before the case to see where you will give your evidence.

In some cases in order for you to give your evidence, special arrangements will be made. This may involve a range of options including giving your evidence via a television link from a room that is away from the court room. This will all be carefully explained to ensure that you understand and are happy with the arrangements. Prosecutors will also seek to ensure that in certain cases, and where appropriate, the media (newspapers and television) will not disclose your identity. Where this takes place you will be kept informed throughout the process and given a full explanation as to what is happening and, most importantly, why.

**PLEDGE: Assist victims at court to refresh their memory from their written or video statement and answer their questions on court procedure and processes.**

The prosecutor will introduce him or herself to you at court, answer any questions you may have and give you an indication of how long you may have to wait. The prosecutor is not allowed to discuss your evidence with you, but can answer any questions you have on court procedure and processes. You will also be given an opportunity to read your statement or see your videotaped statement before you give evidence.

**PLEDGE: Promote and encourage two-way communication between victim and prosecutor at court.**

The prosecutor will ensure that you are told about the progress of the case and, wherever possible, explain any delay. The prosecutor will also explain how you may pass any information to him or her during the case that you believe may assist the court.

**PLEDGE: Protect victims from unwarranted or irrelevant attacks on their character and may seek the court's intervention where cross-examination is considered to be inappropriate or oppressive.**

The defendant, through his or her lawyer, may question your evidence and it is their job to challenge your account of events. However, the prosecutor will be alert during the course of the trial to unwarranted or irrelevant attacks on your character and, should these take place, will ask the court to intervene.

**PLEDGE: On conviction, robustly challenge defence mitigation which is derogatory to a victim's character.**

Where a defendant is convicted of a crime, and before sentence is passed, his or her lawyer has an opportunity to address the court to seek to explain why the crime may have been committed and outline the personal circumstances of their client. This is called mitigation. Where mitigation casts unwarranted or unsubstantiated attacks on the character of another who may or may not be a victim, the prosecutor will challenge the account and may ask the court to hear evidence to correct the defendant's account. Where this takes place the prosecutor may also make an application to the court to prevent the defendant's account being reported by the media (newspapers and television).

**PLEDGE: On conviction, apply for appropriate order for compensation, restitution or future protection of the victim.**

The prosecutor will always consider whether there should be an application for compensation or restitution on your behalf. In appropriate circumstances the prosecutor may also encourage the court to impose a restraining order to ensure your future safety. In doing so, they will take into account anything you have said in your Victim Personal Statement.

**PLEDGE: Keep victims informed of the progress of any appeal, and explain the effect of the court's judgment.**

If an appeal is lodged in your case, you will be advised by the police/CPS Witness Care Units and kept informed about what is happening. Where the court's judgment affects the sentence that has been passed on the defendant, the prosecutor will explain the decision and consequences.