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Report of the Working Group on Magistrates' Courts

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PART I - DESCRIPTION OF THE WORKING OF THE MAGISTRATES' COURTS SYSTEM

CHAPTER 1 - INTRODUCTION

1.1 This section of the report aims to provide, as a background to our recommendations, an outline of the working of the magistrates' courts system as it existed at the time of our enquiries, that is in mid-1981. After a brief introductory chapter dealing with the historical and statutory background, we describe the responsibilities of the various bodies involved in the administration of the courts (Chapter 2) and then examine the relationships between all those concerned (Chapter 3). Annexes E to J deal with specific matters which are too detailed to fit easily into the general body of the text. A simple recitation of the statutory framework within which the magistrates' courts system has been established would not be very informative; what matters most is the relationship between the various elements making up the system. Accordingly, we have sought to describe the way in which the system actually works; our description necessarily has subjective elements, but it is the product of visits to a number of courts and of discussions with many individuals working within the courts, or for local authorities or central government. Although our sample of courts and paying authorities was necessarily comparatively small, we have no reason to believe that it was unrepresentative.

Historical framework

1.2 Historically, the magistrates' courts service has been a local service locally administered; this arrangement appears to continue generally to command acceptance. The magistracy itself is older than the Justices of the Peace Act 1361 which in effect gave statutory recognition to the institution and made magistrates into a form of local government. Some essentially administrative tasks remain (for example liquor licensing) but for the past century justices of the peace have been principally concerned in judicial functions. Throughout this period it has been the policy of central government that magistrates' courts should be a locally administered service run with the minimum of outside interference. This remained the case even after 1949 when central government assumed a large measure of responsibility for funding the magistrates' courts which had previously fallen exclusively upon local authorities.

1.3 Legislation

The current legislation governing the administration and financing of the magistrates' courts is contained in the Justices of the Peace Act 1979 (JPA). The Act is closely based on a previous Act of 1949 and is drawn in fairly wide terms which could in theory give the Home Secretary considerable power to direct the activities of magistrates' courts committees (MCCs) - see for example section 19. In practice however, the Home Secretary has used this power only in relation to minor matters, for example, he has made rules governing the maximum number of members of an MCC.

1.4 The financial arrangements for magistrates' courts excluding Inner London (for Inner London see Annex E) are governed by sections 55 and 56 of the JPA. In view of their great importance it is worth setting out the more significant of these provisions in full:

55(1) Subject to the provisions of this Act, the council of each non-metropolitan county and of each metropolitan district shall provide the petty sessional court-houses and other accommodation, and the furniture, books, and other things, proper for the due transaction of the business, and convenient keeping of the records and documents, of the county justices or any committee of such justices, or for enabling the justices' clerk for the non-metropolitan county or metropolitan district or any part thereof to carry out his duties.

55(2) The council of each non-metropolitan county or metropolitan district shall pay -

a. any expenses of the magistrates' courts committee or, in the case of a committee acting for the area of more than one such council, the proper proportion of those expenses; and

b. the sums payable under Part II of this Act on account of a person's salary or expenses as justices' clerk for the non-metropolitan county or metropolitan district or any part thereof and the remuneration of any staff employed by the magistrates' courts committee to assist him ....; and

c. so far as they are not otherwise provided for, all other costs incurred with the general or special authority of the magistrates' courts committee by the county justices.

56(1) Subject to the provisions of this section:-

a. the petty sessional court houses and other accommodation, furniture, books and other things to be provided by a council under Section 55 of this Act;

b. the salary to be paid to a justices' clerk and the staff to be provided for him; and

c. the nature and amount of the expenses which a magistrates' courts committee may incur in the discharge of any functions or may authorise to be incurred, including the sums payable to a justices' clerk in respect of accommodation, staff or equipment provided by him, shall be such as may from time to time be determined by the magistrates' courts committee after consultation with the council or councils concerned.

56(3) Any council concerned which is aggrieved by a determination of a magistrates' courts committee under subsection (1) above may, within one month from the receipt by the council of written notice of the determination, appeal to the Secretary of State, whose decision shall be binding upon the magistrates' courts committee and any council concerned.

1.5 It is for the MCC for the area concerned to determine the level of provision which is required under section 55 (see section 56 JPA). Section 59 of the JPA provides that the Secretary of State may pay grant towards the cost of the magistrates' courts service at a rate of up to 80%; there is discretion to withhold grant but this is very seldom exercised (only one instance can be readily identified). The effect of the statutory arrangements outlined above is that the paying authority must pay such sums as the MCC (after consultation with the paying authority) determines, subject to a right of appeal by the local authority to the Home Secretary, which must be exercised within one month of the appropriate determination; and that the Home Office then pays 80% of all expenditure properly incurred, that is, incurred by the paying authority in meeting the obligation laid upon it to provide the facilities deemed necessary by the MCC for the efficient running of the magistrates' courts service in the area. The next two chapters will flesh out this statutory framework and illustrate the procedures by which the various bodies concerned carry out their statutory responsibilities.

CHAPTER 2 - STRUCTURE

Central Government Involvement

Home Office

C2 Division

2.1 This Division has the primary interest within the Home Office in the general running of the magistrates' courts and so tends to deal with matters which are not specifically the responsibility of other divisions. C2 has a general responsibility for deciding whether expenditure, except capital expenditure on land and buildings, has been properly incurred, and will therefore be consulted by Finance Department whenever there is a dispute as to whether an item should rank for grant. The Division also deals with all appeals against MCC determinations other than those involving capital expenditure on land and buildings. Consideration of such appeals involves a considerable amount of effort as both the local authority and the MCC will be asked to state their cases in full and it may be necessary to seek further information after the initial statement and response: where the dispute concerns either grading or conditions of service the relevant Joint Negotiating Committee (see paragraphs 2.23 and 24) will be asked for its opinion.

2.2 All proposals to create new additional posts within the magistrates' courts service require Home Office approval; this rule was laid down by Home Office Circular 48/1953 and derives from the power of the Secretary of State to withhold grant. (see Annex F for details of procedure). Home Office approval is also required for the appointment of a justices' clerk. C2 will lead on the issue of pay determination which is of concern to the Home Office because of the requirement ultimately to pay grant on any increase which is decided (annex G contains a note on the process of pay determination).

2.3 In addition to these functions on the administrative side, C2 is concerned with the domestic proceedings work of the magistrates' courts and deals both with individual casework and with policy on the scope and content of this area of the law. C2 is also concerned with magistrates' courts procedure, the operation of the Bail Act and proposals for revision and consolidation of magistrates' courts legislation. These policy responsibilities keep the Division in close contact with the courts and with the associations representing court staff which will be consulted on, and frequently make contributions to, the policy issues. C2 regularly issues circulars to the courts explaining legislation and new procedures; justices' clerks said that they found these most useful. Finally, the Home Office Adviser on magistrates' courts and the Training Officer, who are both justices' clerks, are attached to C2.

Finance Department

2.4 The paying authority (the relevant non-metropolitan county or metropolitan district) initially meets the total cost of all expenditure incurred by the MCC and thereafter recovers from the Home Office 80% of all expenditure properly incurred. In theory therefore the Home Office has an open ended commitment to pay 80% of expenditure on courts however much that might be; in practice however regard must be had to financial constraints and total expenditure on magistrates' courts during previous years has in the event been very close to the estimates produced by the Home Office as part of the general central government

forecasting of local authority expenditure. Expenditure on magistrates' courts, as on the police and certain other services, is "specifically funded". After the Department of the Environment has fixed the level of block grant which will be available nationally for all local authority expenditure on all services the Home Office takes from the total grant the amount which it has been estimated will be required in order to meet the obligation to pay grant for various specific services including the magistrates' courts during the forthcoming financial year.

2.5 In considering the control exercised by the Home Office over expenditure on magistrates' courts it should be remembered that Finance Department seeks only to control the overall national level of expenditure; it does not therefore seek to control the budgets of individual MCCs. Only in exceptional cases would it query an individual budget or individual item. (In the past there has been one occasion when a pay agreement was reached which breached government guidelines and the excess was deemed not to be "proper expenditure". The practical effect of these arrangements is that the Home Office can influence the level of expenditure on magistrates' courts only by encouraging local authorities to be economical: it can however to some extent rely on the authorities desire to keep their 20% contribution to as low a level as possible. Most (although not all) local authority treasurers are aware of the Government's proposed limits on expenditure and advise the MCC accordingly when budgets are drawn up. A more detailed account of the process by which the overall amount of money available is decided upon is contained in annex H.

Accounts Branch

2.6 This Branch has two areas of responsibility in respect of magistrates' courts:

a. fines and fees - magistrates' courts are required to remit all fines and fees (with certain exceptions) to the Home Office where, after the amounts have been reconciled with the returns, the balances are paid over to the Consolidated Fund. The courts are also required to submit quarterly returns of fines and fees remitted, of costs paid by them from central funds and of amounts received as contributions towards either legal aid or costs. The return also shows the total amount of arrears which have accrued in each court; these arrears figures include sums adjudged to be paid but not yet due, for example, fines where time to pay has been granted and that time has not yet elapsed.

b. acting under delegated authority from the Treasury, Accounts Branch may write off fines which are irrecoverable.

G3 Division

2.7 All capital expenditure on land and buildings (except that relating to minor works of adaptation costing less than £12,000 which are carried out as a matter of convenience at the same time as works of repair and maintenance) requires prior approval by the Home Office. G3 Division oversees these matters. In addition to exercising very detailed control over individual major projects, that is, those costing over £120,000 (far more detailed control than over any other item of expenditure by the

magistrates' courts service), G3 is responsible for assembling future land acquisition and building expenditure programmes and monitoring their progress. The programmes are largely based on the balancing of Central Government's capital allocations and the relative operational priorities of the various projects proposed to the Home Office by providing authorities, in consultation with MCCs. The detailed planning of adaptations and extensions to existing buildings which are estimated to cost up to £120,000 (so called "minor works") are not overseen in any detail by G3, though the Division requires to be satisfied of the need for them and of their scope and operational priority before including them in an approved expenditure programme. (The procedure whereby a new courthouse is approved and built is outlined in Annex H.)

C1 Division

2.8 The Division is not concerned with the administration of magistrates' courts, but nonetheless its work has a direct impact on the courts, for example, in the field of penalties and the work of juvenile courts. In the case of penalties, the Division reflects the Home Secretary's concern about the number of people currently in prison, by examination of alternative provisions as well as of the possibilities for diverting potential defendants away from the prosecution process eg by police caution. This has implications for the magistrates' courts which pay close attention both to the circulars of advice issued and to the process of policy formulation. In the case of juvenile proceedings C1 is concerned both in casework and in policy; the latter interest focuses in part on problems involving delay in bringing cases to trial and in the enforcement of fines imposed upon juveniles.

E3 and E4 Divisions

2.9 E3 Division is concerned with the betting and gaming licensing activities of magistrates' courts, which have a wide jurisdiction under the Betting, Gaming and Lotteries Act 1963 and the Gaming Act 1968. E4 Division has a corresponding interest in the liquor licensing responsibilities of the magistrates' courts which stem from a number of statutes.

Lord Chancellor's Department

2.10 The responsibility for the appointment of magistrates rests with the Lord Chancellor (or, in Lancashire, Merseyside and Greater Manchester, with the Chancellor of the Duchy of Lancaster) and a division within the Lord Chancellor's Department (LCD) collates advice received from advisory committees throughout the country. In addition, LCD offers advice and funding for the training of magistrates, determines the maximum number of justices for each division and lays down certain minimum standards of training which must be attained by all magistrates' courts committees. LCD also has responsibility for policy relating to the payment of legal aid and that governing the payment of costs out of central funds.

The Internal Audit Service of the Lord Chancellor's Department (IAS)

2.11 IAS audits the accounts of magistrates' courts for and on behalf of the Home Office using systems audit techniques broadly similar to those in use in other arms of central government and outside, and the head of IAS submits an annual audit report to the Home Office. Until the

mid-1970's IAS auditors examined the accounts in their entirety and offered assistance if the books failed to balance; the emphasis has now turned towards giving assistance to the justices' clerk in managing the accounts side of his court by examining the systems which he uses to perform that function. As a result IAS staff now concern themselves with a far wider range of issues than the accounts themselves, such as office layout and the physical security of premises and staff. As a national organisation, the IAS is able to pass on details of good practice and advice on particular problems (for example, how to counter new types of fraud) and the auditors use a standard control questionnaire which directs the attention of the courts to similar questions. Following an audit, IAS may recommend certain changes in practice; a reliable procedure has now been agreed which ensures that their recommendations are given proper consideration. Some of the recommendations, particularly those concerning security, may well have staffing implications although IAS's general policy is wherever possible to make recommendations which can be implemented without any increase in staff. In addition, IAS certify that they have no objection to the write-off of fines (the actual decision is still taken by Home Office Accounts Branch) and they may also authorise the write-off of small cash losses (under £50).

2.12 The advice and assistance of IAS is also of crucial value to the Home Office in relation to the acquisition of computers by courts. Before 1977 there was no central control over the acquisition of computers by MCCs and this led to criticism by the Public Accounts Committee. Following this the Home Office issued Circular 109/1977 which reminded MCCs that computers should only be introduced where compensating savings as to staff and other costs would materialise quickly. Furthermore, MCCs were required to notify IAS before deciding to make any substantial change in a court's accounting system (which necessarily covered proposals for computerisation); full details were to be supplied of the estimated expenditure and of the savings in staff or other costs which were expected together with details of the period of time over which those savings were expected to materialise and any available alternatives to the proposed scheme (a note on the procedure followed when a computer is acquired is at annex I). IAS initially became involved in this field because the first proposals for mechanisation within the courts service concerned accounting procedures where IAS were in the best position to offer advice. Computers are now being installed in magistrates courts which are capable of performing a far wider range of tasks including the production of certain documents and court listing; despite the fact that these tasks go far beyond the initial accounting function which prompted courts towards computers, IAS continue to be the main source of advice.

Other Government Departments

2.13 No other central government department is directly involved with the administration of the magistrates' courts. However recent pressure by the Department of the Environment for further reductions in local government expenditure is likely to have an effect on expenditure on magistrates' courts in that all local authorities will be searching with renewed vigour for economies. Furthermore, since the level of total local authority expenditure is influenced by the level of the

block grant which is set by the Department of the Environment, it cannot fail to influence local authorities' attitudes towards making provision for magistrates' courts.

Local Government Involvement

2.14 The paying and providing authorities for magistrates' courts are the metropolitan districts and non-metropolitan counties, except in London where the Receiver is the paying authority for Inner London whilst the GLC performs the same function for outer London courts. Paying authorities are required under section 55 of the JPA to provide such accommodation, furniture, books and other things as are necessary for the efficient running of the magistrates' courts. In all cases the paying authority is responsible for the pay of the magistrates' courts staff and in some cases it owns the court buildings as well. Even in areas where the paying authority does not own the court buildings, it is normal for it to maintain them on a standard local authority cycle. It may also provide other services, for example, the use of its printing department, and be the source of supply for non-specialised items required by the courts. Under the JPA the level of provision for the magistrates' courts is to be determined by the MCC concerned after consultation with the paying authority; if the latter is aggrieved by any determination it may, within one month, appeal to the Home Secretary whose decision is binding on all the parties.

2.15 Within the framework outlined above the reality is generally one of co-operation between courts, MCCs and local authorities. Whilst aware that MCCs have specific responsibilities and are independent of local authorities, nonetheless paying authorities generally seek to keep MCC budgets within limits commensurate with those imposed on other areas of their expenditure. For their part most MCCs recognise the constraints to which paying authorities are subject and reportedly take care not to make unreasonable demands and to be able to make out a case for their proposals. Contact will be maintained at official level both by frequent informal discussions between justices' clerks and local authority staff and also by the presence of one or more local authority officers at MCC meetings to act as liaison officers.

2.16 Despite the fact that paying authorities avowedly recognise that MCCs are independent bodies they generally assimilate consideration of expenditure proposals to the committee system used to monitor other items of local government expenditure. Most local authorities have a number of single subject committees which deal with budgets for individual items (such as education or social services) together with one omnibus committee which handles all the comparatively small heads of expenditure (such as that of the chief executive's or the architect's departments); normally this latter committee will have oversight of proposals emanating from the MCC. The local authority committee may well examine the MCC's budget in some detail although frequently the objective of its scrutiny is to keep the total expenditure within reasonable bounds. Thereafter the MCC budget will go to the full council, normally by way of the finance committee, but in neither the finance committee nor the full council will detailed

scrutiny be given because in general the courts budget will be too small in proportion to other areas of expenditure to warrant special attention. Potential disputes over expenditure can frequently be forestalled because the paying authority's treasurer's department generally prepares, or is involved in the preparation of, the budget and can predict whether or not the paying authority will agree to a proposed item.

2.17 In most of the areas which we visited we were told that both sides strive to avoid major disagreement which would lead to a determination and appeal. Such an outcome was seen as representing a breakdown in relations. In one area however, a different view was taken and it was suggested that it was quite sensible to have an impartial arbiter in the shape of the Home Office whose decision could then be accepted by all concerned; a large number of appeals may not, therefore, necessarily imply that relations between MCC and paying authority are very bad. In view of the general desire to avoid confrontation, however, it was rather surprising that only two of the areas which we visited had a formal procedure for the resolution of disputes between MCC and paying authority.

Magistrates' Courts Committees

2.18 There is an MCC for every shire county, every metropolitan district, each of the four Outer London areas and the City of London (Inner London, with its separate system, has a Committee of Magistrates). They are composed of magistrates from the relevant commission area elected by their colleagues (there is in addition power to co-opt High Court judges, circuit judges or recorders, and the keeper of the rolls of a county is automatically a member of the MCC). MCCs are responsible for determining the level of provision for magistrates' courts in their area in consultation with the paying authority and in addition are responsible for the administration of the courts but are not concerned with judicial matters. MCCs have considerable responsibility for personnel management as the MCC acts as the employer of members of staff working in the courts service in its area with the exception of clerks to justices. The latter are office holders but even so are appointed by the MCC. (It should be remembered that not all staff who work in the courts are necessarily employed by the MCC: cleaners for example are often local authority employees.) Detailed issues are typically discussed by comparatively small sub-committees dealing with particular issues, such as training or personnel, which then put forward to the full committee proposals for ratification; the MCC Chairman will be consulted by officials during the intervals between meetings of the MCC and will have some control over the matters which are put to the MCC together with the power to make decisions on matters which are urgent.

2.19 Clerks to MCCs are drawn from different backgrounds. At present there are 87 MCCs (outside Inner London and the City) of which all 36 covering metropolitan districts are clerked by justices' clerks whilst for the remainder there are 22 local authority chief executives, 24 justices' clerks and 4 independent clerks (one of whom is clerk to 2 MCCs). As can be seen the majority of MCCs are clerked by justices' clerks but it should be remembered that section 22 of the JPA specifies

that in areas which are not divided into petty sessional divisions the clerk to the justices is by virtue of his office clerk to the MCC; there is thus only one person eligible to clerk the MCC in many metropolitan districts.

2.20 There is no specific training for the post of clerk to the magistrates' courts committee and those who are clerks to justices may find the job a taxing one, at least initially. Clerks drawn from local authorities, on the other hand, may encounter difficulties as a result of their unfamiliarity with the courts.

The Justices' Clerk

2.21 The justices' clerk is in a unique position within the magistrates' courts service because he is an office holder appointed by the MCC at whose pleasure he holds the office and not an employee; the approval of the Home Secretary is required before any justices' clerk may be appointed. Clerks value their independence highly and, while they will expect the MCC members from their own court to be helpful when matters of concern to that court are discussed at the MCC, it is apparently rare for either the MCC or individual members of it to concern themselves on their own initiative with matters relating to the running of the individual court. Although the other court staff are employees of the MCC the justices' clerk is in practice responsible for the day to day management of his court and has almost total discretion over the organisation of his work and his staff within the resources available to him.

2.22 Justices' clerks are required under section 26 of the JPA to possess certain qualifications before they may be appointed. In general, the requirement is that nobody may be appointed as a justices' clerk unless he has five years experience as a barrister or solicitor. There are certain exceptions relating to individuals who have served for a long time in the magistrates' courts service before a qualifying date. At present, there are a number of justices' clerks who are neither barristers nor solicitors but eventually all clerks will be professionally qualified as those to whom the exceptions apply retire and are replaced by qualified lawyers.

2.23 Conditions of service relating to whole-time and part-time justices' clerks have been laid down by the Joint Negotiating Committee (JNC) for Justices' Clerks. These conditions are mostly concerned with such matters as pay, allowances and leave. Sections 25 to 27 of the JPA lay down specifically the powers of MCCs to appoint and remove clerks, the qualifications required and certain details concerning conditions of service. The latter make it clear that the clerk should be consulted before a member of staff at his court is either employed or dismissed, and a clause in the conditions of service added by the JNC states that where an MCC discusses changes directly affecting the facilities or establishment of a justices' clerk's office, he should be afforded the opportunity to attend the meeting of the committee or sub-committee concerned and make representations. It should be noted that the position in Inner London is different; these differences are set out in annex E.

2.24 There is also a JNC for Justices' Clerks' Assistants which has published agreed conditions of service. As with justices' clerks, the bulk of the published conditions concern such matters as pay, allowance, leave etc. Sub-paragraphs (b) and (c) of paragraph 10 are however of considerable interest; they provide -

> "b. The Magistrates' Court Committee shall consider and review annually in conjunction with the Justices' Clerk, the number and grading of staff required for the proper performance of the duties having regard to the nature and size of the Petty Sessional Division.
>
> c. The Assistants shall be given the opportunity to make suggestions to the Magistrates' Courts Committee through the Justices' Clerk for the revision of the establishment."

In some areas this provision has been interpreted to mean that every assistant has a right to make representations about the grading of his or her individual post, in effect to apply for regrading annually. In other areas a more restrictive view prevails and this provision is seen as permitting assistants to suggest that the establishment of a court is inadequate given the workload but not to make representations about individual circumstances. (See annex F, paragraph 3.)

2.25 In addition, in 1975 the JNC for assistants issued a circular to clerks to MCCs suggesting that MCCs might wish to set up consultative committees which would enable the assistants to put matters of concern direct to members of the MCC with justices' clerks acting as members of the management side. It is not obligatory for MCCs to set up these committees, and the Working Group knows of one area where a representative nominated by the Association of Magisterial Officers (AMO) attends meetings of the MCC and an additional committee is therefore seen as unnecessary. It is very much a matter for each consultative committee to decide upon the type of issues with which it will concern itself but the general object is to keep staff informed on matters which concern them and ensure that their views are sought on existing practices and proposed changes which would affect them. Nonetheless, this can be regarded as a significant innovation, given that direct contact between assistants and MCCs was very rare until recently. We understand that the issues discussed will include such matters as staff welfare, personnel arrangements, working conditions etc, but not pay.

2.26 The position of justices' clerks' assistants, who comprise all members of court staff other than the clerk himself and embrace all grades from junior clerical to deputy clerks, at first sight appears complex. Section 27 of the JPA provides that assistants are employed by the MCC but work under the direction of the justices' clerk; in practice justices' clerks conduct the day to day management of their offices with little or no outside interference. As noted in paragraph 2.25 above there has been a change in relations between staff and MCCs with the introduction of consultative committees or other methods of ensuring direct contact between the two. At the same time, the nature of the courts service itself has changed as it has expanded. (For example it is now required that

those sitting as court clerks hold at least the Diploma in Magisterial Law.) This is not to imply that the authority of individual justices' clerks has been undermined but it is now widely recognised (not least by justices' clerks) that individual magistrates' courts are not islands. There is still, however, a feeling that some MCCs are too remote from court staff and take decisions affecting them without consultation.

2.27 Magistrates' courts vary greatly in size and so in consequence does the administrative task which will be placed on an individual clerk's shoulders. It was clear to us that in the smaller courts which were generally to be found in the shire counties individual clerks might well not spend much time on administrative matters because of the back-up available from the local council; this observation applies particularly to personnel matters where the legislation is now very complex but it also applies in matters such as maintenance of buildings. On the other hand in larger urban courts and particularly in the very large city courts, the justices' clerk must inevitably give a great deal of attention to administration and perhaps spend considerably more time on this than he does on giving legal advice to his magistrates. Despite the heavy administrative burdens evident in some courts only a few of those we visited had an officer with a specific and direct responsibility for the efficient running of the office and for the performance by the staff within it of their duties; this means that although there are individual senior officers dealing with separate aspects of the court's work there may be no one person other than the clerk himself responsible for drawing all the threads together. This may put a burden on the clerk concerned, a problem that is accentuated by the fact that justices' clerks tend to see themselves as advisers to magistrates rather than as managers of large and complex offices and will have received comparatively little training in administration.

The Individual Magistrate and the Bench

2.28 The majority of magistrates are not greatly interested in administrative matters unless a mistake has been drawn to their attention in court. On the other hand, the magistrates must elect from their number the members of the MCC who will be required to take an active interest in court administration. The Bench as such tends to have little corporate influence on the administrative side of court life although the bench chairman and, perhaps, his deputies may play a slightly more important role. In most of the courts which we visited the chairman of the bench was also a member of the MCC, which naturally required of him a degree of administrative interest and involvement. We think it reasonable to assume however, that bench chairmen are elected to the MCC by their colleagues because of their position as chairman and not because they necessarily have particular administrative experience or ability.

CHAPTER 3 - THE WORKING OF THE SYSTEM

General

3.1 At local level central government was perceived by most of those interviewed as playing comparatively little part in the administration of the courts: on administrative matters most justices' clerks told us they had virtually no contact at all with central government. Paying authorities were, as might be expected, more aware of the Home Office role but only in the area of building was there normally any close contact.

3.2 The relationships which are crucial to the working of the entire system are those between the paying authority, the MCC and individual clerks to justices; here local factors, and the personalities involved, can have a decisive effect. One significant element in determining these relationships is the identity of the clerk to the MCC. Excluding Inner London, we identified the following structural variations: firstly, there are counties where the chief executive is also clerk to the MCC; secondly, in other counties the clerk to the MCC is a justices' clerk; thirdly in metropolitan districts which are not divided into petty sessional divisions the clerk to justices must by statute be clerk to the MCC; fourthly, in metropolitan districts with 2 or more petty sessional divisions one of the justices' clerks concerned is in practice clerk to the MCC; finally, one county and the Outer London areas have independent clerks to the MCC. Although these structural variations undoubtedly influence the relationships between the various bodies involved in the administration of courts they do not of themselves account for all the different ways in which the statutory procedures are in fact operated within different areas.

The budget

3.3 In order to illustrate the position it is helpful to examine the procedures which are followed when the annual budget for the courts is prepared. In effect, the preparation of the budget covers the great bulk of the provision made for the courts by paying authorities at the behest of MCCs. However, such matters as provision of new buildings, increases in staff and changes in conditions of service and proposals for computerisation are likely to be discussed separately (see paragraphs 3.15 to 3.19 below).

3.4 The preparation of the courts budget is invariably synchronised with the local authority's general budgetary cycle. The first stage is the preparation of estimates for the consideration of the MCC. Both local authority officials and court staff are involved in drawing up the estimates but as a general rule most of the detailed work appears to be done by the former except in the case of some MCCs with a single large court. The estimates will be based on the previous year's figures, taking into account bids by individual courts for additional resources and forecasts of pay and price increases (normally made by the paying authority). They may be considered first by a sub-committee of the MCC before formal approval by the full committee. A representative of the local authority finance department will normally be present to give any necessary explanation of the figures. Items may be deleted, varied or added by the committee or sub-committee.

3.5 From the MCC, the estimates will frequently go to a general committee of the paying authority concerned with all those elements of local authority expenditure which are not the preserve of a functional committee of the authority. Whether or not this happens, the estimates will then be considered in turn by the finance committee and by the full council. It is possible at any of these stages for disagreement to be expressed and for the estimates to be referred back for reconsideration by the MCC although it would seem to be expected that in practice such matters should if possible be resolved at official level. If there remains unresolved disagreement after the estimates have been considered by the full council, it is open to the MCC to make a determination, either as to a particular item which is at issue or as to the whole budget, and the paying authority may appeal to the Home Secretary against that determination. The Home Office will consider the appeal and reach a decision in the light of the cases made by both sides.

3.6 In considering the ways in which these procedures are operated and the variations between different areas, there are two general preliminary points to note: firstly, regardless of who acts as clerk to the MCC the committee will rely very heavily on the local authority treasurer's department; secondly, the level of involvement of individual clerks in the preparation of the budget for their court varies widely. There are indications that this level of involvement might be related to whether or not the court is situated in a metropolitan district and whether the MCC clerk is also a justices' clerk: at the same time, it must be stressed again that not all the differences encountered were accounted for by these factors. The size of the court is clearly relevant.

3.7 With very few exceptions each justices' clerk is asked to estimate his likely requirements during the forthcoming year, using in some cases a standard form whilst in other areas a representative of the local authority treasurer's department visits the court to discuss the matter with the clerk and/or members of his staff. The active contribution made by the clerk and his staff to the preparation of the budget varies considerably from court to court although as a general rule, clerks in metropolitan districts tend to take a greater part in the process especially when dealing with numbers and gradings of staff or the provision of equipment and stationery. At the other end of the scale the smaller courts which are generally found in the rural areas of the shire counties tend to rely very heavily on the expertise of the paying authority and hence tend to accept fairly passively any estimates of future expenditure which are prepared. It is quite clear that clerks in metropolitan districts, where there will be few, if any, separate divisions, are much better placed both to prepare budgets for their courts and to fight for the budgets once they have been prepared.

3.8 In this context, it is perhaps unsurprising that far more appeals against MCC determinations have come from metropolitan district councils than from county councils, where there is a far greater tendency for both sides to compromise (indeed, in one county it was stated that, as a matter of policy, every effort would be made to avoid a determination and appeal leading to the imposition of a decision from outside). So far as we can ascertain, since 1974 there has been no appeal by a local authority which itself provided

the clerk to the MCC whereas almost half of metropolitan districts and almost half of counties where the MCC clerk was a justices' clerk had appealed against determinations by the MCC. It should also be stressed that even the "independent" courts would be unable to prepare their budgets without some outside assistance; for example, the paying authority will normally provide estimates of inflation and information on central government estimates and assumptions.

3.9 Although the MCC is formally responsible for the budget for its area, detailed scrutiny by the committee itself appears comparatively rare with most committees concentrating solely on large items such as computers or buildings and taking little interest in minor or routine matters unless thy concern magistrates directly. It appears that MCCs rarely take any interest in out-turn figures. The view which is sometime put forward that MCCs whose clerk is a justices' clerk will necessarily be more independently minded than those whose clerk is a local authority chief executive is not borne out by our observation. It is true to say that MCCs in metropolitan districts appear to be more independent than other MCCs. However, before too much is read into this, it should be noted that the seeming congruence of views within the counties is frequently due to the very close relationships which exist between the parties involved and which are characterised by all those concerned wanting to co-operate and hence minimising disagreements: it would be quite incorrect to characterise these relationships in every case as paying authorities dominating MCCs as both sides compromise in order to preserve good relations. For example, paying authorities sometimes claim that MCCs are less susceptible to constraints and less influenced by wider issues than are local authority committees: on the other hand, they seem themselves frequently to have pressed MCCs less hard than committees responsible for other areas of expenditure precisely because of this separate position.

3.10 A somewhat more reliable guide to the relative influence which can be exercised over the content of a budget can be found by referring to the number of petty sessional divisions within an MCC's area. In metropolitan districts, there are few divisions, (some areas are not divided at all) and the MCC will be responsible for only a few, comparatively large courts. The MCC will thus be well aware of the courts' needs and will be able to make representations accordingly; in the case of a shire county with a comparatively large number of petty sessional divisions the MCC will tend to have a large membership and also have to understand and balance the needs of 10 or so courts. Under these circumstances it is not surprising that an agreed 'courts line' may be lacking and that individual courts in the shire counties tend to feel that they can take only a small part in the preparation of budgets within their area. In turn this inevitably leads to an inability on the part of the MCC to challenge the overall budget for a county (prepared, usually, by the local authority treasuerer's department after consultation with individual clerks) which is of necessity an aggregate of the requirements for each court. (Requirements which may well not be individually specified). Hence the proposals emanating from the paying authority (albeit at offical level) may largely go unchallenged. This result can be seen more as a consequence of the organisation of the courts within an MCC area than as a result which was intended by the paying authority.

3.11 In areas where there is an independent clerk to the MCC this position can to an extent be reversed in that the MCC (or at least its officials) can co-ordinate the requirements of a large number of courts and put these to the paying authority which will then only be required to supply the sort of general information which would be supplied to any MCC, for example, anticipated rates of inflation. There is, however, no indication that individual justices' clerks will necessarily gain more influence over the amount of money available to them where there is an independent clerk to the MCC; in fact, such a clerk can act as a barrier between individual justices' clerks and the departments of the paying authority which are concerned with magistrates' courts.

3.12 Finally, an examination of the individual clerk's knowledge concerning the resources allocated to his courts adds another element to the picture. In metropolitan districts where there are no separate petty sessional divisions, the MCC budget will in effect be the individual court budget. But even where a metropolitan district contains two or more courts, it appears to be generally accepted that the budget should be produced in a form which allows the clerk of each court to know what resources are allocated to his court and how much is available to him under different heads. In these cases, clerks will expect and be expected themselves to exercise a reasonable degree of financial and management control of those resources.

3.13 The picture is somewhat more varied in the shire counties. Some clerks are as well informed as to their individual budgets (and as involved in their preparation) as their colleagues in metropolitan districts: there is some indication that this situation is more common in counties with comparatively few divisions, or, more significantly, comparatively few clerks. In other counties, however, a single aggregate budget is prepared in which the amounts available to individual courts are not distinguished: a clerk in such an area will not know how much has been budgeted for his court and will have to rely on guidance from the paying authority as to whether there is money available for, say, additional office equipment. There does not appear to be any correlation between the existence or otherwise of individual court budgets and the holding of the MCC clerkship by a justices' clerk rather than a local authority official. Where the justices' clerk is not aware of his court's budget, it is generally agreed that he is precluded from exercising any real degree of financial management in relation to the administration of the court.

3.14 In this discussion of the preparation of the budget it is noticeable than no mention has been made of central government involvement. This is because, as indicated in chapter 2 above, very little effort is made to control the budget for individual MCCs: on the contrary, the Home Office tends to concentrate on the overall level of expenditure throughout the country. In practice, however, total expenditure has not exceeded the amounts estimated by central government as individual MCC budgets have kept broadly in line with expected trends.

Relations between paying authority and MCC on issues other than the budget

3.15 Although a discussion of the manner in which the budget is prepared gives a good insight into the relations between paying authorities and MCCs there are other aspects which are not brought out solely by consideration of this topic; this applies particularly in the case of staffing levels, new buildings and computerisation proposals.

3.16 Unsurprisingly, all paying authorities take very great interest in proposals for additional staff and in every paying authority we visited there was a set procedure governing the approval of new posts. The authorities in the shire counties visited would be very unlikely to agree to additional staff unless their own organisation and methods team had visited the court concerned to assess whether the workload justified the proposal; even in areas where this did not happen (and in some cases the local authority did not feel able to insist, against the resistance of the MCC, on carrying out its own examination of the staffing of the courts), MCC officials or the justices' clerk concerned would invariably consult the paying authority's personnel department before they had proceeded very far. In some cases an individual justices' clerk would sound out local authority officials on a proposal he had in mind, before consulting the MCC. In others, he might prefer to clear the ground with the MCC first. If the application survived this first hurdle it would almost invariably have to go to the local authority committee which approves increases in staff for the local authority itself. Consideration of the matter in these committees is far from perfunctory especially as many local authorities are concerned to ensure that conditions in the magistrates' courts service remain as closely analogous to those in local authority service as possible. The exact moment when the Home Office is consulted varies as some MCCs will put the matter forward before they have consulted the paying authority in order to obtain advance approval; in these circumstances the Home Office will often phrase its approval as being subject to the views of the paying authority. On the other hand, even if both MCC and paying authority are agreed Home Office approval is not automatic.

3.17 Requests for regrading of existing staff are if anything more frequent than requests for additional staff particularly in some areas where there is a review of all gradings at the beginning of each financial year. It was a common complaint of paying authorities that MCCs were more generous than they themselves would be in awarding regradings; this was thought to be due partly to the fact that MCCs had comparatively few staff to worry about and partly to the fact that as single service committees they were not likely to consider the potential "knock-on" effect on local authority staff. Issues concerning additional staff and regrading appear to be the most contentious of all between paying authorities and MCCs and undoubtedly account for the majority of determinations and appeals which reach the Home Office.

3.18 In all cases where there was a proposal to build a new courthouse or undertake any other large scale building work the magistrates' courts committee would rely very heavily on local authority expertise. There was no generalised formal structure as for staffing, probably because major building works are not a regular occurrence (none were being currently undertaken in most of the areas we visited).

The normal practice appears to be that either the justices' clerk concerned or the MCC will identify a need for a new building after which the local authority architect's department will work up plans, quite probably in consultation with a small working group on which will be represented magistrates, the justices' clerk concerned and local authority officials. As noted elsewhere, the involvement of the Home Office in all building projects is very great and all those who had had recent experience of designing a new building referred to the close liaison which they had with the Home Office. The major problem encountered related to the availability of finds for capital projects which has been somewhat variable over recent years.

3.19 It appeared that the paying authority would expect to be involved to a greater or lesser extent in any proposal by a court within their area to computerise. Some years ago the relationship was very close because many courts initially used local authority mainframe computers but this proved less than satisfactory and such arrangements are now very rare. Even so, the courts will generally turn to the local authority's computer department for advice and help and this help is always willingly provided.

Specific features

3.20 Although the relationship between individual clerks, MCCs and paying authorities varies from area to area there are certain specific features which can be identified. These are discussed in the remainder of the chapter.

3.21 In all areas, courts rely heavily on the administrative and practical expertise of the paying authority not only in the formulation of the budget but also over personnel matters, work in connection with buildings and general administrative matters. As has been noted already, authorities normally maintain buildings: they also pay staff salaries and in many cases provide a number of other services. Courts are frequently expected to regard the authority as a source of supplies though it is recognised that they cannot be compelled to do so. The paying authority will also normally be the first source of advice on administrative problems. At present it is clear that the magistrates' courts service is dependent upon local government resources in order to function.

3.22 Owing to this dependence of the courts upon the local authorities for the supply of many essential services the influence of the paying authorities in the administration of the courts is bound to be considerable. For example, many paying authorities seek to keep the grading and conditions of magistrates' courts staff broadly in line with those of their own staff; despite the fact that some court staff feel this to be an unreasonable attitude many paying authorities have been relatively successful in achieving this object. Contrary to the view which has sometimes been expressed, the extent of local authority influence does not appear to be necessarily related to whether the MCC is clerked by a local authority official or by a justices' clerk. This is probably due to the fact that even in areas where a justices' clerk is the MCC clerk the MCC remains dependent upon the local authority for many services and the present financial climate makes it essential for all local authorities to keep as close a control over expenditure as possible.

All the justices' clerks whom we met agreed that local authorities had both a right and a duty to be involved in decisions involving expenditure but at the same time there is a degree of resistance to any local authority attempts to control staffing levels, since it is felt that court work is 'different' and that its intricacies are not fully understood by paying authorities.

3.23 The majority of local authority officials to whom we spoke did not regard the provision of services for the magistrates' courts as a heavy burden; few additional resources were required and no real savings would result if the task was to be undertaken by another body. On the other hand, it was clear that MCCs would need to employ a number of specialist staff and set up a substantial organisation if they wished to administer themselves without outside assistance. There seems little doubt that this would be far less economical than the present arrangement.

3.24 In some areas there is a feeling amongst justices' clerks that MCCs are too remote from the courts, do not take the views of court staff adequately into account and do not consult the clerks themselves who are best placed to offer practical advice on the running of the courts. This complaint seemed to be more deeply felt in areas where the clerk to the MCC was also the local authority chief executive. There is obviously a very close link between the MCC and the paying authority when the chief executive is also MCC clerk; it may be that this link can tend to make it difficult for a justices' clerk to draw the attention of the MCC to matters which concern his own court and which appear to have been overlooked.

3.25 There appears to be a connection between the attendance of individual justices' clerks at meetings of the MCC and the degree of their involvement with decisions affecting the provision of resources for their court and indeed, the budget generally. As one would expect, a clerk who is ignorant of the budget fixed for his court is gravely hampered in the exercise of management control as he is dependent upon an outside body for information as to the resources available and at the same time this lack of information precludes him from challenging effectively decisions with which he disagrees. Lack of access to the MCC itself concerns some clerks because they have to put their points to officials who may not be wholly sympathetic; the only other method of influencing the MCC however, is to lobby members drawn from the bench of their court. Furthermore, clerks feel a strong sense of responsibility for their own staff and naturally wish to be involved in any decisions affecting them. There is indeed provision in the national conditions of service for justices' clerks for a clerk to be afforded an opportunity to attend and make representations when the MCC proposes to discuss changes directly affecting the facilities or establishment of his court. As a final point, it should be noted that clerks seemed more concerned about exclusion from the deliberations of the MCC in cases where relations between MCC and paying authority were particularly close; this applied mainly in the shire counties.

3.26 A factor which clearly bears on whether or not justices' clerks are able to attend meetings of the MCC is the simple issue of numbers. In metropolitan districts there are rarely more than 3 clerks and generally fewer which makes it easier for all of them to attend. On the other hand, some of the shire counties have 10 or more clerks which militates against the possibility of all of them attending meetings; in many areas a compromise has been reached by inviting one representative to attend all meetings but this was not seen as ideal because a clerk would not necessarily be present in person to put over his point of view and the representative clerk could well find himself out-numbered by local authority officials.

3.27 There is a tendency for MCCs to be treated (and sometimes behave) as though they were a committee of the local authority; this tendency appeared to be stronger in areas where the MCC was clerked by a local authority chief executive but was present in other areas as well. Local authorities were clearly concerned to ensure that practices in magistrates' courts did not differ too widely from those prevalent in local authorities (except of course where judicial functions were concerned) and it was noticeable that efforts were made to integrate the MCC into local authority administative patterns, for example, over procedures when dealing with personnel.

3.28 The number of local authority officials who attend MCC meetings varies from area to area. Under Home Office Circular 171/1952 general authority was given for an officer of the paying authority to act as the financial adviser or as the architect to the MCC; this option has been taken up in many areas where MCCs have both the local authority architect and its treasurer as officers (interestingly, the officers concerned frequently thought that they attended the MCC merely by virtue of long practice and did not refer to a right emanating from this circular). Other local authority officers may also attend either as a matter of course or by invitation; very frequently the personnel officer will be present because much MCC business is related to this area. Sometimes one local authority officer, for example a member of the secretary's department, is designated a liaison officer and is regularly present. It has been claimed that in some areas the result is that local authority officers can even out-number MCC members and it seems possible that in the case of MCCs where the justices' clerks are represented by one of their number he may find himself out-numbered by local authority representatives and at a disadvantage if he wishes to put over a point which does not find favour with them. In this context the fact which we have noted that since 1974 there has never been an appeal against a determination by an MCC clerked by a local authority chief executive is of interest; at the very least this implies a surprising congruence of views given the fact that other areas have had a number of appeals in the same period and it does seem at least possible that the reason for this is that the MCC places great weight upon the views expressed by its advisers who are also local authority officials. However, as indicated in chapter 2, determinations and appeals are perceived differently in different areas - on a range from being the normal method of resolving disputes to being seen as an indication of the total breakdown of relationships.

3.29 A small number of MCCs are clerked by an official who is neither a justices' clerk nor a local authority employee. Even in these areas considerable reliance will still be placed upon local authority expertise although the MCC clerk and his staff will generally take responsibility for most staffing matters and also take part in formulating the budget although they will still rely on the local authority for certain technical matters (eg estimates of inflation). It appears that direct contact between justices' clerks and local government officers on matters such as extra resources and staffing is much less frequent in these areas than in others and the interposition of an independent MCC clerk prevents relationships developing. In addition, the influence of the individual justices' clerk over administrative matters is reduced as the MCC clerk and his staff will have the capacity, and see it as their function, to deal with these matters.

3.30 Some MCCs are very large particularly in the shire counties, and can number up to 35 members (the maximum permitted under the Magistrates' Courts Committee (Constitution) Regulations 1973) which may well be too large a number for substantive discussions to be practicable. As a result, and also because there is a desire for speed, most MCCs have sub-committees which generally do the detailed work and present firm proposals to the full MCC for endorsement. In at least one area this has led to a reduction in the enthusiasm of members of the full MCC who are reluctant to attend meetings. Moreover, the MCC chairman will need to take decisions, which may be of considerable significance, between meetings of the MCC and naturally this increases his influence. As a general conclusion, although individual MCC members do have considerable influence, the MCC as a whole tends to be very dependent upon professional advice and has only limited scope for independent action.

3.31 Every justices' clerk whom we met saw himself as responsible for the day to day running of his court and would not welcome outside interference. This view was generally accepted by all the other bodies consulted although there had been one or two exceptions eg. an attempt by the clerk to the MCC to lay down leave schedules; all these had been successfully resisted.

PART III - IMPROVING WAITING TIMES

CHAPTER 4 - INTRODUCTION

4.1 Our terms of reference required us "to review, in particular, what kind of help might most usefully be given to courts in reducing waiting times". We decided that in order to discharge this part of our remit it would be necessary to find out what factors were seen, by those working in the courts and by others, as chiefly contributing to overlong waiting times and what measures either had been taken to reduce waiting times or were thought to be likely to assist in so doing. Chapter 5 presents the picture we gained from this part of our inquiries. Chapter 6 goes on to assess the kind of strategies which we suggest are most likely to be of general application and usefulness: we have not confined ourselves here to the recommendation of steps which can be taken from outside to assist the court but have considered changes which courts themselves can implement. We have noted in particular that some useful practices are already being adopted in different places which merit being more widely known: arrangements for better dissemination of information of the kind we discuss in Chapter 13 of the report should be of assistance here. (Note: we follow in our discussion the general usage of the term "delay" to mean excessive waiting time and recognise that some waiting time may be inevitable and indeed in some cases necessary).

4.2 We began with a survey of the relevant recent literature: (see annex B), Thereafter we discussed the issue with representative bodies and individuals having an interest in this area. On our visits to courts we sought views and information not only from justices' clerks themselves but also where possible from members of their staffs concerned with the listing of cases. We were also able to obtain at some courts the views of individual members of the police and probation services and of defence and prosecuting solicitors. In addition an approach by the Honorary Secretary of the Justices' Clerks' Society on our behalf via the Society's branch organisation elicited information on measures adopted in a number of courts to combat delay.

4.3 We noted particularly the work of the London Office of the Vera Institute of Justice in the field of waiting time, with the latter stages of which our consultant, Mr Church, was particularly associated: the listing officer experiment at Horseferry Road Magistrates' Court, the general exploratory study carried out by Mr B Mahoney (which provided our inquiries with much useful guidance and direction), and the Colchester experiment involving a shortened initial bail period.

4.4 We had available to us a certain amount of quantitative information derived from Mahoney's study and from data obtained by the Home Office on the operation of the Bail Act. The samples obtained by Mahoney indicated that both charge and summons cases often took well over six weeks, whether or not a contest was scheduled and that waiting times for contests were very long with only 15.3% of the sample being adjudicated in less than six weeks from charge or summons. The Home Office study of remands (which was by definition limited to cases in which the Bail Act applied) found that about 10 per cent of the sample spent less than 2 weeks on remand, about 45 per cent spent between 2 and 5 weeks, about 30 per cent spent between 6 and 12 weeks and about 15 per cent spent 13 weeks or more. Some additional analyses of the latter data have now been carried out and the results are set out and discussed in annex K.

4.5 A general point which should be made at the outset is that the bulk of the information that we obtained and consequently most of the conclusions we have drawn relate to waiting time in the sense of the overall time taken by a case from incident (or usually in practice from arrest or the issue of a summons) to final disposal, rather than to the time spent at court by parties to a case in connection with that case, although some aspects of the latter do affect the former. In particular we have not been able to consider in detail the problem which is perhaps of greatest concern to solicitors and some others involved, namely the time that has to be spent waiting for the case to be reached on the day. We do however, offer some suggestions as to the need for activity in this latter area.

CHAPTER 5 - PERCEPTIONS OF THE PROBLEM OF DELAY AND MEASURES ADOPTED BY COURTS

Introduction

5.1 The clerks at most of the courts that we visited considered that they had some problem with delay, although the degree and nature of the problem varied from place to place. Clearly perceptions as to what might constitute unacceptably long waiting time differed: there is perhaps a tendency for certain time-spans to come to be regarded as inevitable. Action taken by clerks to combat what they saw as unacceptable delay also varied, from the writing of exhortatory letters from time to time to local solicitors to the adoption of a special programme embodying several practical measures.

5.2 What follows draws not only on our visits but also on the responses made by a number of clerks to the request for information referred to in paragraph 4.2 above. By definition, in these latter courts measures had been taken to combat the problem of delay as it was seen by the clerk concerned. We have also obtained views from members of police forces, prosecuting and defence solicitors and probation officers in individual courts. All the agencies operating in the courts - including members of the courts service - are capable of contributing to delay and there is a slight tendency for each to blame the others. But there was consensus on many of the areas of difficulty mentioned.

5.3 So far as individual courts are concerned, we have generally had to accept the assessment of the size of the problem made by the clerk and by his staff (assessments, it should be noted, which were sometimes at variance) since hardly any courts kept figures which could show trends in waiting time, although several had carried out ad hoc exercises to establish the current position. Information was sought from courts on the usual length of various stages in a case's history, with the following results:

a.	in summons cases,	
(i.)	the period from the incident to the laying of the information:	anything from 2 weeks to 5 months, with most courts mentioning times ranging from 4 to 7 weeks.
(ii.)	the period from the laying of the information to first court appearance:	anything from 2 to 7 weeks, with 4 to 6 weeks most common

(It was generally felt that less than 4 weeks at stage ii. did not allow sufficient time for the summons to arrive (if posted), for it to be considered by the defendant, and for his response to arrive back by post).

b.	in arrest cases, the period of initial police bail:	from next day (or next sitting) to up to 3 months, with fixed periods of about 7 days or of 3 weeks being common

c.	an adjournment given for the purpose of settling a plea:	from 1 to 6 weeks, with most aiming at 2 or 3 weeks
d.	the interval from first appearance to trial in a contested case:	from about a month to 12 weeks (but see paragraph 5.4)
e.	an adjournment for a social enquiry report:	a standard 3 or 4 weeks.

5.4 In the case of all but d., clerks - and their staffs - usually relied, apparently, on a general impression except where there was an agreed standard period for the stage in question - as there was normally for adjournments for reports and, to a lesser extent, for initial police bail and adjournments to take a plea. Queries about the length of time a contested case would take to come to trial were generally answered by saying how soon it would be possible to schedule for hearing a case in which a not guilty plea had been entered on the day in question.

Factors relating to delay

5.5 Reasons given for delay and problems cited as making improvement in the position difficult to achieve were many and various and analysis of them does not seem to produce neat and tidy categories which can be directly matched with potential remedies. Broadly however, factors that were mentioned by clerks and others as affecting the length of waiting time could be classed under the following heads:

a. amount and nature of court business;

b. prosecution attitudes and practices;

c. defence attitudes and practices;

d. court attitudes and organisation;

e. resource problems;

f. special problems with contested cases;

g. factors outside the court's influence.

5.6 We do not claim to have made any earth-shattering discoveries in respect of the causes of delay. Much of what we were told parallels, for example, the findings of Mahoney in the study referred to at paragraph 4.3 above. But we were able to form a useful picture of the way in which delay is regarded in the courts.

Amount and nature of court business

5.7 An increasing workload was frequently, but not invariably, cited as a cause of delay, as was the increasing proportion of that workload represented by not guilty pleas . Quantification of this, however, often left much to be desired. More significant perhaps were references to the changing nature of court business - in particular, more serious and complex cases and more frequent legal representation (as a result of the availability of legal aid) which was seen as being reflected in individual cases taking up a

higher proportion of court time. It was also said that the tendency was now to give much more consideration generally to cases than had been the practice in the past.

5.8 Some of those commenting suggested that courts might be enabled to give more time to the hearing of criminal and contested road traffic cases if their workload were reduced in other ways - for example, by an extension of the fixed penalty system, or by removing from their jurisdiction, or at least dealing with other than in open court, certain areas of work such as licensing and rates enforcement which were seen as administrative rather than judicial in nature.

Prosecution attitudes and practices

5.9 Where they are the prosecutors, the police have complete control over the length of time which it takes from an incident which is reported for consideration of summons or from the arrest and charging of a suspect to the first appearance of the defendant in court. Either the length of initial police bail in a charge case is determined by the police in each case, when they will not surprisingly have their own considerations most prominently in mind, or, if it is for an agreed set period, such agreement depends entirely on the willingness of the police to implement it. In summons cases, the court has to wait for the information to be placed before it which may well be several months after the incident in question. Thereafter the court may itself fix the date for return of the summons but frequently this too is left to the police. A significant element in the time which a case takes from incident or charge to disposition is thus not within the direct control of the courts. The main delay factors cited in this area are: time consuming procedures in the preparation of summonses and unnecessarily long initial police bail.

5.10 Similar problems are mentioned by courts in relation to the issue of summonses by non-police prosecutors, such as local authorities (in respect of rates matters, consumer standards matters etc) and the Post Office (for television licence offences). In particular, these private prosecutors are criticised for setting return dates, often for large batches of summonses, without regard to the court's workload.

5.11 The prosecution is also criticised for slowness in bringing cases to a state of readiness for hearing; for failing to advise the defence on the strength of their case (leading to unjustified not guilty pleas); for resistance to proceeding on a guilty plea with less than the information that would be necessary to prove the case; for adding extra charges and offences to be taken into consideration at a late stage; for failing to ensure that police witnesses are available (and not on leave, rest day or courses) on the day scheduled for hearing; for 'throwing the book' at defendants (thus prolonging court-time); for seeking adjournments because they have not completed their investigations; and for insisting that all defendants in a case be tried together. Of course not all these criticisms were cited by everyone we met but generally, courts, and defence solicitors, claim that the police show less commitment than they might to expediting cases.

Defence attitudes and practices

5.12 Many defendants are considered to contribute to delay by failure to take steps towards their defence sufficiently in advance of the hearing: for example, it is said that they will not apply for legal aid until their first appearance in court (despite being given the necessary forms when they are bailed from the police station) and then will not consult a solicitor until the day before the hearing, thus necessitating adjournments which are not justified but cannot be refused without prejudicing the defendant's rights. In motoring cases, they will fail to produce their driving licence when it is needed. It is alleged (not only from the courts side) that some defendants, aware that it can be to their advantage to put off the day of decision, play the system deliberately.

5.13 Turning from the defendant himself to his representative, it is claimed, in the case of a number of courts, that solicitors specialising in criminal work there tend to over-commit themselves so that they may find themselves scheduled to appear in several different cases on the same day, possibly in different courtrooms, with the probable result that one or more of those cases has to be adjourned. Both defence and prosecuting solicitors were criticised for failure to prepare cases adequately.

5.14 It was also suggested that some solicitors sought unnecessarily long adjournments in order to take further instructions: often these could well be dealt with by a 'stand down' adjournment. It was felt that, despite the Nottingham justices case, too much time was spent on repeated bail applications at which no new circumstances were raised. Solicitors are sometimes criticised for advising not guilty pleas where they are not justified, as a device to gain time: on the other hand, it is suggested that this may be due partly to the failure of the prosecution to advise the defence of the strength of their case.

Court attitudes and organisation

5.15 Magistrates are sometimes said to be too ready to grant adjournments without question. In part this stems from a laudable but sometimes misdirected concern for the rights of the defendant, in part from a lack of information as to the age of the case before them or the number of occasions on which it has been adjourned previously. As tables 6 and 7 in Annex K indicate, adjournments are frequently longer than they need be with magistrates accepting standard 3 or 4 week periods.

5.16 It should be noted that while the responsibility for deciding whether and for how long an adjournment should be granted is that of the magistrates, it will be the clerk who holds the detailed information as to the history of the case. While many clerks are clearly very conscious of the need to expedite court business, others are criticised for lack of control. Another aspect of this is that, if the control of listing of cases is the responsibility not of the court but of the police, it is inevitable that police interests will prevail over the wider interests of dispatch.

5.17 Other 'court' factors affecting the speed of business which are noted are:

- variations in the expedition with which different magistrates (or lay justices as opposed to stipendiaries) tend to deal with cases;

- the fact that many courts, including some with a large volume of business, do not sit in the afternoons, apparently largely because magistrates are unwilling to give up a whole day (this causes particular problems for the scheduling of long cases, especially those which are likely to go on for longer than a day).

Resource problems

5.18 In several places we were told that delays could be cut down if only more courtrooms (especially custody courtrooms) were available, or more magistrates, or more staff thus enabling more court sittings to be held. Some were able to arrange crash programmes of extra sittings to deal with a backlog but could not have done this on a regular basis. (On the other hand, small courts where delay was not a great problem often saw the holding of extra sittings as a means of retrieving the position if waiting times seemed to be creeping up).

5.19 Where the lack is in courtrooms, any proper remedy is likely to be a longterm one since it involves the planning of a capital project: consequently courts tend to resort to the use of temporary accommodation (justices' retiring rooms, libraries, common rooms and the like) which is frequently unsatisfactory for the purpose. In the case of magistrates, occasionally it was felt that the numbers permitted by the LCD were too low but more often the difficulty was in finding sufficient numbers of the necessary quality and (in urban areas particularly) with the appropriate domicile. Lack of staff is particularly telling where the deficiency is in numbers of clerks qualified to take courts.

Special problems of contested cases

5.20 Care always has to be taken over the scheduling of a contested case if there is to be a reasonable certainty that the trial will go ahead on the date fixed. A case will not go ahead unless the date suits both parties and all their witnesses and there is sufficient time in the court list to fit the case in. In the case of police witnesses, their availability is affected by shift and rota working, calls to appear in the Crown Court and bans on overtime. Failure of scheduled trials to take place means that other cases have had to wait longer than necessary and, since it appears rarely to be possible to reschedule to fill the now spare time, that court, magistrates' and staff time may be wasted.

5.21 Reasons cited why cases do not go ahead include:

a. a last minute change of plea;

b. failure of one or more witnesses to attend;

c. failure of defendant to appear;

d. failure of prosecutor to appear;

e. failure of one or other party to prepare the case in time;

f. late change of election;

g. defence solicitor committed in another court;

h. last-minute sickness

With the exception of the last these ought all to be avoidable, with co-operation among court staff, prosecution and defence. Frequently it is a failure of one party to pass on in good time to the others information already known to it that causes the trouble.

Factors outside the court's influence

5.22 A number of factors were mentioned as contributing to delay which were either outside the individual court's sphere of influence or irremediable without far-reaching changes of policy. For example:

a. a decision to call for reports inevitably means delay: there is a limit to how quickly a probation officer or psychiatrist could prepare a report. There was some suggestion that too many reports were requested;

b. juvenile bureau procedures and the need to consult the local authority in juvenile cases take up excessive time;

c. there are always delays when information has to be sought from the DVLC;

d. in rural areas, liaison and communications are more difficult and this militates against early appearances, early decisions on plea etc;

e. cases where the DPP is involved tend to be much delayed;

f. economic factors hamper the prosecution - bans on overtime make it awkward to accommodate police witnesses and in some places there is a shortage of prosecuting solicitors.

Remedies

5.23 As the perceived causes of excessive delay are many, so the measures taken by the courts in an effort to combat it are various. Some are common; others rare; some involve specific changes in procedure; others the adoption of an anti-delay ethos. Measures favoured by one court may be actively discouraged or opposed at another. Broadly they can be classed under the following heads (though there is some area of overlap between these):-

a. early appearances;

b. scheduling practices;

c. making the best use of court time;

d. adjournment policies;

e. sanctions;

f. liaison with other agencies.

Early appearances

5.24 Many courts have sought to ensure that arrest cases are brought before the court at as early a stage as possible by agreeing on a fixed (and short) police bail to first appearance. This not only brings the management of the case, in most cases, within the court's own control but also keeps to a minimum what is seen as wasted time in that the case will, if contested, have to be adjourned as far ahead for hearing however long it has waited for first appearance. It is also intended to bring forward the moment when a defendant seeks legal advice, given the complaint referred to in paragraph 5.12 above that most defendants do nothing about this until they reach court. This is an important plank of the Colchester experiment referred to in paragraph 4.3.

5.25 At Colchester the seven day period has been adopted and other courts also have seven or eight day bail (sometimes with slight adjustments to shift what would otherwise be a post-weekend bulge) or (where the volume is not high) bail to a fixed day each week. Some have however favoured on the one hand next day bail (or next court sitting) or on the other a rather longer - but still fixed - period of 10 to 14 or 14 to 21 days. Generally the short bail period does not apply to complicated cases (on a variety of definitions). To take this step clearly requires consultation and co-operation with the police, with discussion with defence solicitors also desirable; in a few cases it appeared that the initiative had come from the police rather than the court.

5.26 Perhaps surprisingly, fewer courts appear to have sought to control the time between the laying of an information and the return of a summons; although at some the date for return is filled in by the court taking account of the state of the lists, at others the date is fixed by the police, with or without any consideration of the state of the lists. Nowhere, it appeared, among the courts on which we have information had a fixed period for return of summonses been agreed. Given that most courts operate the 'plea of guilty or adjourn' system, there seems no reason why return dates for summonses should not be fixed in the same way as the length of initial police bail.

5.27 There are clear differences of view among those concerned about the merits of different lengths of initial police bail. On the one hand there is concern (not confined to, or even primarily on the part of, the defence) that a defendant may be pressurised into pleading guilty, when he in fact has a possible defence, by the fact that he will not have had time to consult a solicitor and realises that his case will probably be over and done with at once if he pleads guilty. Some clerks have suggested that this worry is not justified because they and their colleagues would refuse to accept a guilty plea where there was a possible defence. While

this may well be so, for presentational reasons if for no other the better solution seems to be the institution of a duty solicitor scheme, as has been done in a good number of places.

5.28 Equally the prosecution in some areas is resistant to the idea of proceeding, even on a guilty plea, before what it considers as adequate information can be assembled. There may also be practical problems in obtaining sufficient details of previous convictions to enable a proper sentencing decision to be taken. However it must be said that where a fixed short bail period has been adopted it is generally the case that initial misgivings have been overcome and, conversely, that longer initial bail periods are very frequently criticised as representing three weeks (say) in which the defendant does nothing. If the defendant could be persuaded to seek legal advice during those three weeks the position might be different but it is difficult to be sanguine about this given that he is already given the necessary legal aid forms when bailed at the police station.

Scheduling practices

5.29 Once the case is within the court system, many courts have adopted practices designed to ensure that it is dealt with as expeditiously as possible. It should be noted that almost without exception the courts visited used the 'plea or adjourn' system; ie only guilty pleas are dealt with at the first hearing; a plea of not guilty or a case where the defendant has not yet decided on his plea will be adjourned to a future date and in summons cases this will normally be done without the need for the defendant to appear. Many courts have sought to ensure that wherever possible the defendant makes his plea and decides on his election as to mode of trial at the first, or at latest the second appearance.

5.30 The first step for most has been the designation of a listing officer (whose grade may vary from place to place). This officer will have charge of some form of diary and, in most cases, will have complete responsibility (under the overall authority of the clerk and the justices) for fixing, and making any alterations to, the dates for the hearing of contested cases. Generally speaking the listing officer will have so many hours for each courtroom each day available for contested cases and will allocate dates according to arrangements which vary from place to place. A variety of these arrangements is described at annex L. A frequent feature of these arrangements is that a single diary for all courtrooms is kept and that the date for the hearing of a contested case is fixed out of court, either through discussion in advance between the parties and the listing officer or through adjournment sine die or for a fixed period, the actual date being settled by similar discussions afterwards. (The defendant does not then normally need to appear in court, the adjournment being arranged administratively). It was stressed in many cases that the estimate of time which a case is likely to take must be made or checked by the listing officer; estimates by prosecution and defence may well be unreliable.

5.31 The listing officer will usually endeavour (with varying success) to liaise with prosecution and defence to ensure that the court has early information of a defendant's intention to change his plea or

of the fact that a case will not be able to go ahead on the due date because, say, a witness is unavailable. A number of courts have tried to ensure that the person acting as listing officer is of sufficient standing that he or she can deal firmly with requests for unjustified adjournments without always needing to have recourse to the clerk or the justices.

5.32 An issue on which there is disagreement among clerks and their staffs is whether more contested cases should be booked into the list than the court could in fact hear at a sitting, to allow for last minute collapses or failures. On the one hand, it is argued that it is a waste of court resources if, as a result of a collapse, the whole available sitting time is not used and that cases at following sittings are in effect being scheduled later than they need be. On the other, it is pointed out that the risk of cases not being reached is ever present and that is unacceptable to have to send away the parties to a case when, with their witnesses on both sides, they may have sat at the court all day waiting for the case to come on. Those who favour over-scheduling claim that, while the risk is there, with experience they can gauge how much it is safe to overbook and that it is rare for a case to have to be adjourned for lack of time. There is something to be said for both standpoints. However, knowledge that the court regularly over-schedules can create an expectation among practitioners that the court will not question - and may actually welcome - any request for an adjournment: consequently they will feel less pressure to ensure that the case is ready in time: and this means in effect that the failure of cases to go ahead becomes a self-fulfilling prophecy. Moreover, the risk of the court being left unemployed can be lessened if measures are taken to ensure that wherever possible cases do come to trial on the date set for them. That end is assisted by the adoption of efficient scheduling arrangements such as have been discussed here and also by the fostering of better communications between the parties and the court (which is discussed in paragraph 5.48 below).

Making the best use of court time

5.33 It can be said that a common aim of the scheduling arrangements discussed above is that the best use should be made of the court's time. The more dfficiently court time is used, the sooner the court will be able to slot any given case into its schedules. There are a number of other steps which courts have taken to improve the use of court time.

5.34 The majority of courts other than those which are very small appear to have adopted some degree of specialisation as between their various courtrooms and also as between different days of the week. Separate juvenile and domestic courts are of course the rule but, apart from this, a frequent pattern is for crime cases to be dealt with in the mornings and traffic cases in the afternoons (this corresponds very nearly in most cases to the split between arrests and summonses). Many courts (including all larger courts and many smaller ones) also tend to separate the hearing of contested cases from first appearances and remands and where this can be done it does appear to conduce to the efficient dispatch of business. In courts where this sort of split cannot be achieved it is frequently the practice to deal with adjourn-

ments at the beginning of the sitting and then to deal with cases in order of forecast length, ending with those where the defendant has not appeared. Some smaller courts may set aside special days for hearings which it is known are likely to be protracted.

5.35 Other measures adopted by courts include:-

a. providing the court clerk with an assistant who can deal, in court, with the clerical work produced by each case;

b. ensuring that the order of business within the sitting is decided according to court priorities by having an usher rather than the police warrant officer call the list;

c. transferring cases between court rooms as the load varies; and

d. the adoption of earlier starting times and the cutting down of breaks.

5.36 The way in which court business is arranged on the day is obviously of concern to the prosecutor, to the defendant, to their representatives if any, to their witnesses and to others such as members of the probation service who are involved. They will object if they have to wait about for what seem to them unnecessarily long periods. Clearly it is not possible to arrange the court business to suit everyone and allowance has to be made for the unpredictable: cases taking longer or less long than expected, missing participants etc. But some of the measures described in paragraphs 5.33 to 35 can assist in this area and staff at many courts will try to take account of special needs or special problems of the various participants if these are put to them. Few courts have however tried any kind of appointments system and none, so far as we are aware, successfully. The most that seems to have been done is to schedule separately for morning and afternoon sittings (though it is noted that this like an appointments system may not produce the most efficient use of the court's time in that there is a certain loss of flexibility, for example to transfer cases between courtrooms or to fill in gaps where there is a collapse).

5.37 A number of other measures were mentioned which could if more widely adopted cut down on court time spent on a case and thus enable more cases to be dealt with more quickly. For example, greater use could be made of proof by written statements under the provisions of section 102 of the Magistrates' Courts Act 1980 or section 9 of the Criminal Justice Act 1967; or, where the defendant is admitting a charge which has to go to the Crown Court for trial, consideration might be given to committal on the basis of a formal admission from the defendant under the provisions of section 10 of the Criminal Justice Act 1967 (although it was noted that such an admission could be withdrawn and that it precluded the addition of further counts to the indictment). It has also been suggested that more frequent transfer of cases between different divisions within the same commission area might, in built-up areas at least, aid more hard-pressed courts (though there is some doubt as to the exact legal position on this) and that the allocation of stipendiaries

could be helpful as a relief for short-term difficulties. As noted earlier (paragraph 5.18) a temporary rise in case load can in some cases be dealt with by fixing extra courts, provided the rooms, magistrates and staff are available.

Adjournment policies

5.38 Policies adopted by courts to reduce the contribution to delay made by adjournments fall into two categories: those which are designed to cut down the length of adjournments which are necessary and inevitable, and those which are designed to inhibit adjournments which are not essential. The adoption of such policies calls for an effort of will on the part of both magistrates and court staff, since it involves a break away from the frame of mind which sees the adjournment of a case as a mechanism for getting quickly through the day's list to one which realises that nothing has been gained if the case has not been progressed or changed in status as a result of that appearance. Unlike some other areas, changes here will only be achieved if all magistrates and all court clerks alike adopt this sort of attitude.

5.39 In the first category of policies, courts will make it their business to question the need for an adjournment to be as long as has been suggested to them - whether it is one for the defence solicitor to take further instructions, for the prosecution to make further enquiries or otherwise complete its case, or for reports. Where social enquiry reports are concerned, some areas have explored the provision of pre-trial reports to avoid the need to adjourn after a finding of guilt; but this needs full consultation with the probation service who have reservations both because of the fact that some such reports will prove unnecessary by reason of an acquittal and because they feel that there is a limit to what enquiries can properly be made about the circumstances of a defendant who has not been found guilty.

5.40 It is probably more difficult for a court to refuse an adjournment altogether than to cut down the length of one that it grants. The rights of the defendant on the one hand and the public interest on the other should not suffer simply because of slowness or other lack of efficiency on the part of either defence representatives or prosecution. Nevertheless a number of courts have found it possible to adopt a more positive attitude. Some will make it clear that they see no reason for a decision on plea and mode of trial to be delayed beyond the second appearance even if it cannot be made at the first. And, where a date for hearing has been fixed, some courts have found it possible to go ahead with a case where, say, the defence unexpectedly and without good cause arrives without one of its witnesses, or, conversely, to dismiss it where the prosecution declares itself unready to offer evidence despite sufficient time for preparation.

5.41 Again, requests for adjournment of the date set for the hearing of a contested case seem less likely to be made if that date has been allocated by the listing officer (or by the clerk in court acting on information supplied by the listing officer) after consultation with and with the agreement of both parties, taking account of the information given by them as to number of witnesses etc and of the available amounts of time in the court diary, as in a number of the

scheduling arrangements described in annex L. If nevertheless a request is made, a court which has adopted such practices is in a better position to press for an explanation of why an agreed date is no longer suitable; and, if it does not find the explanation acceptable or convincing to refuse the adjournment (for example, an adjournment may well not be granted where it is the absence of one witness out of many that is at issue) or at worst to note the papers that the case must go forward on the adjourned date and to make this clear to the parties. Many courts have made it clear that their listing officer should consult the clerk and/or the magistrates if he is pressed to arrange an adjournment which he does not consider justified and they are particularly firm on requests for adjournments in which they believe prosecution and defence have colluded. On the other hand, where an adjournment is justified, advantage is seen in arranging it, where possible, administratively without appearance in court.

5.42 A number of courts have adopted the use of "front sheets" to accompany the case papers. These serve a variety of purposes (see Chapter 12 below) but one advantage of most of the formats that have been adopted is that they show at a glance how many times the case has been before the court and the reasons why the adjournment was granted on each occasion. Without such a front sheet the court is hindered in taking a firm line because the previous court history of the case before it cannot readily be ascertained (although some court clerks will themselves go through the papers and bring out the numbers and dates of adjournments in court). With a front sheet it is immediately clear whether, for example, a case has been before the court several times without a plea being taken. It should be noted that it will be the clerk who holds the front sheet, not the magistrates, and accordingly he will have to make it his business to inform them of the essential details of the case's progress when they are considering whether and for how long a case should be adjourned.

5.43 Where an adjournment is necessary on first appearance before a plea is taken to enable the defendant to seek legal advice, some courts endeavour to ensure that he fills in the necessary legal aid forms before he leaves the court precincts and press on him the need to seek legal advice early, and where a legal representative requests an adjournment to take further instructions, it may be suggested that, instead of adjourning the case to a later date, a 'stand-down' adjournment of, say, one hour would meet the defence's needs. In the case of a request for the adjournment of a contested case scheduled for hearing, the court may look first to see if there is a date available earlier than that originally fixed, and, after the event, clerks may write to the parties in a case which had several adjournments drawing their attention to its history and urging improvement in future.

5.44 It is of course not possible for a court to reduce the number of appearances and adjournments where the defendant is remanded in custody. Several courts mentioned this as a difficulty and clearly a longer remand cycle would be of great assistance to the courts, but there are of course other relevant considerations. Implementation of the changes set out in Schedule 8 to the Criminal Justice

Bill, which would allow remand hearings in the defendant's absence, may make a little difference, in reducing the length of time taken to deal with such a remand.

Sanctions

5.45 For reasons which have been touched on above, it is not altogether easy for courts to adopt sanctions against parties who contribute to delay. However, the grant of legal aid and the determination of costs are potential weapons against delay, albeit at present ones not much used; once again, fear of prejudicing the defendant's rights plays its part. Many courts had clearly noted a recent circular from the Lord Chancellor's Department (LCD Circular (81)3) which inter alia (it also commended certain 'on the day' listing procedures) suggested that, where a solicitor appeared to the court to be wanting in the standard of co-operation demanded by the legal profession, consideration should be given to raising the matter with him and if necessary reporting the matter to the appropriate area committee of the Law Society and drew the attention of Clerks to the principles set out in a Practice Direction to the Crown Court about allowance and disallowance of fees and expenses in legal aid cases.

5.46 One or two courts mentioned the possibility of charging and fining defendants who are late in surrendering to their bail without reasonable excuse, although some said that the Bail Act had made this less feasible.

Liaison with other agencies

5.47 Although it is possible for courts to have some effect on delay through changes in their own organisation and practices, it is evident that much depends on the attitudes and practices of other agencies operating in the courts. In all cases where any kind of strategic approach to the problem of delay has been adopted these agencies have been involved. Indeed some steps may have been taken as a result of initiatives from outside the courts. In most cases the liaison necessary to achieve this has been of an ad hoc rather than a continuing nature but a few clerks mentioned rather more regular meetings in which the police, the prosecuting solicitor's department (if there was one), defence solicitors and occasionally the probation service might be involved. (One slight difficulty here seemed to be that the official representatives of the Law Society in an area might not necessarily be solicitors with a criminal practice working in the magistrates' courts; however in practice in most cases arrangements seemed to have been made to ensure that appropriate representatives were involved). In several areas, meetings of this kind to discuss changes of procedure had been held on a county-wide basis, even though there might continue to be slight differences of practice as between courts within the county.

5.48 Many clerks clearly also felt the need to improve liaison over individual cases with both prosecution and defence and had made efforts in this direction. Generally speaking, prosecution and defence seemed to acknowledge the desirability of such liaison

but, as is perhaps only to be expected, agreement in principle did not always translate itself into practice. Clerks continually stressed to us the benefits of being kept informed about the progress of contested cases. The earlier information was received that the defendant intended to change his plea, or that one side or other was not likely to be ready by the date fixed for hearing, or that a crucial witness could not be available on that day, the greater was the likelihood that another case or cases could be scheduled into the slot that would be left vacant. Some courts have adopted, in agreement with the Law Society, arrangements for the regular supply by solicitors of information about the cases they are involved in. It was generally considered that the fostering of good relations between court and solicitors practising in it was of great importance.

5.49 It has also been suggested that it would be helpful all round if the prosecution were regularly to inform the defence of the strength of their case (there is no requirement in magistrates' courts as there is in the Crown Court for disclosure of prosecution statements). This would avoid some pleas of not guilty which are changed to guilty at the last minute with consequent ill-effects on the court lists. We have noted, in this connection, the adoption in certain areas of a system of "pre-trial review" whereby defence and prosecution meet under the court's auspices at a date a fair way in advance of the scheduled hearing date to settle whether the case will in fact go ahead as a not guilty plea, together with such matters as the witnesses to be called.

CHAPTER 6 - ASSESSMENT AND SUGGESTIONS

6.1 It is evident that there is no panacea for the problem of excessive waiting times in magistrates' courts. Equally it is clear that there is a good deal that can be done to improve matters and, significantly, that what is needed to achieve this is not so much extra resources or wholesale reorganisation as the adoption of new attitudes and the making of an effort of will. There is a sense, indeed, in which simply to do something (whatever that something may be) is to make a positive contribution to dealing with the problem of delay. This is not to say however that there are not contributions to the reduction of waiting times which can be made by, for instance, improvements in staffing arrangements.

6.2 The first essential is recognition of the problem. As was indicated in chapter 5, the problem varies from place to place and so do perceptions of it and few courts have made any quantitative assessment of the state of affairs. Monitoring of the caseload wouldindicate the size of the problem and also the degree of success which any measures adopted were having in improving the situation; ways in which this could be done are discussed in chapter 12 of this report. But for the present it is probably true to say that, except for the smallest, few courts can afford to be complacent about the length of time which a case takes between entering and leaving the magistrates' courts system. It is perhaps relevant to note here that it appears to be with contested cases that the main problem arises, although this is not to say that guilty pleas could not be disposed of more quickly than they sometimes are.

6.3 There is clearly room for debate as to how long waiting time has to last before it becomes unacceptable: a period may be acceptable in a complex case which would be regarded as excessive in a simple matter. To take one example, the James Committee recommended (Cmnd 6323, recommendation 54) that a magistrates' court should normally be in a position to dispose of a contested case by summary trial within about four to six weeks from the date of arrest or issue of the summons. Both the figures referred to in paragraph 4.4 and the assessments given to us as indicated in paragraph 5.3 (as well as our own observations) suggest that this standard is rarely met. It has however, been pointed out that in summons cases the need to allow time for issue and return of the summons makes this an impossible target, certainly if the 'plea or adjourn' system is used. There is an inherent danger in setting targets or standards in areas such as this: one which, however hard everyone tries, cannot be achieved in the majority of cases will soon fall into disrepute while one which is generous enough to allow for all but the most complex cases will tend to encourage slackness. Accordingly we have not in this report attempted to suggest targets, either generally or for specific types of case: the preferable approach seems to us to be in seeking out and eliminating or shortening periods of unnecessary delay.

6.4 Although there is a general consciousness among justices' clerks that excessive waiting times do constitute a problem in all but the smallest magistrates' courts and that, whoever contributes to the

problem, it is from the court that the initiative can and should be taken to combat it (as witnessed for example by the debate on delay at the 1981 Justices' Clerks Society Annual Conference and the motion passed there), positive measures to deal with it are, it would seem, less widespread. Only some 20 clerks responded to the request, referred to in paragraph 4.2 above for information about steps taken by clerks to combat the problem of delays and difficulties experienced and for views on the outcome of such measures. It should however be noted that the request related to measures taken "in the last year or two" and that in any case lack of response does not necessarily imply that no measures had in fact been taken. Moreover it is certainly felt by clerks - and with truth - that frequently the cause of delay lies with one or other of the parties to the case. This does not of course mean that the court itself cannot direct action at outside causes.

6.5 Strategies directed at delay can be discussed under two general heads:-

a. practical steps which can be taken by the court;

b. communications and liaison between the courts and other agencies concerned.

Basic to all of these is the establishment of a climate in which all involved in the courts are concerned to achieve as speedy dispatch of cases as is consistent with the interests of justice and in which everyone appreciates the problems of others in achieving that end. This is clearly an area where the magistrates, the justices' clerk and his staff can take a lead and should show their own firm commitment towards reducing delay.

Practical steps

6.6 Relatively simple changes of procedure seem to be capable of making a considerable impact on waiting-times, although the shortage of quantifiable data means that they cannot at present in all cases be wholly objectively evaluated and ranked. Essentially the most helpful measures which courts have adopted affect two stages in case progress: first, there are those aimed at bringing the case to the point where a guilty plea can be disposed of, or the date of hearing of a contested case fixed, within as short a time as possible from arrest or from the issuing of a summons; secondly there are those designed to ensure that an early date can be fixed for the eventual hearing of contested cases and that this date will be adhered to. There would seem to be advantage in courts which have not yet done so turning their attention to these two areas.

6.7 In the case of the first, there is now some quantitative data as a result of the project at Colchester Magistrates' Court. Here the fixing of a short police bail period of seven days for most cases has been shown to have contributed to an overall reduction in waiting times. A number of other courts have also introduced 7 day bail and while the changes at these have not been monitored in similar detail there seems no reason to doubt that the system works satisfactorily. It is therefore possible to suggest that other courts might consider

entering into discussions with police, prosecuting solicitors, and defence solicitors about the introduction of such schemes. On a cautionary note, it should perhaps be stressed that it is essential to ensure that the definition of the type of case to be included should be both clear and as widely drawn as possible and, once a shortened bail procedure has been agreed, that it is adhered to.

6.8 Other courts are now operating on a system of next day bail. While this ensures that the case is before the court at the earliest possible opportunity, it renders it rather less likely that any substantive progress will be made at that stage. It is of course then possible to set a comparatively short adjournment to the appearance at which a plea will normally be taken and the overall waiting time may thus be no longer but next day bail does seem to make it rather more likely that two appearances, instead of one, will be needed to reach the point where a plea can be taken and mode of trial elected and thus that more court time will be taken up.

6.9 What can be said is that both of these methods of bringing cases swiftly before the court seems to offer significant advantages over the three week or even substantially longer bail periods which are the norm in many areas. It is alleged that longer bail periods give time for the defendant to apply for legal aid and to seek legal advice; in practice however it seems that it is very rare for a defendant to take advantage of this opportunity, even if he is given legal aid forms as he is bailed from the police station, and effectively the initial extended bail period is so much wasted time.

6.10 Having instituted arrangements to ensure that the defendant appears before the court quickly, many courts have noted the need to maintain the impetus by establishing the plea and where necessary the mode of trial as soon as possible. Obviously a defendant cannot be forced to plead and elect at a particular stage but there seems no reason why courts should not make it clear that plea and election will be expected at the second, if not the first, appearance unless they are presented with very convincing arguments to the contrary; that a short adjournment only from first to second appearance for this purpose will be granted; and that good reason will have to be produced for a subsequent change of either plea or election.

6.11 Where the defendant pleads guilty it may in many cases be possible to dispose of the matter at once. A further wait will however be necessary at this stage if it is necessary to seek a social enquiry report (or medical or psychiatric reports). There may be little that can be done to cut down the length of time taken to prepare such reports but there might be advantage in courts discussing with the probation service the possibility of setting shorter timescales in certain cases.

6.12 As has been noted, less effort seems to have been addressed by courts to achieving early appearances in summons cases. In some places return dates are fixed by the court with a set number of cases being allowed for each sitting. In others the police are allocated a proportion of court time and fix the dates themselves within it. (Private prosecutors, such as local authorities, seem frequently to fix their own return dates, although some courts allocate particular

sittings for these cases). It would seem helpful for courts to consider whether they could agree with the police, and other prosecutors, on regular arrangements which might ensure, say, that summonses were all returnable 4 weeks from the date of issue (it seems to be agreed that a shorter period than this risks delivery and response not being completed). Some adjustment might be needed to avoid particular days being overloaded (since some non-police summonses in particular are often issued in batches) but a general target would have been set.

6.13 Once the stage has been reached where a date can be set for a contested hearing, the need is to ensure that the earliest convenient date is fixed and that this is done in such a way as to maximise the chances of the trial actually going ahead on that date. The essentials to achieve this seem to be the maintenance of a master court diary or calendar and the fixing of the date by consultation with the parties. Both these measures presuppose the allocation of a member of the court staff as listing officer. Such an officer will mainly be of value in connection with the listing of contested cases but it is evident that the greater the part of the listing arrangements in general which the court can bring within its own control the better. The case for designation of a particular member of staff as listing officer is therefore a strong one.

6.14 A listing officer must be able to deal authoritatively with other court staff and with representatives of prosecution and defence. If possible therefore he or she should be of reasonable seniority. In large courts the job may well be a full time one but in smaller courts it should normally be possible for the task to be carried out by a member of the administrative staff or by one of the court clerks. The designation of a listing officer will not necessarily mean any addition to the complement since it will effectively mean the gathering together of a number of jobs which have been carried out individually by different members of the court staff. On the other hand, if an addition to the complement is necessary for this purpose, it is, in our view, one which is worthwhile and indeed likely to pay for itself in dispatch of business.

6.15 There does not seem to be any "one best way" for the listing officer to operate. A number of sensible arrangements were noted among those listed in Annex L: they included:-

- adjourning for a fixed period of, say 6 weeks with the listing officer adjusting the date if necessary through discussion with the parties afterwards;

- the parties seeing the listing officer beforehand to agree on a date which can then be put to the magistrates in court;

- adjourning sine die with the listing officer fixing the exact day in subsequent discussion;

- the court clerk telephoning from the court room for a list of available dates.

There seems to be general agreement that the listing officer should make his own estimate of the length of time a contested case is likely

to take, or at least re-evaluate any estimate made by the parties. The question whether to overbook court time or not must be one for individual decision: where the policy is to overbook criticism might be more easily rebutted if the failure rate of cases and the frequency with which cases had to be adjourned for lack of time were monitored.

6.16 The representatives of both sides should be encouraged to maintain contact with the listing officer and to inform him as soon as possible of any developments which may affect the chances of the case going ahead as a contested hearing on the date fixed: for example a decision to plead guilty after all. It should be part of the listing officer's function to ensure so far as possible that the listing does not result in a clash with any other case in which the defence or prosecuting solicitor may be involved. Moreover, courts can make it clear that they will not look with favour on last minute requests for adjournments, since the fixing of the date for the trial by agreement among all concerned gives little excuse for failure of either party or of witnesses to appear or for failure to prepare the case in time.

6.17 Courts may also find it worthwhile to consider whether the separation of different types of court business into different sittings or different court rooms might be helpful. Certainly those courts which have adopted such arrangements seem to find them useful; others however express concern about the lack of satisfaction available to magistrates and court clerks because of the absence of variety, but this does not seem likely to be an insuperable difficulty.

6.18 The use of a front-sheet to record essential items of information about a case's history has been noted (paragraph 5.42 above). Paragraph 12.18 and Annex T of this Report explore the uses of such a front-sheet for statistical purposes but it has a simple value as a tool in case management in that it provides at a glance the age of the case, the state it has reached, and the number of times it has been before the court. This means that any undue waiting time can quickly be noticed and that, for example, a request for adjournment to give more time to prepare a case can be weighed in the knowledge of the length of time that has already been available for the purpose. Courts which do not already make use of a front-sheet might well find it helpful to adopt the practice.

Communications and liaison

6.19 Although the court can take the initiative over the steps discussed in paragraphs 6.6 to 6.17, in almost all cases consultation with, if not the agreement of, other agencies operating in the courts is essential. There is a clear need for good communications at both the strategic and tactical levels: that is, in developing procedures and practices and in operating them in individual cases. Whether or not the court could effect changes on its own, any changed procedures are likely to work much better if all those who are affected by them feel that they have been consulted and, if possible, had a hand in devising them.

6.20 While it seems to be usual for a meeting between some of the parties involved to precede the introduction of new procedures aimed at

reducing delay, such meetings frequently do not include all those who may be affected by the change and (with notable exceptions) do not continue once the change has been put into effect. There would seem to be advantage in having regular meetings, although except at the actual time of planning a change these need not be very frequent, and in involving representatives of as many different agencies as possible. Such meetings would provide a forum at which problems relating to delay and suggestions aimed at reducing delay could be raised and discussed. They would help to maintain a climate in which the need to avoid excessive waiting times was a constant factor in the minds of all those working in the courts. Those attending such meetings might usefully include:-

- the justices' clerk and his listing officer;

- representatives of the bench;

- a representative of the police prosecutions department;

- a representative of the prosecuting solicitor's department if there is one;

- representatives of solicitors practising in the court concerned.

- a representative of the probation service.

6.21 The fact that there are standing liaison arrangements at a court (or possibly a group of courts) ought to facilitate day to day communications. The existence of a listing officer should help, too, since he or she will act as a point of contact for prosecution, defence and others concerned with the progress of a case. At present there are complaints in some places from solicitors that they find it difficult to pin down someone at the court to ask about the listing of cases in which they are concerned (some make a similar complaint about the police in respect of the prosecution's intentions, about a case) and complaints from the court that solicitors fail to contact them about developments in relation to a case. A single point of contact at the court ought to help to remove the justification for both these complaints.

6.22 Equally important is that magistrates and court clerks generally should be conscious of the need to tackle delay. Where procedures on the lines described in paragraphs 6.13 to 6.17 have been adopted, any court clerk should be ready to draw the magistrates' attention to the length of time a case has been waiting and to the number of previous adjournments and the reasons given for them and magistrates should be prepared to query requests for further adjournments and to seek reasons for delay.

6.23 It ought to be possible, where communications are good, for the court to agree with prosecution and defence on a series of maxims which will generally be adhered to, for example:

- that defence solicitors will inform the court in advance, wherever possible, of a change of plea or change of election;

- that defence solicitors will notify the court where they are involved in a number of cases on the same day;

- that the prosecution will where possible advise the defence in advance of the evidence they hold against the defendant;

- that the prosecution will give early notice, where possible, of the bringing of extra charges;

- that neither side will seek without reasonable cause an adjournment of a date of trial fixed by mutual agreement;

- that both sides will notify their witnesses as early as possible and will do their best to ensure that they attend;

- that courts will endeavour to arrange the order of business on the day in the most convenient way for all concerned.

6.24 Such matters cannot be statutorily regulated without prejudice to the defendant's rights (or in some cases to that part of the public interest which demands that a case be properly and fairly dealt with). There can therefore be no absolute sanction against failure to adhere to principles of this kind. One possible form of sanction, as indicated in paragraph 5.45 above, lies through the operation of the legal aid scheme: it might be possible for arrangements to be arrived at, in consultation with the Law Society, whereby if a solicitor failed, without good cause, to adhere to agreed guidelines of this kind, this would be taken into account in assessing the costs payable under the legal aid scheme, and we would suggest that this is something which should be pursued in discussions between the Law Society and the Justices' Clerks' Society.

Home Office assistance

6.25 The measures described so far do not in themselves require direct assistance from the centre, for example by the provision of additional resources, and they are not in our view susceptible to being made into legal or administrative requirements. There are nevertheless ways in which the Home Office could do more to promote the reduction of delay than simply to encourage the adoption of strategies such as have been discussed above. We discuss later the fostering of means by which information about good practice can be disseminated more widely, in relation not only to delay but also to other areas of magistrates' courts activity. Here we deal with other possible Home Office assistance.

6.26 The Home Office has responsibility not only for magistrates' courts but also for the probation service and the police. We have already noted that all these services (plus solicitors practising in the courts) have a part to play in the reduction of waiting times: accordingly the Home Office should be well placed to provide a central impetus to the improvement of liaison between the services and also to act as a channel for the resolution, on a national basis, of problems which arise from the effect on one of the three services of the practices of one or both of the others.

6.27 The different departments of the Home Office which are responsible for these services can and should make it their business to take up with their colleagues problems raised by the service for which they are responsible. As an example, courts have cited a number of areas where, they say, police practices and procedures have caused them difficulty: it is evident that in many cases these are not practices and procedures which are confined to a particular police force; the better way of resolving any such difficulties may therefore be by a central initiative. Matters which could usefully be discussed between the Criminal Justice and Police Departments of the Home Office with a view to the taking of initiatives include:-

- the reduction of the length of time elapsing between incident and the laying of an information;

- the reaching of agreement between courts and local police forces on the length of initial police bail;

- the need for police cooperation in fixing and keeping to an early trial date;

- arrangements for the supply of details of previous convictions where a case is being dealt with at an early date;

- reconsideration of the practice of charging every possible offence in motoring cases;

- prosecution problems with the use of the abbreviated file system;

- the adoption of agreed precedents for charges;

- the wider use of 'section 9' statements.

Not all of these directly affect waiting times but all of them have implications for the efficient processing of the court's caseload.

6.28 Turning to the more specific responsibilities of the Home Office in respect of magistrates' courts, it seems to us that the Criminal Justice Department could well take the contrubution to be made to the reduction of delay as one of the criteria by which it judges applications for more staff. This topic is discussed more generally in chapters 11 and 12 of this Report but, to take an instance, proposals for an increase in staff might be treated more favourably if courts could demonstrate that they would facilitate the designation of a listing officer (though, as has been said already, it should in many cases be possible to designate a listing officer from among existing staff, with some reorganisation of duties).

6.29 We have already referred (paragraph 6.2) to the benefits that could flow from systematic caseload monitoring in individual courts. Courts should be able to produce information which will enable them to assess their own performance as regards waiting times and we discuss this further in chapter 12 below. However further consideration needs to be given to the question whether there would be additional benefit in compiling national delay statistics. We are aware that the

Statistical Department of the Home Office has put forward a proposal for the sampling at intervals of cases disposed of at courts to produce waiting time figures for a variety of types of case. In our view it would be more helpful if monitoring of waiting times in a sample of courts were linked with programmes for the adoption in these courts of specified changes of procedure whose effect could then be assessed. But any national monitoring of this kind should not be regarded as a substitute for monitoring by the courts themselves.

6.30 We doubt whether it would be productive to devote much further research effort to attempts to identify and quantify precisely discrete individual causes of delay. There are, as chapter 5 indicates, numerous contributory factors and not all of them are susceptible to quantification. There would however, in our view, be advantage in conducting experiments on the lines of that at Colchester which would evaluate the effects of changes in procedure at different stages of case progress. Further research effort could be linked with the monitoring of changes of this kind. A number of the measures described in this chapter would, we believe, lend themselves to adoption and monitoring in this way. We note that the current research being conducted by the Vera Institute into the costs of adjournments is likely to assist in quantification of some of the disadvantages of delay.

6.31 There may be also scope for a contribution to the reduction of delay from the research into hearing times being conducted by the Home Office Research and Planning Unit. There are clear variations in the amount of time taken by different courts to hear similar types of case and the identification of reasons for this might enable slower courts to be given assistance in getting through their lists. It should not be forgotten however that the quality of justice dispensed is also important and that speed may not be desirable if it proves to mean that the court is failing to give full and proper consideration to the case, for example by paying inadequate attention to the defendant's means in determining the level of a fine.

6.32 It would also in our view be helpful to mount some sort of research into the arrangements for the listing of cases on the day of appearance. Time spent waiting at the court for a case to come on is irksome to the participants and, in the case of legally aided defendants, is, as has been noted on many occasions, costly to public funds. Participants would welcome a much more accurate indication of the time when the case with which they are concerned is likely to come on. The main interest of court staff on the other hand is to ensure that as soon as one case is finished there is another to follow it. Appointments systems have their disadvantages (cases over-running throw the timetable out, cases ending early leave wasteful gaps in the schedule) but there should be scope for some advance on the calling of all participants to arrive at, say, 10 o'clock.

PART IV - IMPROVING FINE ENFORCEMENT

CHAPTER 7 - INTRODUCTION

7.1 Under our terms of reference we were required, inter alia, to review "... what kind of help might most usefully be given to courts in ... improving fine enforcement procedures". It seemed to us that fine enforcement was rarely seen as ranking high in priority among the various aspects of court work. There are, it is fair to say, justifications for this stance. Courts rightly see the hearing of cases as their primary duty. Accordingly since fine enforcement can be abandoned temporarily without disaster striking whilst it is impossible similarly to stop hearing cases for a period of time, in times of stress it is fine enforcement that will be abandoned. Even within work on fines, accounting for monies actually collected has under pressure to take precedence over enforcement. We see this as most unsatisfactory. Apart from any question of financial loss to the Exchequer, if fine enforcement is not given a measure of priority by the courts, there is a risk that the credibility of the fine as a penalty will be undermined which would be a grave blow to the magistrates' courts which make such a wide use of it (in 1979 57% of all persons sentenced for indictable/triable either way offences were fined as were 89% of those sentenced for summary offences excluding motorway offences and 99% of those sentenced for motoring offences).

7.2 As with our examination of waiting times, we began our work with a survey of the relevant literature, a list of which is included in annex B. Until recently fine enforcement has attracted comparatively little attention as a subject for research; consequently the literature tends to be rather sparse and some of it is based on research which was carried out a relatively long time ago. The past year has, however, seen the publication of the report of a NACRO working party on fine default and we have also had the benefit of sight of preliminary findings from two research projects, one a pilot study by Mr Rod Morgan and Dr Roger Bowles of the University of Bath into the costs of fine enforcement and the other a study by Mr Paul Softley of the Home Office Research Unit into methods of fine enforcement. Neither of these two studies is so far in final form; we have therefore exercised caution in making specific recommendations founded upon their conclusions.

7.3 Our observations and recommendations are therefore exclusively our responsibility and are based largely upon the results of our own visits to courts. This means that they are not in most cases supported by quantified data but they do derive from detailed discussions with justices' clerks and with their staff working in fine offices. In most cases the suggestions which we make are for practical and relatively simple improvements which we have either observed in operation in one court or other or which we believe clerks could relatively easily take up and test empirically as they wish.

7.4 In this section separate chapters will deal with our observations and comments on methods used by courts to enforce fines (chapter 8) and our comments on somewhat wider and less specific topics such as cost effectiveness (chapter 9); this last chapter necessarily contains proportionately more analysis of the problems and suggests some possible solutions.

7.5 The Report of the NACRO Working Party on Fine Default was studied with great interest by the Group. Some of its recommendations relate to the use made of the fine as method of disposal or would require legislation not limited to prescribing means of enforcement; these matters are outside our remit and we do not therefore propose to comment on them. At annex M we have listed those recommendations which do fall within our remit together with our comments on them; in addition a number of the issues dealt with in the Report are also touched on in the following chapters and these are noted at relevant points in the text.

CHAPTER 8 - COURT ATTITUDES AND THE PROBLEMS ENCOUNTERED

Introduction

8.1 During the course of our visits to courts we aimed to discover the attitude of the courts themselves to fine enforcement and to identify any particular problems which they encounter. This chapter seeks to describe those problems under a number of broad headings and, on occasion, to suggest possible solutions or at least methods of ameliorating the position.

General problems as seen by justices' clerks and their staffs

8.2 Many courts referred to the fact that when they came under pressure fine enforcement would tend to suffer first because the actual hearing of cases and associated work was accorded the highest priority. Even within fines offices pressure of work can hinder successful enforcement because in many courts the staff who check fine cards must also open post, collect money at the counter etc. Enforcement takes second place to accounting for monies received. Over the past few years there has been a very considerable increase in court business and at times the sections within courts responsible for fine enforcement have been unable to keep up; some courts also mentioned that in the past they were unable to get staff of adequate calibre, although this problem was no longer so serious. A related problem concerned the identification of defaulters, which was of particular concern to those larger courts which retained manual systems; a manual system requires a physical check of fine cards upon which are recorded details relating to the imposition of the fine and any payments made. Naturally such checks, being labour-intensive, are liable to be discontinued in times of stress. The main risk in slow identification of defaulters is that by the time action is taken either the individual concerned has disappeared and cannot easily be traced or his circumstances have altered in such a way as to make the fine unenforceable; thus, the delay can result not merely in a delay in collecting the money due but in a failure to collect it at all.

8.3 Some other problems were mentioned which, although not universal were nevertheless of great importance to those areas which were affected. Some courts said that the substantial rise in the rate of unemployment in their area was leading to considerable problems in collecting the money due. In some areas there were problems over the service of summonses and warrants for the attendance of defaulters at enforcement courts because the police did not accord this task high priority. Some courts have responded to this by ceasing to issue summonses and switching to a system under which reminder letters are issued to defaulters followed, if there is no response, by a warrant; in other areas summonses are now issued by ordinary post and again a warrant will follow if there is no response. Beyond stating that it is clearly essential that defaulters are brought before enforcement courts if the entire system is to remain credible we would not wish to recommend any particular combination of reminders, summonses and warrants, as the most suitable procedure will vary as between courts. A final problem which will mainly be encountered by courts situated in large urban areas, is the extreme mobility of the population. In London it is far from unknown for defendants to have moved even during the initial 14 days which the court has allowed for payment of a fine; tracing such defendants can be a very expensive, and sometimes impossible task.

Offences and offenders posing particular problems

8.4 Not all the courts which we visited could single out any particular type of offence or offender as necessarily presenting problems in enforcing a fine but all the courts which took this view said that certain individuals (their 'regulars') would always give trouble regardless of the offence of which they had been convicted. Those courts which were able to pick out offences or offenders posing special problems identified a wide range, but there were some points which were raised frequently and which are worth noting here. Problems could arise when a defendant was tried in his absence under the procedure laid down in Section 12 of the Magistrates' Courts Act 1980; it was not unknown for defendants never to have received the summons and so to find out about the matter only when attempts were made to enforce the fine. This problem is particularly prevalent in Inner London but occurs elsewhere. Trial in the defendant's absence also makes it difficult for courts to match the fine to the defendant's means (see paragraph 8,9)

8.5 Turning to specific offences where default was thought to be more likely than it would be on average, we noted that courts tended to agree with the findings of a Home Office Research Study published in 1973 ('A Survey of Fine Enforcement' by Paul Softley, HORS16) that persons fined for drunkenness, revenue offences, or indictable property offences were more likely to default than defendants fined for other offences. One further problem area arises from the so-called 'compendium' motor offences, ie those cases where a defendant is charged with a large number of offences as a result of one incident when he is stopped by the police. When he comes before the court the fines for each of these offences can result in a very large grand total; when one remembers that such defendants are often comparatively young and may be unemployed, default becomes almost inevitable. In its recommendation 7, NACRO suggested that in such cases the total amount to be paid should be considered, with nominal fines being imposed on charges related to the main offence. The suggestion seems to us to be a reasonable one which courts might care to consider in the interests of preventing default; one alternative practice which we encountered was the imposition upon young defendants of a low fine coupled with disqualification, the rationale for this being that the main aim was to get dangerous vehicles and drivers off the road. Problems were also encountered on occasions when the courts had to enforce fines imposed in the Crown Court. These fines, which have often been imposed for serious offences, can be very heavy and hence very difficult to enforce, particularly if the defendant has been sentenced to a term of imprisonment for that or for another offence at the same time as the fine was imposed.

8.6 Finally, there was concern in some courts over the enforcement of fines imposed on non-working wives who had no independent means. Frequently, it was this which caused so many problems with minor revenue offences, especially those involving non-payment of the television licence fee where the television is in the wife's name and she is therefore liable for non-payment. It is also possible for a non-working wife to become liable for her children's fines; in cases where the court thinks it appropriate to make the parent responsible for paying a juvenile's fines they will summon the parents to attend; very frequently only the mother will be able to come and it is therefore against her that the order is made.

Attempts by courts to match the fine to a defendant's means

8.7 At all courts which we visited we were told that the magistrates made considerable efforts to assess defendants' resources, particularly at enforcement courts when they had to decide if the default was due to wilful refusal or culpable neglect. It was admitted, however, that at the time of sentence thorough enquiries were rarely made and consequently there was the risk of an inappropriate sentence. Social enquiry reports are designed to fulfil other functions and may not include any information on means and none of the courts asked defendants to fill in forms relating to means prior to convictions. While without independent verification the details provided may not be accurate, we would support the suggestion made by NACRO that consideration be given to the use of a form when the fine is imposed (recommendation 11 in their report) on the basis that any information would be of great assistance to sentencers and that magistrates should be able to detect any substantial understatement of income because they will have local knowledge of pay levels.

8.8 Three courts which we visited did use standard forms which were completed by defaulters before they were brought to an enforcement court. The position is different to that which prevails before sentence in that section 84 of the Magistrates' Courts Act 1980 empowers magistrates' courts to require a defaulter to furnish a statement of his means; defaulters appear to comply with this requirement quite readily, something which must be seen as less likely in the case of those who have not yet been convicted. There is still the problem of accuracy in that although it is relatively easy to confirm details of earnings it is much more difficult to query details of expenditure. One court had adopted the practice of asking all defaulters who had completed forms giving details of means to confirm on oath the details included in the form. If these were subsequently found to be false the defaulter is liable to prosecution for perjury; although such a prosecution is rare, it had happened in one case at that court. In any event, adoption of the practice of having defaulters confirm details of their means on oath should have an important psychological effect. As stated in our comments on recommendation 11 of the NACRO Report we would support the use of standard forms since this ensures that the court gets the relevant information which it needs in order to reach a decision and sets this information out in a standard manner. We think that the standard form produced by NACRO would be quite suitable but alternatively courts could use a form based on that presently completed by applicants for legal aid.

8.9 One final point which was made by the majority of the courts which we visited concerned the problems which can arise when defendants are convicted in their absence under the provisions of section 12 of the Magistrates' Courts Act 1980. The form sent to all defendants when this procedure is to be invoked has a space upon which details of means can be recorded but this space is very rarely used and in the majority of cases courts will impose fines in ignorance of the defendant's circumstances. Clearly courts can never get as good an impression of a defendant's circumstances in his absence as they would if he were actually present in court and equally clearly to demand the presence of all defendants in court would be contrary to a now well-established and generally accepted procedure. We would suggest however, that either the standard forms should be modified so as to make the invitation to give details about means more prominent or a standard means form could be sent out together with the summons. Where,

because a court does not have information as to means at the time of imposition, a fine imposed is too heavy, it is perhaps a matter of regret that an enforcement court has no power to remit part of the fine (see below).

Remission of fines

8.10 Under section 85 of the Magistrates' Courts Act 1980 the court may, if it thinks it just to do so having regard to any change in a defendant's circumstances since his conviction, remit a fine in whole or in part. We found that this power is exercised very rarely by the courts; a typical figure given to us was one or two fines remitted in any one quarter. The underlying reason for this reluctance to remit seemed to be a feeling that it was wrong to interfere with a sentence imposed by another bench. It would clearly be wrong for benches to overturn the decisions of other benches simply because they themselves would have reached a different decision. We would, however, suggest that enforcement courts, in particular, should have it in mind that they may remit a fine in whole or in part if the circumstances are appropriate. For example, where a defendant became unemployed after a fine had been imposed, the customary response appeared to be to alter the terms of payment of the fine so that the defendant paid by weekly instalments of £1 or £2 this resulted in the fine remaining outstanding for a long period. In such circumstances courts could well consider remission of all or part of the fine (it should be noted that magistrates may not remit a Crown Court fine without the consent of the judge concerned).

8.11 We were disturbed to find that at two courts it was thought that some defaulters who were committed to prison were in fact unable to pay their fines. Clearly, the best solution is for courts to impose fines which take into account the defendant's means but this may be difficult in cases where the defendant was not present when the fine was imposed. In our opinion, this reinforces our argument in paragraph 8.9 that details of means should be obtained in cases where the defendant is not present in court.

Write-off of fines

8.12 The Accounts Branch of the Home Office is empowered under delegated authority from the Treasury to write off fines which are irrecoverable. Essentially these fines fall into two categories: firstly, there are cases where the defendant cannot be traced, had died, or is known to have gone abroad; secondly, as a matter of policy, outstanding fines imposed upon borstal or detention centre trainees are written off so that the trainee concerned can start with a clean sheet at the end of his sentence. In the case of fines written off because the defendant cannot be traced etc write-off is an accounting procedure designed to clear the court's books; the fine remains in force, albeit in a form of suspense, and can be enforced should the defendant subsequently be found. It is not unknown for court staff to recognise defendants against whom there is a fine outstanding when they appear in court again some years later.

8.13 Courts must wait at least one year from the date of imposition before they may approach the Home Office for permission to write off a fine. Accounts Branch will examine the schedule of fines submitted for write-off action and query those where the reason given appears to be inadequate or where insufficient time has elapsed; in addition copies of the schedules concerned are sent to the Internal Audit Service for their comments. None of the courts which we visited expressed concern over the work involved in submitting fines for write-off action and clearly it is not given a very high priority. On the other hand, the speed with which courts submit fines for write-off on the return of the warrant affect a figure which is used as a measure of efficiency in that the prompt write off of fines which cannot be collected reduces arrears and thereby improves the 'accounting ratio' which is frequently used as a relative guide to the efficiency of courts (the accounting ratio is the ratio between a. the amounts remitted to the Secretary of State during the quarter and b. the amount of arrears brought forward at the beginning of the quarter plus the amounts imposed during the quarter less any sums written off). We would not wish to imply that courts should artificially postpone the initiation of write-off action but rather to emphasise that caution should be exercised when examining arrears or any figures derived from them.

8.14 We noted that some courts, once they have issued a warrant, take no further action until it is returned when they hold it until a year has elapsed and submit it for write-off (although as a matter of policy other courts retain unexecuted warrants for several years). It would clearly be impractical to suggest that courts should follow up every unexecuted warrant but we consider that they should not routinely accept the return of warrants and take no further action. We realise that in the vast majority of cases no further action can be taken but clerks should question the early return of warrants after only a week or two unless it is clear that the warrant cannot be executed, for example because the defaulter has left the country. It might also be appropriate for the senior officer supervising fine enforcement to keep a tally of the proportion of warrants returned; if the proportion is very high or shows signs of increasing the clerk could seek to discuss the matter with the police. Ideally, efforts should be made to check court-lists against those for unexecuted warrants as we understand that defaulters often reappear, but we accept that this may not be possible in all courts

<u>The role of the police in fine enforcement</u>

8.15 Comparatively few courts have fine enforcement officers who take an active role in enforcement outside the office for example in serving warrants, and there can be no doubt that for the forseeable future magistrates' courts will be dependent upon the police for the service of warrants (the use of police to serve summonses appears from our experience to be on the decline). Clearly if the whole system of fine enforcement is to retain credibility it is essential that defaulters are brought before enforcement courts after a warrant has been issued. At most courts which we visited satisfaction was expressed with the performance of the police in executing warrants but on occasion doubts were expressed over the commitment of some

forces. For their part the police complained that officers could not execute a warrant unless it was physically in their possession, which was frustrating if they discovered a defaulter during the course of performing another task. To alter this situation would, however, require legislation (which has been proposed). Our impression, and we would put it no higher than that, was that the courts favoured a system whereby specialised warrant officers were designated, as the individuals concerned would then be more committed to their job; the deployment of officers is of course a matter for the chief constable but we would stress once again that the execution of warrants is absolutely essential to the credibility of fine enforcement. It should also be stressed that the involvement of the police in fine enforcement will remain essential for the foreseeable future because there will always be situations which can only be handled by the police. On the other hand the use, where appropriate, of civilian enforcement officers has much to commend it as this would release police manpower.

The role of the Internal Audit Service

8.16 The wider role of the Internal Audit Service (IAS) is discussed in Chapter 2. A court's efficiency in fine enforcement is obviously of concern to the IAS because it is an integral part of the financial control systems of the court and the IAS has therefore built up a body of knowledge relating to this area during the course of its visits to magistrates' courts. Frequently, any deficiencies encountered will be due to such factors as lack of staff, a poor enforcement system or inadequate staff but IAS has identified two critical factors; determination to enforce the fine and, good organisation. Although research both by Softley and by Morgan and Bowles has indicated that some form of enforcement action was required in many cases, it appeared to IAS that generally a simple reminder letter would suffice; it seemed reasonable to deduce from these findings that those courts which took some action to enforce fines were liable to have a reasonable degree of success whereas those which were not committed to fine enforcement would encounter problems.

8.17 A number of the courts which we visited complained that the accent which IAS placed on the physical security of monies could well operate to the detriment of the efficiency of the court concerned. It was, for example, difficult to comply with the very stringent conditions imposed upon post-opening whilst also finding time to check through fine cards in order to detect default; consequently the routine checks tended to suffer. We recognise that the physical security of public money is of vital importance but at the same time we must express our doubts over the implementation of procedures which are labour-intensive and reduce the resources available for enforcement. A great deal of effort may be devoted to ensuring that comparatively small sums are not at risk of going astray which could perhaps be otherwise - and more profitably - employed in securing that the court in fact received a greater proportion of the money due to it. We would therefore suggest that for the future IAS recommendations relating to security should endeavour to take into account both the benefits in terms of increased security and the costs in terms of staff time and in the possibility of lost revenue due to non-enforcement of fines.

The use made of various methods of fine enforcement and the views expressed upon their efficacy

8.18 The table in annex N shows the frequency with which the seven main methods of enforcement were used by the courts we visited. The following comments on those seven methods should be read in conjunction with this table.

8.19 Means enquiry reports - in cases where the magistrates are not sure of the resources available to a defaulter they may ask the probation service to prepare a means enquiry report. This differs from a social enquiry report in that it concentrates exclusively on the means of the defendant and his liabilities. Once the report is available the court may decide what, if any, further methods of enforcement should be employed. As can be seen, comparatively little use is made of this method of enforcement and courts were somewhat doubtful of its value. We note however that the NACRO Report recommended greater use of these reports, and there may be scope for the Home Office to foster discussions between the probation service and the courts service as to the feasibility of this.

8.20 Fixing a date for the re-appearance of a defendant if he does not pay - under section 86 of the Magistrates' Courts Act 1980 the court may, if it has allowed time for payment of a fine, require the defendant to appear in person if he has not paid the fine by that date. Further, the section empowers the court to fix a later date in substitution for the day previously fixed if it seems appropriate. Thus, a court may fix a date for re-appearance at the time of sentence if the fine is not paid and thereafter continue to fix further dates for re-appearance at regular intervals until the defendant has paid in full. The only limitation upon this power is that courts may not use it in cases where a defendant has been allowed to pay by instalments, although the NACRO working party noted that some courts had interpreted this provision in such a way that where a court has ordered instalments to be completed by a given date it may order the defendant to appear once more if he has not in fact completed payment by that date. During the course of our visits it became clear that some courts were using this power somewhat more widely than even this latter interpretation would allow by for example ordering a defendant to pay at £x per week with a proviso that he should reappear in four weeks' time if he was not maintaining payments at the prescribed rate.

8.21 It is clearly desirable in our opinion that the power to order re-appearance should be applicable in the case of instalment payers and we note that clause 3 of the Criminal Justice Bill would allow this: the sanction of having to appear before a court if one is not complying with the terms of an order, and furthermore to continue re-appearing until such time as one does comply with that order, is a very real one which is believed to have considerable effect upon defaulters. As can be seen, the courts which we visited made extensive use of this power but some justices' clerks did sound a note of caution by remarking that, particularly among inexperienced magistrates, there was a tendency to fix a date for reappearance as a way of avoiding taking an unpleasant decision. The only antidote to this which we can recommend is experience; with experience justices are no doubt able to recognise those cases where a defendant is merely playing for time.

8.22 Attachment of earnings orders - almost every court which we visited made some use of attachment orders but only two of them made considerable use of them. At first sight this appears strange given that the reported success rate of such orders is very high indeed; the seeming discrepancy was accounted for by courts on the basis that such orders would only be made for defendants who could be regarded as good risks, mainly those who are in regular full-time employment with large employers; it is thus hardly surprising that these orders are successful. It is not of course possible to be categoric in claiming that the extension of the use of such orders to a wider class of defendants would necessarily result in a greatly reduced success rate but there are discouraging indications from courts which have had unfortunate experiences with defendants who have deliberately moved job and employers who have either sacked defendants against whom such orders have been made or have failed to pay over the money due. A further possible objection to the widespread use of attachment for the purposes of fine enforcement is that employers are entitled to charge 50p per deduction as a contribution towards their administrative expenses, which would make a substantial difference to defendants whose instalments had been fixed at rates of less than £5 per week; distraint is the only other method of enforcement under which a defendant may find himself paying more than the total of the fine imposed and yet distraint is seen as much more punitive than attachment.

8.23 Further objections to the wider use of attachment relate to the administrative complexity of these orders. This is of little account to large companies, which have correspondingly large personnel departments and possibly computerised payroll accounts, but small companies would find the task onerous. The administrative burden of attachment orders for the payment of fines tends to be proportionately heavy because the orders subsist for a comparatively short time when compared to those used for maintenance orders which have proved very successful. In these circumstances we doubt whether attachment orders can, as the NACRO Report suggests, be used far more widely than is now the case.

8.24 Money payment supervision orders - under these orders the court will appoint a supervisor whose duties are defined by the Magistrates' Court Rules 1981 as ".... to advise and befriend the offender with a view to inducing him to pay the sum adjudged to be paid and thereby avoid committal to custody and to give any information required by a magistrates court about the offender's conduct and means". Comparatively little use has been made of this type of order in recent years, probably because the probation service, whose members were normally nominated to carry out this task, tended to see such a duty as incompatible with the relationship which ought to subsist between probation officer and client. Several courts considered that probation officers were now more inclined to look favourably upon these orders in the interest of diverting offenders from prison. It seemed that probation officers as such were very rarely employed; in some cases ancillary workers were used whilst two courts used members of their own staff. We noted that a substantial proportion of the courts which used these orders considered them to be appropriate only for offenders under 21, a view which was also noted in the NACRO report (at page 35) which recommended that these

orders should be more widely used. Other courts, however, considered that these orders were appropriate in all cases where the defendant was likely to have problems in managing his finances. It was notable that the majority of courts in which supervision orders were used considered them to be quite satisfactory and the reaction of the probation service was more positive than we had been led to expect by previous studies.

8.25 Distraint - the first point to note here is that more than half of those courts which did make use of this method of enforcement used it only against limited companies, where they consider that there is no other method of countering such default. We also found that the use of this method of enforcement aroused considerably more controversy than any other method; those courts which did not utilise distraint either opposed the use of this method on principle or were convinced that in practice it would yield unsatisfactory results because defaulters could take steps to ensure that there was no property upon which to distrain. We consider, however, that this method should not be rejected outright because it can be very effective in cases where otherwise the defaulter might be imprisoned (for example, defaulters who refuse to pay "on principle") and in discouraging defendants from "playing the system". Moreover, it has the great advantage of being cheap in public expenditure terms because the cost of collection falls entirely upon the defaulter, and the police need not be involved. (We understand that some courts are dubious about the propriety of adding bailiff's costs to the total payable and we suggest that the Home Office should issue advice on whether bailiff's costs may be added to total costs in cases where there are insufficient assets upon which to distrain).

8.26 We were able to find very little published data concerning the effectiveness of distraint but we were able to make use of some information gathered by the Vera Institute of Justice during research at a provincial magistrates' court. Out of a random sample of 249 fined defendants distress warrants were issued in 29 (12%) cases; of these distress warrants 11 resulted in full payment, 3 resulted in partial payment and 15 were returned by the bailiff. A full analysis of this sample is at annex O from which it can be seen that the number of cases in which a distress warrant was issued represented a sizeable proportion of those cases in which any enforcement action other than the issue of a reminder letter was taken. Given that the defendants against whom distress warrants had been issued could be regarded as particularly 'difficult' in that they had already defaulted the success rate seems good. As stated in our commentary on the NACRO Report which recommended greater use of distress warrants we do not feel able to give wholehearted support to the greater use of distress warrants at present but we do believe that courts should consider their use provided that they exercise the greatest care over the bailiff's whom they employ and over the type of defaulter selected.

8.27 Fine enforcement courts - all but one of the courts visited made use of specialised fine enforcement courts. Clerks said that by running such courts they were able to group defaulters together and achieve a deterrent effect in that defaulters could see that action was taken (some courts deliberately scheduled first the cases of those defaulters likely to be committed to prison so that an impression would be made on other defaulters). A second advantage was that

magistrates who sat in these courts could gain wide experience of default and therefore become better able to deal with these cases than the average magistrate who would see only a small number of defaulters at the end of a day's list. Some courts however, deliberately involved a large number of magistrates in enforcement so that they could appreciate the problems and bear them in mind when passing sentence. We consider that there is probably a case for having magistrates who specialise in the complicated and demanding task of fine enforcement.

8.28 Fine enforcement officers - although most courts said that they had a fine enforcement officer these members of staff generally performed what we would describe as administrative functions. In our view a fine enforcement officer is someone engaged in active rather than routine enforcement tasks such as executing warrants or acting as a money payment supervisor. We were struck by the fact that courts covering large geographical areas could not make effective use of such officers because they would spend so much of their time in travelling and we think that only courts covering concentrated urban areas could make efficient use of enforcement officers; in other cases the local police could do the job more effectively. We would suggest that courts where the use of enforcement officers would be practicable should consider the creation of such posts, both to relieve pressure on the police and to give the courts themselves more control over the process of enforcement, particularly over the execution of warrants.

The most important factors in enforcement

8.29 When asked, the courts we visited, with one exception, identified two key factors as being vital to fine enforcement. These two factors were speed of enforcement and the threat of imprisonment. The court which did not give one of these two factors as the most important cited persistence as crucial.

8.30 Those courts which regarded speed as the crucial factor in enforcement were concerned with the psychological point that the impact of a fine upon the defendant's mind waned with the passage of time. Moreover, in some areas, high social mobility meant that defendants would have left the addresses given to the court if there was any delay.

8.31 Those who favoured the threat of imprisonment were claiming in effect that defendants, when confronted by the prospect of imprisonment, would pay up. Thus, suspended warrants of committal were viewed as particularly effective in persuading defendants to pay up and few of these warrants ever needed to be executed. Although it is undoubtedly true that proportionately very few defaulters are imprisoned, in absolute terms the numbers are high (17,044 persons received into prison in 1979) and impose a considerable burden upon the prison system. Although we quite accept that the sanction of imprisonment must remain, we would suggest that courts should not only, as they are required to do by law, have considered the various methods of enforcement described in this chapter but be disposed, where possible, in favour of the use of at least one of them before proceeding to the issue of a suspended committal warrant.

CHAPTER 9 - GENERAL PROBLEMS AND POSSIBLE SOLUTIONS

Introduction

9.1 In this chapter we shall examine some of the more general problems which became apparent during the course of our visits to courts. We shall seem to give our own impressions derived from what we saw and were told of the activities of court staff in this area and to suggest possible improvements; we wish to emphasise at the outset that our proposed solutions are not prescriptive and that what is appropriate to the circumstances of one court may not be suitable for another.

Methods of identifying defaulters

9.2 The problems faced by the courts in identifying defaulters and then bringing them before an enforcement court if they still fail to make payment are briefly set out in paragraphs 8.2 and 3. Most courts at present use a manual system, generally based upon fine cards one of which is prepared for each defendant upon whom the court imposes a fine or fines on a single occasion. These cards are then filed either in numerical or alphabetical order and checked at intervals by the accounts staff with a view to the taking of enforcement action in cases where the defendant has not paid within the time allotted or is not up-to-date with instalments. This procedure is labour-intensive and tends to be abandoned by courts when other business presses. (We noted that, in some places, staff were unable to complete checking of all cards more frequently than once or twice a quarter). This is undesirable for the reasons given in paragraph 8.30 above, because it is desirable in principle that court orders should be complied with promptly, and because the Government loses if money which should be paid by a certain date is delayed.

9.3 There are in effect three methods by which action against a defaulter may be initiated. The court may issue a reminder letter pointing out that the sum due has not been paid; or it may issue a summons requiring a defaulter to attend an enforcement court unless he pays the sum due, or, usually after one or other of the two methods already described has been used, a warrant may be issued for the arrest of the defaulter so that he may be brought before an enforcement court. The warrant will normally be backed for bail: the police are empowered to arrest the defendant and, if the fine is not then paid, to release him again on bail (usually £25 or less) on condition that he attends the court on a fixed date; on some, rare, occasions the warrant will not be backed for bail and the defaulter will be detained in police custody and brought before the next available court.

9.4 Annex P contains a table showing the use of these three methods in the courts which we visited. The majority of the courts sent a reminder letter followed by a warrant if there was no response; summonses appear to be compartively rarely used now. Courts which did not use summonses gave as their reason that a reminder letter was far cheaper and in many instances would produce payment whilst those defaulters who were not influenced by a written communication from the court were unlikely to take notice of a summons and would only be affected by the physical presence of a police officer executing a warrant. On the other hand courts which continued to use summonses did so, first because in their areas they had a sufficiently high response rate to

justify their use and, second, because they were seen as more efficient than reminder letters in that they would elecit immediate payment from those who had forgotten to make payment, or deliberately put it off, and would bring the remainder into court more quickly than would be the case if a warrant had to be prepared following failure to respond to a reminder. One court which had many traffic cases arising from the presence of a motorway in its area found summonses particularly effective as many defendants lived far away and would pay the fine rather than incur the trouble of attending the court. It would be inappropriate to attempt to lay down the exact routine to be followed but, in view of the fact that research indicates that reminder letters do produce some payment in many cases (see, for example, table 15 on page 23 of "Fines in magistrates' courts" by Paul Softley, HORS 46) there would seem to be advantage in adopting a method of first enforcement action which is relatively cheap: if on the other hand courts wish to continue to use summonses there is a case for sending them by ordinary post.

9.5 We touched briefly upon the methods of identifying defaulters in paragraph 8.2 when discussing the problems as perceived by justices' clerks. The problem, although not the solution, can be expressed relatively simply; it is necessary to have a system whereby defaulters can be identified swiftly in order that courts may decide on the appropriate action to be taken. Many of the courts which we visited complained of shortage of staff in enforcement sections; the whole problem is made worse by the fact that if there are difficulties caused by lack of staff in other parts of the court fine enforcement will suffer still further.

9.6 With these problems in mind we prepared a note, the full text of which is at annex Q which suggests various methods by which the process of identifying defaulters could be hastened. These recommendations were designed to be compatible with the new standardised manual system of accounting which is currently undergoing pilot tests at a number of courts. As a first step we suggest that justices' clerks should designate a senior officer to supervise enforcement directly. This officer would be available to deal with queries raised by junior staff, would monitor enforcement to ensure that it was not being neglected in the press of other business, and would be responsible for laying down (in consultation with the clerk) instructions governing the intervals which should elapse between the various stages of the enforcement process and the various steps to be taken.

9.7 Briefly, the specific suggestions in the note are as follows: a. that a diary be used in which would be recorded details of fined defendants against each date so that enforcement staff could tell which of them were due to have paid by certain dates and concentrate their checks of the fine cards accordingly; b. that fine cards should be filed in numerical rather than alphabetical order (with an index) to aid courts in preparing their quarterly accounts and avoid confusion over defendants who had the same or similar names or were paying off more than one fine at the same time; c. that coloured tags should be attached to fine cards to indicate various stages in the enforcement process, eg. green to denote despatch of a reminder letter, red for a warrant etc., thus enabling both staff and management to monitor the progress of enforcement; d. that fine

cards for those defendants paying by instalments should be separated from the cards for other defendants. This suggestion was made because instalments remain within the system for longer than other accounts and pose difficult enforcement problems, for example, deciding whether to take action when an instalment payer has deviated from the agreed terms, but nonetheless continued to pay some money.

9.8 Three further suggestions are directed more towards court management. At almost all the courts which we visited we were told of the time limits which should elapse between various stages in the enforcement process but at no court were these limits written down. As we have noted elsewhere, enforcement suffers when there is pressure on the court and we think that this is particularly likely to happen when there are only informal guidelines. Accordingly, we think that the senior officer responsible, under the supervision of the clerk, should issue written guidance. We also suggest that courts should, if they do not already do so, keep a diary detailing when warrants were issued so that action can be taken if they remain unexecuted. Finally, we recommend that the senior officer in charge should monitor fine enforcement, probably by checking random samples of fine cards at regular intervals.

9.9 Courts will not necessarily wish to adopt all the suggested steps; they are self-contained and do not stand or fall together. More specifically, some of the suggestions will be of more benefit to courts operating many thousands of fine accounts than to small courts. In order to test the applicability of these suggestions we sent the note to five justices' clerks and, in view of the importance of the subject, we think it worthwhile to discuss their views and our reactions to them.

9.10 First, all those consulted were worried about the staffing implications; in order to put these suggestions into effect estimates of one or two extra staff were given. It may be that additional staff working on fine enforcement would be justified and we shall look at this point under the heading of cost-effectiveness (see paragraphs 9.30-36) but the suggestions were intended to make more efficient use of the existing resources available for fine enforcement. It is a question of priorities. Even if the full implementation of all our suggestions would require more staff we would hope that individual justices' clerks would feel able to adopt some of the suggestions and still be able to avoid any increase in staff; moreover we hope that the response to other criticisms posed will demonstrate that in many cases these changes involve a redirection rather than an increase of effort.

9.11 The main aim of the suggestion that a senior officer should supervise fine enforcement is to ensure that enforcement does not go by default at times of stress; in the normal course of events the senior officer concerned would not involve himself in the day to day work of the enforcement section but would confine himself to monitoring progress by checking accounts at random and offering advice and support to staff as needed. The clerks whom we consulted saw sense in this suggestion and we think that there would be merit in all courts giving it consideration. There was less enthusiasm however for the concomitant suggestion that clerks should lay down written instructions on such matters as the periods which elapse between various stages in fine enforcement and the nature of the action which should be taken

against defaulters. Clerks were concerned that written instructions could lead to undue rigidity in an area where flexibility was of the essence. We would suggest two possible alternatives: clerks could draw up their written instructions in such a way as to make it clear that staff should consult a senior officer in any case of doubt, or, the senior officer responsible for fine enforcement could be given informal guidelines which he could use when monitoring the system to ensure that it was working satisfactorily. Nevertheless, we feel that these concerns may be overstated since computerised systems necessarily use rigid guidelines but none of the clerks concerned thought that this produced inflexible enforcement.

9.12 Turning to the specific points listed, some doubt was felt about the suggested use of a diary on the ground that it would merely provide extra work and divert staff from a physical check of the fine cards. We agree that in small courts the use of a diary could well be more trouble than it is worth but in larger courts we consider that there need be no extra work involved and efficiency could increase. Most courts at present use a system under which enforcement staff work through the alphabetically arranged fine cards by stages, taking between two and four weeks to go through the entire alphabet; if instead they used a diary which each day directed their attention only to those accounts where a payment should have been made on that date they would avoid checking those accounts where no default could possibly have occurred. Our suggestion that a numerical system of filing should be adopted also attracted criticism. It was thought that defendants would forget their fine numbers so that the enforcement staff would be put to greater effort for no appreciable gain. We accept that there is a slight disadvantage in numerical filing in that an additional alphabetical index will be required but such systems are used in a number of areas without difficulty. Moreover, the cards will then be in the same order as the List of Fines Imposed which means that it will be easier for courts to reconcile their arrears at the end of the quarters. We were impressed by the fact that the preparation of quarterly returns absorbs a very considerable amount of effort and can cause all fine enforcement action to be postponed for up to a fortnight; any measure which reduces this delay is to be welcomed.

9.13 The use of coloured tags to indicate what stage of enforcement had been reached for an individual account found favour and we consider that it would be of value both to enforcement staff and to a senior officer who wished to gain an instant impression of the position with regard to enforcement. Reservations were, however, expressed about the suggestion that courts might consider separating accounts for instalment payers from other accounts. There were two reasons for the objection: first staff would have to search two runs which could be inconvenient when a defendant was actually present at the counter and second, a defendant might have one fine payable by instalments and another due to be paid by a fixed date and so would have fine cards in both runs. The first point is very much one of convenience and it is for individual courts to decide whether or not the effort would be justified. As to the second we are a little surprised to find that it is considered appropriate for the same defendant to be paying fines both by a fixed date and by instalments at the same time. We would suggest that courts should examine their

records to see whether or not this is likely to be a common problem. The suggestions for a "warrant diary" and for monitoring by a senior officer proved acceptable to those whom we consulted.

Computers

9.14 The general role of computers in magistrates' courts is discussed in chapter 11; here we seek only to examine the possible uses of computers in connection with fine enforcement where their main advantage lies in their ability to perform routine clerical tasks both quickly and accurately. We were able to gain a fair impression of the use of computers in fine enforcement from the three courts we visited which had computerised systems, two being examples of a standard package system which is already fairly widely used. In addition, we visited two courts which used visual record computers; these are essentially adaptations of commercial accounting machines which maintain sheets upon which the records of individual fine accounts are posted. These machines are concerned purely with accounting and offer considerably less flexibility than do commercially available computer packages; for this reason we have not considered the use of these machines in courts which do not already possess one.

9.15 The computer package referred to above works on fairly simple principles which can be illustrated by reference to the operation of one court. In this court most defendants are given 21 days in which to make payment and if they have failed to pay within this time a reminder letter (produced by the computer) will be issued giving a further 7 days to make payment. In practice a further 21 days grace is given and if payment still has not been made a warrant backed for bail (again prepared by the computer) will be issued to the police and the defendant will be bailed to the next available enforcement court. 70 to 80 defaulters appear at each of these enforcement courts and the computer prepares a printout of each defaulter's account on the morning of the court. In many cases, the case will be adjourned for four weeks on condition that the defaulter makes payment at a set rate; in these cases the computer will automatically list the defaulter for appearance at another enforcement court four weeks hence. The time limits placed on the various stages in enforcement are not as rigid as this suggests because a full enforcement run is done only once every two weeks which means that defaulters can in fact get longer periods of grace than those laid down. In addition, there will be those who whilst not satisfying the criteria laid down for the computer to use in recognising default have nonetheless failed to comply with the terms of payment ordered by the court eg. instalment payers who were paying, but at a rate lower than that which had been ordered. For these cases the computer would produce an "overdue" list which the enforcement staff would examine in order to decide what action should be taken in each case. Finally it was emphasised that enforcement was not "automatic" in that the staff would not take action in cases where the computer had identified default unless they felt it to be appropriate.

9.16 The time limits specified in this system for the various stages in enforcement action are in fact very similar to those laid down in courts operating manual systems. There is however, one over-riding difference which is that, provided the enforcement run is activated, the computer adheres to the standard laid down, whereas the manual systems are liable to disruption at times of high workload, staff sickness etc. Even if the staff responsible for supervising fine enforcement are temporarily unable to check through the reminders, warrants and overdue lists produced by the computer there is no prospect of a defaulter being overlooked which is all too possible in a manual system. Computers can also produce instant, accurate statements of a defendant's account and so, for example, can be used to check whether any defendant appearing on the days court list is also a defaulter. Clearly, the computer cannot remove the essential element of judgement in fine enforcement which, if it is to be effective, must combine firmness with flexibility in appropriate cases but it can avoid the possibility of a defaulter being overlooked or enforcement action being unduly delayed. Also, by removing the routine drudgery of searching through cards it can improve a job which is reckoned by many justices' clerks to be one of the less rewarding in a court. A further advantage which is offered is that of arithmetical accuracy. As the computer must keep records of all entries on every defendant's fine account the production of the quarterly return need not be a sizeable task. Furthermore, computerised courts can work out true arrears, that is those sums which are due but have not been paid, something which is beyond the capacity of manual systems.

9.17 Clearly it would be unwise to make rash claims for computerisation but from what we have seen and heard we consider that computers have a very great contribution to make to fine enforcement in that a great deal of the work involved is at the same time routine and needs to be done to a high standard of accuracy and so is inherently appropriate for a computer. There are two caveats to be entered however; first, a court where fine enforcement is not well organised may find its problems worsened rather than improved if it computerises before setting matters straight. Second, even at times of stress the computer will continue to identify defaulters and prepare reminders, warrants etc. which may be unwelcome if staff are unable to check through the accounts and decide what further action should be taken; it is therefore essential for courts to give fine enforcement a higher priority than hitherto if staff are not merely to feel that they are being put under greater pressure than they would have been if a manual system was still in use. Despite these reservations we remain firmly of the opinion that computers can be of great assistance to courts in fine enforcement, particularly on the purely accounting side, and we would recommend that they be used more extensively by the courts.

Payment of fines by instalments

9.18 Section 75 of the Magistrates' Courts Act 1980 permits courts to order payment of fines by instalments; the power is widely used. It would appear that magistrates order instalments in as many as one quarter

to one third of all the cases where they impose a fine and in addition court staff permit defendants to pay by instalments in cases where they can show that they do not have sufficient resources to pay the fine within the time limit imposed by the court. Detailed figures for the incidence of instalments and the levels at which they are granted should become available from analysis of the data obtained from the courts in the research studies mentioned in paragraph 7.2 above but we were able to gain an impression of the level of weekly instalments which was ordered together with the incidence of instalments as a proportion of all fines. We have also gained the impression that courts are very unlikely to be less ready to grant instalments in the future.

9.19 Our initial examination of admittedly rather limited data has yielded some interesting results. Firstly, it appears that courts tend to set instalments impressionistically once they have an idea of the resources available to the defendant. This conclusion stems from the fact that the vast majority of all instalment orders made are for sums of £2, £5, or £10 per week. We do not wish to criticise this approach in that the magistrates concerned are clearly taking the differing circumstances of defendants into account. When one examines the length of time over which an individual defendant will be paying instalments there appears to be no pattern at all. What appears to happen is that the court decides on the appropriate level of fine and then examines the means of the defendant (which is really the wrong way round) and fixes the levels of instalment payable: in one sample which we examined the result was that the period for which instalments would last ranged from seven weeks to 52 weeks. We understand that similar observations have been made by Casale and by Morgan and Bowles. Clearly, the period over which instalments are payable must vary if only to reflect the relative seriousness of offences but we doubt whether these figures reflect the application of this principle to individual defendants.

9.20 Leaving aside all other considerations, the administrative burden imposed by instalment payments is relatively heavy in relation to that imposed by fixed date payments. To demonstrate this the working group designed a computer model based on the assumption that 80% of those fined would be ordered to pay by a fixed date whilst the remaining 20% would be granted instalments lasting on average ten weeks. It was further assumed that one in ten of the 80% ordered to pay by instalments would pay over a period of 15 weeks while the remainder would pay their fines within two weeks. Assuming that this model begins at zero, with no fines outstanding, it can be demonstrated that within less than six months the number of outstanding instalments will greatly exceed the number of outstanding fixed date payments despite the fact that less than one third of all those fined in this model would be permitted to pay by instalments. It is reasonable to assume that many courts are facing just such a situation as this, although there is no hard evidence because no research study of which we have knowledge has set out to analyse the amount of work involved in administering instalment payments.

9.21 None of this should be taken to imply that we would wish to see a reduction in the use of instalments; the use of this method is very valuable because it enables defendants who would otherwise go to prison to pay off their fines. This is particularly pertinent if courts wish to use the fine as a penalty in more serious cases because in such cases a fine must be heavy if it is to command respect and yet if defendants were not permitted to pay by instalments many would find it quite impossible to pay the sums imposed thus undermining the use of the penalty. Rather it suggests that courts should endeavour to find out before sentence what means are available to the defendant so that they can fix the fine with due regard to the available means of the defendant concerned and hence be able to fix an appropriate level of instalments. In the context of deciding the period of time over which the instalments are to extend courts need to have regard to dicta from the higher courts stating that payments should not extend over more than one year. We believe that courts should also have regard to the size of weekly payment ordered; we have no data to indicate how many payments are at a rate of less than £1 a week but on our visits we were given instances where courts ordered as little as 50p a week. Before any magistrate is tempted to make such an order, we would suggest that he considers the administrative costs involved which would be proportionately very high for instalments of £1 or less when one takes into account postage, staff time and so on. If it seems necessary to fix instalments at a rate of less than £1 a week then, in our opinion, the court should be considering whether or not a fine as opposed to another non-custodial penalty is appropriate. In many courts it appears that instalments will be allowed in cases where a defendant's financial circumstances have altered and he is no longer able to make payment; in these cases, which are frequently dealt with by court staff, the level of instalments will be very low and consequently payments will continue for a very long time. In its Report (recommendation 23) NACRO suggested that courts should make greater use of their power to remit all or part of fines in cases where a defendant's circumstances have altered; we support this suggestion and consider that in cases where very low instalments have to be granted courts should consider reducing the total amount payable in order to prevent the whole matter being prolonged unduly.

9.22 To conclude we have two specific suggestions concerning instalments. First, we consider that there is a need for the senior officer in charge of fine enforcement (the need for this post has been discussed in paragraph 9.6) to supervise the progress of instalments closely to ensure that the terms of individual orders are complied with and to monitor the work involved. Second, we think that more information is required about the operation of instalments concerning in particular their effectiveness in terms of the amount of money collected and the workload imposed upon courts in administering instalment payments. As far as the latter is concerned, there are indications that this may be considerable (see paragraph 4.20) but it may be that instalment payers comply more strictly with the terms of payment than do others hence reducing the burden of enforcement. It is probable that some of these questions will be answered by the two projects currently under way but we suggest that the Home Office should review the position when the results of those projects are available.

Variation of terms of payment of fines

9.23 Many fines are in the event paid other than on the terms which were originally ordered by the court. Frequently courts will order a defendant to pay the fine in full within a fixed period from imposition but subsequently he will either be given a longer period of grace or permitted to pay by instalments. In addition, courts may at a later stage vary the size and duration of instalments from that originally ordered. Such variations can result from the appearance of the defaulter before an enforcement court where the magistrates will examine his means and then order payment by instalments or otherwise vary the terms; in many other cases however, defendants apply to court staff (usually the cashier or a member of his staff) who will themselves, if they consider it appropriate, allow payment by instalments instead of in a single sum or vary the rate of instalments without reference either to a magistrate or the justices' clerk.

9.24 The methods by which court staff vary terms of payment can be broadly divided into two types, active and passive. Passive variation involves at one extreme failure to take action to enforce payment of a fine immediately upon the occurrence of default. This can occur involuntarily when the court is under severe pressure and fine enforcement is simply abandoned but even when there was no pressure every court which we visited allowed a period of grace to defendants. Moreover, checks to identify defaulters will be carried out at intervals of greater or less duration. It follows that, in the case of an average defendant given, say, 14 days to pay from the date of imposition, up to 5 weeks can elapse between the date of imposition of a fine and the date upon which enforcement action is taken despite the fact that only 14 days was allowed for payment. Even when default has been identified, the court staff may well accept part-payment together with a promise that the balance will be paid at some future date or they may accept payments of instalments, either instead of a lump sum or at a lower rate than was ordered by the court. These activities may well be beneficial in that over-rigid adherence to the exact terms of court orders would simply result in more defaulters being brought before enforcement courts and not in greater receipts of fines; the attitude that in the long run it is best to let defendants pay at a low rate if it is clear that they will continue voluntarily until the fine is eventually paid appeared good sense to us (although the effect of administrative costs and of the lower value of revenue deferred should not be entirely overlooked).

9.25 "Active" variation involves court staff in positive alteration of the terms of payment laid down by the court which first imposed the fine. A very common instance concerns motoring offences dealt with in the absence of the defendant, where the fines imposed may follow the "tariff" and take no account of means, and so can be harsh on impecunious defendants. In these cases, a number of the courts which we visited indicated that their staff would not hesitate to allow the defendants concerned to pay the fine imposed by instalments. In cases where a defendant has been ordered to pay a fine by instalments

by the court, the staff may alter the rate of instalments if circumstances have changed eg. in cases of unemployment. Generally court staff seemed more reluctant to alter instalments which had been granted by magistrates than to alter an order that a fine be paid by a certain date into a series of payments by instalments, on the grounds that in the former case the magistrates could be assumed to have addressed themselves expressly to the defendant's ability to pay. The only instance where court staff felt a major inhibition about altering the terms of payment of a fine related to cases where a suspended committal warrant had been issued by the magistrates.

9.26 Alterations to the terms of payment of fines of the sort described above, which have also been noted by Morgan and Bowles and by Casale, were frequently authorised by very junior staff without any reference to higher authority. No justices' clerk whom we met had laid down instructions concerning the variation of terms of payment: rather all appeared to rely on the good sense of their staff. We are concerned that, under these arrangements, inappropriate decisions might be made and that, at the very least, there is no guarantee that like cases would be treated alike. We do not think that it would be desirable to discourage the practice of administrative variation of fines completely as this would remove the element of flexibility which we found to be crucial to good fine enforcement but we think that the Home Office should examine the implications of the practice with a view to its regulation.

9.27 Monitoring performance

During the course of our discussions with justices' clerks we were struck by the fact that management frequently did not know how well their fine enforcement staff were performing; instead, they tended to take the line that if nothing had obviously gone wrong then everything must be all right. This view was reinforced by discussions with enforcement staff who in some courts gave different information from the clerk as to, for example, the frequency with which the cards were checked for default. We have already suggested when considering the identification of defaulters and the use of instalments that a senior officer should take responsibility for fine enforcement in each court (see paragraph 9.6). These are of course only two facets of the overall task of fine enforcement which has to be carried out in any court and if the exercise is to have any point at all courts will wish to monitor their overall performance in all aspects of fine enforcement.

9.28 Precisely how clerks choose to monitor performance in their own office is naturally a matter for them to decide in the light of local needs but we would suggest that there are two aspects which should be covered; first, management should encourage good enforcement practice for the future and, second, it should examine performance over time, by way of statistics, in order to determine the court's workload and how successfully it is coping with it. As far as the former is concerned we have already suggested (in annex Q) that clerks should lay down targets for intervals which should elapse between various stages in the enforcement process, for example, that a reminder should be issued two weeks after a defendant has defaulted. It would be

report on fine default. The Home Office Statistical Department's recent study of the operation of the Bail Act 1976 has yielded much useful information about delay and the Scientific Advisory Branch carried out a survey of staff in magistrates' courts in England and Wales which proved most useful. We are grateful to have had access to unpublished material from these research sources. We were clear, however, that there was no substitute for direct experience and knowledge of the views of those concerned "in the field". Accordingly, we devised a comprehensive programme of visits which would enable us to take into account the views of those concerned with magistrates' courts in both central and local government, of those working in the courts themselves and of other interested bodies. The Justices' Clerks' Society played a crucial role in all this, both by nominating two of their members to sit upon our Steering Committee and by acting as a point of contact between us and the courts; this was particularly valuable when we came to select a cross-section of courts which would give us an insight into the problems faced by the courts as a whole.

The Home Office and the Lord Chancellor's Department are the two central government departments principally concerned with magistrates' courts and we talked to officials working in a number of divisions within these departments. We met the President and Secretary of the Magistrates' Association, the Secretary of the Standing Conference of Clerks to Magistrates' Courts Committees, a Past President of the Association of Magisterial Officers and representatives of the Law Society. Locally we met members of the probation service and of the police as well as defence and prosecuting solicitors practising in some of the courts which we visited

Since all discussions were on a non-attributable basis, we have deliberately not listed here the courts which we visited or the clerks to magistrates' courts committees (one independent, two local authority chief executives and four justices' clerks) or local authority officials whom we met. We found these visits immensely valuable, as can be seen by the references to our experience throughout this report and we would like to take this opportunity to thank all those in the courts and in local authorities who co-operated so generously with us by giving up so much of their time and patiently answering our queries. We trust that they will understand why we cannot publicly credit them with our thanks.

Rather than use a formal questionnaire we prepared for our visits to courts an aide-memoire covering the topics with which we were concerned, a copy of which is at annex C. We adopted a similar approach when visiting local authorities and magistrates' courts committees; a copy of the note which we used for these visits is at annex D.

The structure of the report

The report starts with a description of the working of the magistrates' courts system as at July 1981 (chapters 1 to 3). It seemed to us that it was essential to have a thorough understanding of the way in which the different elements concerned in the administration of the courts operated and interacted before we could go on to make any detailed assessment and suggestions for change; moreover it appears that no attempt has previously been made to describe how the system works in practice within the statutory and consitutional framework and this exercise therefore has some wider value in itself. Chapters 4 to 6 and 7 to 9 deal with the two

PART I - INTRODUCTION

Establishment and terms of reference

The Working Group on Magistrates' Courts was set up in February 1981 with the following terms of reference:-

> "To consider, on the basis of the present legislative framework, the implications for central government of the work of magistrates' courts; and to review, in particular, what kind of help might most usefully be given to courts in (a) reducing waiting times, and (b) improving fine enforcement procedures."

The members of the Working Group were Mrs B H Fair, Miss S E Rice and Mr N S Benger. Dr T Church of the Vera Institute of Justice acted as consultant to the Group and took part in a number of the visits we made and discussions we had. He provided us with a great deal of valuable assistance for which we are extremely grateful.

The Group's establishment reflected a growth in interest in the efficient running of magistrates' courts and in the way in which they interact with other agencies and the aim was to assist the Home Office in deciding whether there were any initiatives that could usefully be taken towards fostering efficient running and effective liaison, within the existing framework in which magistrates' courts operate. In the light of this, the Group sought information on the working of the magistrates' courts system in general as well as conducting enquiries into the specific aspects indicated by our remit.

The Steering Committee and its meetings

A Steering Committee was set up to provide guidance for the Working Group in its inquiries: annex A lists the members of the Committee including the changes which occurred during the year. The Committee held 5 meetings: at the first, the outline of the work programme for the group was considered and approved; the succeeding two meetings were largely concerned with discussion and guidance of our work; the final two meetings considered drafts of the substantive sections of our final report. We should, however, make it clear that the final content and presentation of the report is the responsibility of members of the Working Group; the Steering Committee provided much helpful advice but did not seek to constrain our conclusions. We should like to express our thanks to the Committee for their assistance. To have the views of people with substantial experience of the magistrates' courts system was most valuable and contributed greatly to the writing of our report.

How the Working Group carried out its work

Our first task was to study the existing literature and gain an impression of the current state of knowledge with the aims both of informing ourselves and of ensuring that we did not replicate any existing work. (A list of material available is at annex B.) We found that there was comparatively little published material which bore directly upon the remit which we had been given. However, we were fortunate in that our inception coincided with a number of research studies which provided useful information. In the field of fine enforcement there were projects by Mr Softley of the Home Office Research and Planning Unit, by Mr Morgan and Dr Bowles of Bath Univeristy and by Dr Casale of the Vera Institute. In addition NACRO published a

relatively easy for the senior officer in charge to see whether these targets had been met and also to ensure that effective, but not rigid and oppressive, enforcement action was being taken; one method which we would suggest is for him to check through the fine cards at regular, perhaps monthly, intervals taking a sample of one in twenty. This would give him an accurate picture of the state of fine enforcement in this court and at times of pressure he could assess the situation for himself and decide on priorities.

9.29 So far as the collection of statistics is concerned, the aim should be to provide the court with a measure of its success over time and there is no need for very detailed figures. We would suggest that courts might want to measure trends in the amount of work in hand and coming in, for which the number of accounts seems a better guide to workload than the monetary aggregate of fines imposed. It would also be useful for a court to know the level of enforcement activity required, as measured by numbers of reminders, warrants etc. and of appearances before an enforcement court together with the number of fines which remained uncollected. Ideally, another measure of performance would be the level of true arrears ie. monies due but not yet received but there is in practice no prospect of a court using a manual system being able to calculate this, although we understand that computerised courts could, and in some cases, do. All the information which we have suggested might be collected is already available in one form or another within courts and the extra effort involved in collection should therefore be slight. For this effort, individual courts should obtain a picture of their fine enforcement performance together with warning of any problems and their effects. If these problems are clearly such that the existing staff cannot be expected to cope then the court will be better placed to provide statistical back-up for any request for additional staff, and will also be able to use the information to demonstrate the impact which extra staff could have. (Further comments on information which could be obtained are contained in chapter 12).

Cost-effectiveness

9.30 This has already been discussed briefly in paragraph 8.16 on the role of the Internal Audit Service; these paragraphs seek to refine the points made. We are aware that it would be all too easy to make recommendations which might produce an excellent enforcement system but only at a ridiculously high cost. We have accordingly tried to make suggestions which put forward alternative methods of work rather than propose extra tasks. We did, however, encounter on a number of occasions complaints that courts had insufficient staff to carry out the job of fine enforcement properly. Clearly, if true, this can be a false economy as failure to identify and pursue defaulters will lose the Exchequer money; one court cited the example of an extra member of staff who was employed at an annual salary of £4000 and by whose efforts arrears were reduced by £12000 in one quarter. As noted elsewhere, enforcement tends to be something of a cinderella and is the first area to suffer when the court as a whole is under pressure. To say the least, it seems likely that this attitude leads to enforcement offices not getting a fair share of those resources which are

available. To change this attitude is not an overnight job, but we would emphasise that speedy and efficient fine enforcement is vital to the credibility of the magistrates' courts given the number of fines imposed annually in this country.

9.31 In addition to looking at ways of allocating staff and considering new posts we think that working methods could be revised. Firstly, we would repeat our suggestion that the question of physical security be re-examined with an eye to the costs involved in taking some of the steps recommended as against the likely loss if nothing is done. Courts should also assess the effort which they devote to the enforcement of fines, the costs involved and the effectiveness of the methods used. For example, reminder letters may be as effective as summonses in eliciting immediate payment but are likely to be cheaper. Insufficient information exists at present upon which to base more detailed recommendations in this area but some useful interim findings have come from the intensive study by Morgan and Bowles of fine enforcement procedures at two courts; additional useful material should become available when the results of Softley's study are published.

9.32 The study by Morgan and Bowles had as one of its aims the identification of the resource costs of fine enforcement, in particular those associated with variations in enforcement policy and practice and its results have been most useful in informing our own view of the situation. It suggests that a distinction can be drawn between the routine costs associated with fines (eg. record-keeping) and those costs specifically associated with the active enforcement of fines; the former costs are unavoidable even if there is no default whereas the latter can be varied. Another preliminary conclusion reached is that it is extremely difficult to assign costs to particular functions of courts (such as enforcement) because the accounting systems divided expenditure by category (such as buildings).

9.33 Taking these factors into account it is still possible to draw useful conclusions about costs. Firstly, although it is difficult to calculate the total costs of fine enforcement it is comparatively easy to work out the marginal costs ie. those connected with fining proportionately more defendants or hiring additional staff. This is because this type of change bears almost exclusively upon labour costs. Clearly, this argument does not stand up when large-scale changes are implemented and there is also the problem that the costs of intensifying enforcement activities may be sensitive to the degree of intensification; in other words, it may be possible to handle a minor increase in workload by hiring additional clerical assistants, but a major increase could be disproportionately expensive.

9.34 Morgan and Bowles also emphasise that the costs involved in changes in enforcement do not fall entirely, or even necessarily mainly, upon the courts. For example, if a court increases its enforcement effort this will entail the issue of more warrants. This will bear most heavily upon the process servers, who may be civilians, but in most areas are police officers; the execution of a warrant involves considerable effort and there are no economies of scale. At the courts studied, it was clear that the enforcement costs (see

paragraph 9.32) fell far more heavily on organisations outside the courts than on the courts themselves.

9.35 This means that the courts need to be conscious of the effect of changes in their activities upon outside bodies. This is not to say however, that they should do nothing for fear of overburdening other parts of the system. For instance, some courts which we visited have considered ceasing to use means summonses and reminders and switching entirely to the use of warrants because they are more "effective". In court terms this is undoubtedly true in that the response rate by defendants is very high and the extra cost to the court as compared to that involved in the issue of reminder letters and summonses is minimal. The burden on the police is however, considerable and their costs correspondingly large. In this context, it should be noted that over 10 years ago the Home Office advised magistrates' courts that they should, where possible, minimise the calls made on police officers by eg. employing civilian fine enforcement officers and ensuring that the police did not perform clerical jobs (Home Office Circular 112/1970).

9.36 We have one final suggestion under this head, again based on observations by Morgan and Bowles. At present there is insufficient information on the manner in which individual court staff allocate their time between different tasks and without detailed estimates of how much extra work would be generated by increasing enforcement effort it is impossible to say how much this additional effort would cost. We therefore recommend that consideration be given to further research in this area with a view to making a more accurate determination of these costs.

Home Office contribution

9.37 We have said comparatively little about assistance which could be given by the Home Office in improving fine enforcement. This is because we recognise that improvements in fine enforcement are likely to come about largely as a result of local initiative. On the other hand, we believe that central government does have a valuable role to play, particularly in the context of inducing a favourable climate. Enforcement has not been regarded as having a very high priority until now, and the Home Office could help to achieve a change of attitude by making it clear that enforcement is seen as an important activity, for example by monitoring arrears figures which, although not very valuable in themselves, nevertheless can be used to indicate trends. The proposals which we make for greater exchange of information (see chapter 13) will assist in this process as various methods which have proved successful in one court can be transmitted to others and the Home Office can feed in the results of any research which may be of assistance.

9.38 There is one specific area where practical assistance can be given. In chapter 2 we pointed out that the approval of C2 Division is required before an additional post may be created. When looking at cost-effectiveness (see paragraphs 9.30-36) we noted that in appropriate circumstances there could actually be a financial gain in taking on additional staff to deal with fine enforcement. We therefore suggest that the Home Office should, in considering

applications for additional enforcement staff, bear in mind the possible contribution that these can make to increasing the amount of fines which are actually received. The courts concerned should however, be expected to demonstrate how improvements are likely to result.

9.39 We have noted earlier (paragraph 8.15) the role played by the police in executing means enquiry warrants. We believe that the Home Office, as the department responsible for both the police and the magistrates' courts, could take a lead in exploring, first, what functions if any in respect of fine enforcement can be transferred to court staff from the police, thus bringing the whole process more directly within the courts' control and, second, what improvements could be made to police procedures for executing warrants for example, by making regular returns to court of all warrants held which would assist the courts to monitor progress (see paragraph 8.14). In particular the relative effectiveness of different types of personnel in this area would repay further investigation.

9.40 We believe that there is scope for the experimental introduction and monitoring of changes of practice in the area of fine enforcement such as those we have discussed in paragraphs 9.5 to 9.11, and 9.19 above. We suggest that the Home Office should consider, in consultation with the Justices' Clerks' Society, the initiation of action research involving the adoption by a court or courts of one or more of the specific suggestions which we have made.

9.41 Conclusions

In the course of this section we have made a number of detailed recommendations concerning fine enforcement and there would be little point in repeating them here. There are, however, some general conclusions which emerge. Firstly, fine enforcement has a lower priority than many other functions in most courts; while this is understandable given that failures in fine enforcement are far less visible than failures in, for example, case scheduling, it is both necessary and desirable for all courts to accept that efficient fine enforcement is a vital element in the judicial process, whose credibility must be maintained. Both the Home Office and the Justices' Clerks' Society have important roles to play in emphasising the importance of enforcement in the future. The Home Office is concerned with the provision of adequate resources, and we believe that sympathetic consideration should be given to requests for extra staff where evidence of likely improvements in enforcement justifies this action. The role of the JCS as the professional body concerned is of great importance, both in encouraging individual clerks to look anew at enforcement and in disseminating information about good enforcement practice.

9.42 It was interesting to note that, while a majority of justices' clerks felt that the sanction of imprisonment was an essential underpinning to the entire structure of fine enforcement, nobody favoured its actual as opposed to threatened use, because it was accepted that the aim of enforcement was to collect the money.

The various methods listed in chapter 8 by which pressure could be brought upon a defaulter to pay up, were all used to a greater or lesser extent by the courts which we visited but it is interesting that there was no consensus as to which was the most effective, individual courts each having their own preferences and clearly also selecting different methods to suit different circumstances. It did however, become apparent that whatever action was taken it should be taken quickly if it was to have effect, and this impression is backed up by previous research findings. We would not wish to discharge clerks from experimenting with different methods of enforcement in order to determine which are the most effective for their own circumstances, but rather we would wish to emphasise that speed is vital to all methods of enforcement.

9.43 The final general conclusion which we have reached is that a rigid approach to fine enforcement is unlikely to be effective and may well result in injustice to individual defaulters. On the other hand, to maintain the credibility of the system it is essential that fines are enforced in all cases where it is appropriate. One court which we visited summed up the essentials of fine enforcement by stating that firmness should be combined with flexibility; we cannot improve upon that definition.

PART V - IMPROVING THE WORKING OF THE SYSTEM

CHAPTER 10 - INTRODUCTION

10.1 Chapters 1 to 3 of this Report described the way in which the magistrates' courts system works at present and chapters 4 to 9 considered the two areas - waiting times and fine enforcement - to which our attention was expressly directed by our terms of reference. Both our general examination of the system and our scrutiny of two specific aspects of administration have suggested to us that, while there are no grounds for saying that the system does not at present "work", there is nevertheless scope for improving its working within the present constitutional framework. Accordingly, this section of the Report seeks to discuss the changes which might be made in the interests of improved efficiency and better use of resources. Chapter 11 examines a number of aspects of the management of the system, both locally and centrally, where we see the possibility of a change of direction or emphasis. We have not attempted to cover all the areas discussed in our description of the present working of the system but have concentrated our attention on those areas where both change seemed necessary and it was possible to suggest it within the terms of our remit. We are aware too that in some of the areas we cover changes in procedure are under discussion even as we write. Chapters 12 and 13 deal with two areas where we see scope for development at a number of levels. Chapter 12 will consider the provision of data for management purposes, in the first instance for the use of courts themselves but with the possible wider applications, and chapter 13 will deal with ways in which central government can foster efficiency and the adoption of good practices by the dissemination of information.

10.2 First, however, it may be helpful to try to evolve some statement of the aims to be sought, or the criteria to be followed, in the management of the magistrates' courts system. It can be said that the function of the courts service is to enable the magistracy to deal appropriately with the matters which fall within their jurisdiction. Essential to this are the provision of:

- sufficient suitable accommodation for the hearing of cases and for ancillary tasks;

- sufficient staff of adequate calibre to prepare cases for hearing, to assist the magistrates in the hearing of cases and to arrange for the carrying out of the appropriate disposals.

The courts should be enabled to carry out these tasks in accordance with the interests of justice but also, so far as possible, speedily and with an efficient use of resources.

10.3 There are in essence three tiers of management responsible for ensuring that the courts service is able to carry out its function in this way. The first two embody the principle, that is a local service, locally administered. The detailed, day to day administration and, to a large extent, the organisation of the work of the individual petty sessional division is - and must remain - in the hands of the individual justices' clerk, while the initial responsibility for the provision of the necessary resources and for assisting the clerk to operate efficiently and economically within

those resources lies with the magistrates' courts committee and the appropriate local authority. However, the system recognises the existence of the magistrates' courts service is not a matter of purely local interest. This is implicit in the payment of specific grant at a rate higher than that of the normal block grant which central government makes in support of local authority expenditure. Expenditure on magistrates' courts is in effect by this means encouraged regardless of local preference. The underlying assumption must be that it is national policy to have a properly organised and consistent system of summary justice throughout England and Wales and it would seem to be a corollary of this that some kind of national standards of service, efficiency and cost are to be expected. And as the MCC and the local authority have to weigh, in providing for each court, the claims first of other courts in their area and next of other areas of local authority expenditure, so central government must have regard to other claims on public expenditure and to overall expenditure limits. But all levels should be interested in the most efficient use of available resources.

10.4 There has to be a balance between the local and central elements in the management of the system. We are aware that central government has frequently felt inhibited from taking initiatives both generally and on particular issues because of its sensitivity to the constitutional sensibilities both of MCC's and of individual clerks. But the taking of a more interventionist stance need not imply a change to central control and direction. We believe that it should be possible for central government to develop its role in ways which need not cause alarm to the local elements in the system and which they should, on the contrary, be able to welcome as supportive and likely to assist their own efforts to achieve greater efficiency. There is in our view scope at all levels for a more positive attitude towards the management of the system.

specific topics included within our remit, excessive waiting time and fine enforcement. Both these sections draw on the information which we gathered during our visits and on the results of the various research projects to which we have referred. Chapters 10 to 13 contain our conclusions as to the working of the system with a number of suggestions for its improvement, particularly in the field of exchange of information.

CHAPTER 11 - MANAGING THE SYSTEM

11.1 If the magistrates' courts system is to become more efficient, justices' clerks, MCC's, local authorities and the Home Office all need to be in a position to inform themselves as to the courts' performance and to take action on the basis of what is revealed. Ways in which the performance of the courts could be monitored are discussed in chapter 12. Here we are concerned with the use to be made of such information. We do not believe that it is possible on the basis of quantitative data as to the workload, staffing etc of a court or group of courts to say categorically that one is efficient and another not. But it should be possible to identify areas (both geographical and functional) which seem likely to repay investigation. Clearly the degree of investigation of performance which can be carried out is constrained by the resources available and we do not think it is within our remit to propose any large-scale expansion of the management elements of the magistrates' courts system (although we discuss in chapter 13 below, in the context of the encouragement of good practice, the implications of one option for a stepping up of effort: namely, the establishment of an inspectorate). But we think that a comparatively modest expansion of effort, particularly - but not solely - at the central government level, could make a not insignificant improvement in the ability to foster greater efficiency.

CENTRAL GOVERNMENT

11.2 The concern of central government should, we have suggested, be with the achievement so far as possible of national standards of service, efficiency and cost. We shall look at certain specific areas of central government activity to see how far they are in a position to contribute to this and suggest certain ways in which their role could be developed. Central government involvement in the management of the magistrates' courts service manifests itself in the following areas:

a. the preparation of estimates for the service as a whole and the payment of grant to individual paying authorities;

b. the approval of building projects;

c. the approval of applications for increases in staff;

d. the oversight of fines and fees and collecting officer accounts;

e. the approval of proposals for computerisation;

f. the appointment and training of magistrates;

g. the training of staff.

There are of course other areas, as we have noted in chapter 4, where central government has an interest in what goes on in magistrates' courts but these responsibilities appear to be the ones which relate to the management of the courts as such: in other words, to how the courts are run. Most of them rest with the Home Office but the appointment of magistrates is the responsibility of the Lord Chancellor's Department and that department's Internal Audit

Service acts as the Home Office's agent in inspecting courts' accounts. We intend to concentrate in what follows on the responsibilities listed at a., c., d. and e. above (the training of staff will however be touched upon in chapter 13 below). We take as our starting point the description of each of these areas in, respectively, paragraphs 2.4 and 5 and annex H (estimates and grant), annex F (applications for staff), paragraphs 2.6 and 2.11 (accounts) and paragraph 2.12 and annex K (computerisation).

Estimates and grant

11.3 At present, the Home Office makes provision in estimates as to the overall amount of money which will be available to be paid out in grant to local authorities in respect of magistrates' courts. In parallel, MCCs and local authorities will be drawing up individual budgets for each non-metropolitan county and each metropolitan district. As matters stand, there seems no way in which a match can be guaranteed between the overall provision in Home Office estimates and the aggregate of the individual budgets produced by MCCs in consultation with their paying authorities. As it happens, hitherto any increase in total expenditure has in the event fallen within or only minimally above the amount allowed by the Home Office (in consultation with the Treasury) for growth in the courts service. That total is, however, made up of a large number of separate budgets and their behaviour has not shown a consistent pattern. Annex R contains tables which show that in recent years the growth in expenditure has varied substantially both as between different counties and districts and, for any particular county or district, as between different years. The significance of these variations and some of the possible reasons for them are discussed in the annex. Given the size of the variations, one may perhaps be forgiven for supposing that it has been largely a matter of luck that the greater and lesser increases have balanced out to keep overall expenditure so closely in line with central estimates. This is significant in that, whereas the block grant to local authorities is a fixed sum, the Home Office is committed to pay 80% of whatever total expenditure is on the magistrates' courts service.

11.4 The Home Office has no advance firm information as to the size of the budgets that are being formulated in the different areas for the coming financial year. (At one time the DOE return of expenditure, received by the Home Office in August, included estimates by local authorities of their current year's spending; this is no longer sought, as part of the cutting down of information to be supplied by local authorities to central government). Some indication of a potential mismatch may be given by paying authorities' reactions to the size of the first quarterly instalment of grant which they receive but, as the tables indicate, there is no consistent relationship between individual budgets. Indeed, given in particular the variation over time, it seems likely that the Home Office's forecast division of grant among paying authorities, based on previous years' expenditure, may well follow a different pattern from that presented by those authorities' own forecasts of expenditure.

11.5 The other potentially serious gap in the information available to the Home Office concerns the relationship between the planned and actual expenditure of individual MCCs This does not only mean the lack of a useful indicator of relative efficiency but also that the Home Office has no way of exerting even indirect influence on the amount of central funds being spent in one county or district as opposed to another. The only discipline exerted is that of the local authority through such concern as it feels for the size of the bill for which its 20% contribution will render it liable.

11.6 We would suggest that the Home Office should know in advance and in at least as much detail as is given in grant claims how much individual courts committees are planning to spend in the coming financial year. This should not be taken to imply Home Office intervention in the size of those budgets nor would the timing allow for adjustment of the forecasts of the total which the Home Office would already have had to make but it would mean that the Home Office would know at a relatively early stage, first, whether its own forecasts and its provisional allocation of grant among paying authorities were realistic and, second, whether MCCs were planning any exceptional items or areas of expenditure or any significant increases. It is of course the case that Home Office approval is specifically required for new building projects and for increases in staff and that these to a large extent represent the most significant elements in magistrates' courts expenditure. On the other hand, the Home Office is not necessarily aware of other changes which may significantly affect overall expenditure or of the precise point at which approved changes may affect the MCC's budget. This deprives it of any real ability to influence MCCs towards the adoption of good practice or the improvement of efficiency.

11.7 In theory, the Home Office holds a weighty management tool in respect of magistrates' courts expenditure in the form of its power to withhold grant. However, not only is this a blunt instrument but as matters stand it may be doubted whether the Home Office has sufficient information even to consider its use in the majority of cases although it can query items on grant claims and may occasionally ask the District Auditor to investigate, say, a large increase over the previous year. We do not suggest that the actual withholding of grant is something which ought to be contemplated other than rarely but it does seem that the Home Office could pay more attention to the breakdown of expenditure on various budget items and, in particular, to the variations that exist between different areas. Annex S contains figures comparing the workload and staffing of and expenditure on magistrates' courts in all counties and districts other than Greater London and discusses their significance. Clearly some of the variations which the tables there show between different areas in respect of, say, caseload per member of staff or employee costs per case can be accounted for by geographical and other differences and the discussion in the annex indicates this. But not all the variations can be accounted for in this way and it is not unreasonable to suggest that some of them may indicate variations in efficiency as between different areas. We think that there would be scope for the Home Office to put some effort into examining what lies behind some of the apparent discrepancies of this kind: why, for example, the staff/workload ratio varies and what relationship such variations bear to

efficiency in case processing, fine enforcement and so on? or why staff costs vary and what relationship these bear to efficiency? Such information would assist the Home Office in resolving appeals by local authorities against MCC determinations, which are increasingly relating to larger areas of the courts budget. And there might be scope for using grant powers to encourage expenditure on particular areas of activity.

Staffing

11.8 Home Office decisions (made in C2 Division) on the approval or rejection of applications for additional posts seem to us to be taken without the benefit of all the information that would be necessary or desirable. This means that there cannot be the degree of confidence that there should be that such decisions are always the right ones given the particular circumstances - although this is not to suggest that care is not taken to reach the best decision possible on the merits of the case.

11.9 Each application is normally considered in isolation and there is no basis on which the numbers and grades of staff working in a particular area or performing a particular function at one court can be compared with those in other psds with similar characteristics as to, for example, population and workload. Nor is there any set list of information relevant to decisions on staff numbers which courts are expected to provide to justify applications for increases.

11.10 We suggest that such a list could with advantage be drawn up and MCCs notified that in future applications for additional staff would be expected to be accompanied by as much information as can be made available on those items in the list which are relevant to the area of work for which the additional post is sought. Ideally a standard form should be devised for these applications but in any case the list of information to be supplied ought to include:-

a. relevant workload data for the last x years (see below);

b. present staff of the psd or psds concerned by area of work and grade;

c. any special staff arangements, eg peripatetic or shared posts;

d. the location of court rooms and offices and any special features relating to these;

e. any special features of the court's work, eg presence of a fixed penalty office.

It would be necessary to ensure that all courts used the same definitions for quantitative data. We discuss in chapter 12 of this section the sort of workload data which a court ought to be capable of producing without undue effort: it should at a minimum for these purposes include not merely criminal, traffic, juvenile, domestic and licensing proceedings filed and disposed of but also numbers of fine and maintenance accounts in action and details as to the numbers of sittings both overall and at any one time and as to trends in waiting time, though not all of these would necessarily be relevant to every application.

11.11 We believe that the evaluation of data of this kind ought not to add appreciably to the work of C2: indeed the adoption of an accepted list of information to be supplied should alleviate the task by removing the need to seek additional information after the application has been received, while the availability of quantitative data ought to make the task of decision-making easier as well as rendering the decisions reached more defensible. It would be helpful in assessing applications if a body of information were developed as to current court complements and so forth. The opportunity to lay the base of such an information store arises with the existence of the returns to the recent questionnaire on staff numbers. This should not be allowed to lose its usefulness through a failure to keep it up-to-date and very little effort should be needed to do so: all that is required is for any approved addition to staff to be entered in the existing record. This could be done by updating the present information which is stored on the Home Office DEC VAX computer (ex-SAB computer).

11.12 It might also be possible to store any information received about workload on the computer. This would enable a data base of information to be built up gradually, which might also include other data which is available centrally, such as criminal statistics. Although some technical effort would be needed initially to produce programs which allowed the data base to be updated or interrogated, the main effort required would be in keeping the information up to date. In return for this effort C2 would be able to have rapid access to information about any particular court and would also be able to retrieve information about courts with specific characteristics; for example about all courts of a given size, or all those in a particular county. It would be necessary for C2 to discuss the feasibility of this idea with the Research and Planning Unit, to determine whether the necessary computer and staff resources could be made available.

11.13 With better information to hand, it would be open to C2 to use staffing applications as a means of encouraging efficiency. Approval for extra fines staff could, for example, be made conditional on the court's demonstrating that it was using an efficient method of identifying defaulters.

Accounts

11.14 The Internal Audit Service of the Lord Chancellor's Department, acting on behalf of the Home Office, maintains a careful scrutiny of the way in which magistrates' courts keep their fines and fees accounts and the Home Office Accounts Branch ensures that the monies it receives tally with the returns submitted to it by courts. Considerable emphasis is placed on ensuring that all monies paid into courts are properly brought to account and that the risks of loss and defalcation are minimised. We would not wish to suggest that this is other than a very proper concern. It does, however, seem to us that concentration on this aspect may be at the expense of attention to the evidence which can be provided in this area as to the performance of courts.

11.15 For example, provided the proper criteria for the write-off of fines appear to have been followed, there seems to be no check either by the IAS or by the Home Office Accounts Branch on the proportion that

individual courts are writing off, although variations here might well indicate varying degrees of effort applied (not of course solely by court staff) to the enforcement of fines: we have touched on this subject already in our discussion of fine enforcement (paragraphs 8.12 and 13). Monitoring of the write-off returns in this way could well indicate where inquiry into procedures and methods might be profitable. This leads on into the role of the audit service: we have already expressed (paragraphs 8.16 and 17) our concern that over-emphasis on physical security may place a burden on staff which can only be met at the cost of a slackening of effort on enforcement. We would suggest that there is room for greater emphasis on the success (or otherwise) of courts in actually collecting in as much as possible of the money owing as fines and (which is in some ways a fairer measure) in obtaining full payment within a reasonable time span of as large a proportion as possible of fine accounts. We have noted, however, that the arrears figures and ratios (crude as they are in that sums not yet due are included in the total) do motivate courts to greater efforts in collection.

11.16 With this in view, we note and welcome the prospect of the general introduction of the new standard manual accounting system which, apart from its accounting advantages, seems to us likely to make it easier to produce figures relating to numbers of accounts, as opposed to amounts of money, and also to lead to greater consistency among the figures provided by different courts.

Computerisation

11.17 The subject of computerisation is closely linked to that of accounts, since in most cases it has been the accounts application that has led courts to consider the acquisition of a computer. It is in our view essential that this fact should not be allowed to dominate the approach to computerisation in the magistrates' courts service: the potential uses of computers for enforcement and for pre-court work are equally important and the production of management information is a significant by-product.

11.18 So far computerisation has proceeded in magistrates' courts in a relatively piecemeal fashion and without real central direction. The Home Office, although by circular requiring consultation with the IAS and the production of evidence of potential savings, has not sought to operate an approval procedure for computerisation projects in the same way as it does for buildings and staff increases. We have noted the interest shown by the Public Accounts Committee in this area (as well as in that of fines and fees accounts) and the response indicating intention on the part of the Home Office to take a more positive attitude. We think that enhancement of the advice available to courts would have value not simply in relation to the saving of public money but also in the interests of promoting efficiency. While it is clearly not necessary for all courts to have the same computer system, given the different procedures they follow in many respects, there would seem to be much advantage in promoting compatibility in some areas, most notably in relation to any statistical packages which are being sought. Our impression is that courts would welcome more assistance with computerisation: they recognise the limitations to IAS expertise in that the IAS is concerned only with certain aspects of court work. We think that

the Home Office could well explore ways of providing courts with more wide ranging computer advice, taking account of possible future developments, such as the use of microcomputers.

11.19 There is one further point that we should wish to note in this area. In assessing staff savings to be made by the introduction of a computer, full account should be taken of the contribution which computerisation can make to enabling jobs to be done (or done better) which would otherwise have been left undone (or inadequately done) through pressure of work. If no fewer staff are employed but, for example, identification of fine defaulters can be done more speedily and more regularly, or the quarterly balance produced with less effort, or the register produced more quickly and accurately, thus allowing more time for other tasks and thus aiding more successful fine enforcement or better court time organisation and consequent reduction of delay, which could not otherwise have been achieved without extra staff, the net gain may be worthwhile.

MAGISTRATES' COURTS COMMITTEES AND LOCAL AUTHORITIES

11.20 We turn now to the role of MCCs and local authorities who should, we have suggested, be concerned with the proper allocation of resources among the courts in their area, with the encouragement and fostering of efficiency in the individual courts, and with monitoring the performance of those courts; they also need to keep under review the number of divisions (and the boundaries between them), of clerks and of courthouses. Some committees have commissioned studies in this sort of area but the degree of attention varies considerably. At the risk of repetition, it is probably worth stressing that none of this implies the issuing of instructions to clerks as to the day to day running of their courts.

11.21 We described in chapter 3 of this Report how it appeared to us that the system in practice worked with reference in particular to the interrelationship of justices' clerk, MCC and local authority. We have singled out for discussion here three aspects of this which seemed to us to be particularly significant. They are: the degree of involvement of the individual justices' clerk, the place of local authority officials in relation to MCC and the procedure for resolving disagreements.

Involvement of the justices' clerk

11.22 We noted that while some justices' clerks had a considerable role to play in the formulation of the courts budget others were only marginally involved and were, in consequence, unaware of the resources available for their court. It seemed to us that there would be considerable advantage for the good management of the system if clerks were, first, involved as much as possible in the discussions leading to the formulation of a courts budget and to the allocation of resources among the different courts in an area and, as a corollary, had a better idea than in some areas they now do of how much was available to their particular court.

11.23 A further aspect of what is essentially the same problem, namely the isolation of the clerk from the management structure, is the practice as regards the attendance of individual clerks at MCC meetings. Where clerks are able to attend these meetings on a

regular basis, it seems clear that there will be a two-way advantage in that the clerks points of view will be made known to the committee and the clerks will be given the chance to appreciate the rather wider issues of which the MCC has to take cognisance and the constraints which may bind it. We recognise that while it is a comparatively easy matter to cater for the attendance of 3 or 4 clerks the position may be different where there are, as in the largest counties, as many as 12. But we would suggest that effort put into devising some arrangement whereby at least some of the clerks can attend, perhaps in rotation, at all meetings and not just when matters specifically affecting their court are discussed will be well worthwhile. At the very least a clerk should attend when matters affecting his own office are under discussion and MCCs might be reminded of the provision to this effect in the clerks' conditions of service.

Involvement of local authority officials

11.24 We have noted the importance in all areas, though greater in some than others, of the assistance, both in services and in expertise, provided by the local authority to the MCC and to individual courts and we have also noted the different arrangements for attendance of representatives of the local authority at MCC meetings. The ability to make use of local authority services and expertise on a regular basis is of undoubted value to the courts and they should, we think, be encouraged to do so. Both MCCs and individual courts should be ready to seek local authority advice on administrative problems and should welcome it if it is offered. Local authorities need, however, in tendering advice or offering assistance, to bear in mind the special needs or constraints within which the courts service operates.

11.25 The nature of the relationship between the MCC and the local authority can be affected by, if it does not entirely depend on, the way in which local authority officials are involved in the deliberations of the magistrates' courts committee. Representatives of the treasurer's and architect's departments may, we have noted, be formally appointed as advisers do so act in all areas of which we have knowledge. If there are any areas where their position as advisers is not formally recognised, we think it would be helpful if this were now done.

11.26 We would suggest too that there would be advantage in regularising the arrangement which appears to be becoming more common whereby a representative of the personnel department attends MCC meeting as necessary and advises the committee on personnel matters. Conditions of service and other staff matters are a frequent subject for the committee and this is an area where expert advice can be most useful. We have also noted that in a number of areas it has been found helpful to appoint someone, perhaps from the Secretary's or Chief Executive's Department, to act as liaison officer between the MCC and the local authority and as a point through which requests for information, advice and assistance can be channelled.

Resolution of disagreements

11.27 It is inevitable that there will from time to time be disagreements between the courts committee and the local authority over the

allocation of resources to the courts service. Some differences may be capable of resolution by discussions between officials on either side but this will not always be the case. Once a magistrates' courts committee has put forward a proposal to the local authority, we have noted that there is in many areas no mechanism for the resolution of the matter if the local authority does not simply accept it. The formal options then are, in effect, for one or other side to back down (with a probable legacy of resentment) or for the matter to go to determination and appeal. We recognise that in many cases some compromise will in practice be reached but we think there would be advantage to both sides if arrangements were formulated and agreed in advance which could be activated in the event of any dispute. This is already done in a few areas and seems to aid in the resolution of disputes. The precise form of such arrangements could well vary according to local circumstances but the sort of thing we have in mind is the designation of, say, three people from each side to form a small sub-committee which could discuss the matter at issue in a relative degree of informality and report back to the two parent bodies.

The individual court

11.28 We have noted that some justices' clerks are comparatively uninterested in administration. Such lack of interest is not conducive to the efficient running of the individual court, given that much organisational responsibility lies with the clerk, and it seems to us that clerks should be encouraged to take a greater interest in the administration of their courts and, indeed, to see themselves as administrators as well as lawyers. It can be pointed out that the efficient organisation of the court may well have much to contribute to the proper administration of justice. Moreover, a greater interest in the administration of the court does not imply that a clerk has to spend all his time on administrative matters: there is everything to be said for delegation of much of the organisational function to an office manager and we suggest that this should be considered in all but the smallest courts. Nevertheless a clerk should be aware of how his court is supposed to be organised and should be ready to respond when problems suggest the need for changes in the organisation.

11.29 We have already noted the advantages of putting a comparatively senior officer in charge of listing and of regulating the procedure in fines offices. We believe that time taken out by the clerk to effect this sort of change in court organisation is likely to be repaid in more efficient working and in a decrease in the number of problems coming his way later on. Clerks should not regard it as any reflection on their own competence to turn to the local authority personnel or management services departments for advice on the organisation of their offices and in particular on the demarcation of areas and lines of responsibility.

CHAPTER 12 - MANAGEMENT INFORMATION

12.1 In chapter 11 we commented that the management of the magistrates' courts system can only be improved if adequate information about the system's operation is available. Statistical information is required by each of the three tiers of management which were described in chapter 10. Courts need information to help with day to day organisation; MCCs and paying authorities need it to help allocate resources and to forecast future staff and building requirements; and central government needs it for resource planning and allocation, to monitor the receipt of fines and fees, and as part of the national criminal statistics database.

12.2 This chapter describes the statistical information which is available to the three levels of management at present, comments on some initiatives which are being taken to obtain more or better statistics, and discusses other ways in which the supply of information could be improved.

PRESENT AVAILABILITY OF MANAGEMENT INFORMATION

Courts

12.3 We have found that in general courts keep only very limited management statistics. A few large city courts keep fairly detailed workload statistics, which are often published in the clerk's annual report to the justices. However, each of these courts tends to have its own definitions (for example of what constitutes a "case") and its own ideas about what information is useful. Most medium and small courts keep very few statistics for their own use. This is usually because the justices' clerk believes that he can monitor workload adequately without detailed quantitative information, or because the effort involved in collecting data is considered to be too great.

12.4 Courts do of course have to record some information for other agencies, and when asked for estimates of workload court staff often quote these figures. For example the amount of fine arrears or the number of half day sittings (which is supplied annually to the Lord Chancellor's Department) are often mentioned. These figures, although useful to the agencies which request them, are not always particularly useful for the court's own purposes.

12.5 Court staff also tend to use any figures which are easy to count, even if these are not very good measures of workload. For example the workload of the fines and fees office is often measured by the number of receipts issued, since each receipt is numbered. This is probably a reasonable indicator of the workload of the fines section. Another frequently quoted figure, the number of register entries, is not a useful indicator of court caseload. This figure is also easy to obtain since it is common to number entries consecutively from the beginning of the year. However, it can be misleading because it depends of the definition of an entry (one person or one charge) and also because an increase could be due to an increase in the number of adjournments rather than to an increase in incoming cases.

12.6 Few courts keep statistics on waiting times, probably because they are difficult to obtain. When asked to estimate the length of waiting time, court staff almost invariably quote the length of time before a long contested case could be scheduled. This is not a very good measure of delay because it ignores delays at earlier stages of the case, delays in cases that do not go to trial, and delays caused by repeated adjournments of scheduled trial dates. Also this figure can be altered simply by making more courtrooms available for contested cases.

12.7 It might appear that courts with computers would have no difficulty in producing detailed statistics about all aspects of their workload. In practice, however, we found that courts with computers have no more management information than other courts. Indeed, they sometimes have less; for example a computer may remove the need to number each new fine account, and so the number of accounts opened is no longer readily available. The reason for this state of affairs is mainly historical. Computers were first introduced into courts to perform a fairly limited accounting function, and their potential to assist with other areas of court work was only appreciated later. Three sets of people have been involved in developing the packages which are now available. Court staff provided information about the tasks which computers should perform, and about the way in which these tasks were done manually; software houses and computer companies provided technical expertise but, initially at least, had little knowledge of magistrates' courts work or organisation; and the LCD Internal Audit Service, as described in annex J, has co-ordinated and monitored the acquisition of computers by courts. None of these groups was in a position to realise both the usefulness of management information as an aid to running courts, and also the potential for computers to provide it. Moreover the unwillingness of the Home Office to become involved with computerisation in any detailed way meant that central government statistical requirements were ignored.

MCCs and paying authorities

12.8 Some magistrates' courts committees require all courts in their area to submit workload statistics to them regularly. The level of detail and the definitions used vary considerably between MCCs. Some courts which we visited which had to make such returns showed very little interest in these statistics, and made no use of the figures themselves.

12.9 In some areas we found that an O and M or management services team from the paying authority had suggested useful data which the courts could collect. However, in other areas officials of the paying authority seemed to feel that they could not insist that the courts or the MCC should provide any specific data, although they would have welcomed the opportunity to obtain more information about the operation of the courts.

Home Office

12.10 Although C2 Division is responsible for approving increases in complements of staff in each court, it does not collect regular

information about court staff or the operation of courts. Whenever an application for a staff increase is received, C2 asks for evidence of an increase in workload but does not specify exactly what information should be supplied. Consequently it is not possible to compare courts in different areas. C2 has recently started to ask for the present complement of each court which applies for more staff and figures for staff in post in all courts are available from the recent Home Office questionnaire to courts. C2 Division does not normally have information about the general characteristics of courts, for example their size or location, unless this comes to light in the course of correspondence with the MCC.

12.11 When an application for new or improved court buildings is received, G3 Division will normally ask the MCC to complete a standard questionnaire which asks for details about staff numbers, sittings and existing accommodation for the relevant psd. In some cases another shorter questionnaire is also used. This requests details of sitting hours for the previous five years and is used to forecast future courtroom requirements. Questionnaires will not have been completed for courts where there has been no recent application for new buildings so it is not possible to compare accommodation standards throughout the country.

12.12 Finance Division 1 - Information about broad categories of expenditure is provided by paying authorities. Some staffing information is also supplied by paying authorities, but it is thought to be inaccurate.

12.13 Accounts Branch - receives a return of fines and fees and legal aid contributions quarterly from each court. The present return is an accounting document and is not designed to provide management information, although IAS have suggested that courts could provide some additional information fairly easily. The quarterly arrears figures are at present the only figures which can be used to assess courts' efficiency in collecting fines, but they are misleading because they include sums outstanding but not yet due. Only computerised courts are able to produce "true" arrears figures, although very few of them do.

12.14 S1 Division - is responsible, among other things, for collecting and analysing the data which is published in Criminal Statistics. The information relating to magistrates' courts is the most complete record of the work of the courts which is available. It is designed principally to form part of a database of information about the criminal justice system and not specifically to monitor the workload of the magistrates' courts. Nevertheless it could probably be used more often than it is for resource planning and allocation. The main advantages of this data are that consistent and well-established definitions and standards are used to record it, and that information is available for the whole of England and Wales. The drawbacks to its use are that it is known to be recorded inaccurately in some areas (this is likely to be a problem with any large scale data collection exercise) and that it excludes many aspects of magistrates'

courts' work, notably domestic proceedings and fine enforcement. Criminal Statistics returns are completed by the police which is an advantage in that the police have no reason to inflate or otherwise distort the figures, but conversely, because the police have no interest in the figures, the forms may sometimes be completed carelessly or inaccurately.

Lord Chancellor's Department

12.15 This department receives annual returns showing the number of active justices, the number of half day sittings, and the number of attendances of justices for each petty sessional division (except those in Lancashire, Greater Manchester and Merseyside which send returns to the office of the Duchy of Lancaster). LCD also has an interest in the figures for legal aid applications which are collected by the Home Office and published in Criminal Statistics.

PRESENT INITIATIVES TO COLLECT BETTER STATISTICS

12.16 We are aware of a number of initiatives which are in progress to improve the management information which is collected from courts. In the area of computerisation, the Justices' Clerks' Society has set up a working party to consider the potential for producing management information from computers. Home Office Statistical Department is co-operating closely with the working party, with the aim of producing statistics which are useful for central government as well as for the courts. Statistical Department is also involved with two other initiatives. The first concerns the collection of information about domestic proceedings. Previously statistical returns were completed by the police and the resulting figures were found to be very unreliable. It has now been proposed that courts should record these figures themselves and submit an annual return to the Home Office, and a pilot scheme is to be implemented in the near future. Statistical Department is also actively involved in an experiment to obtain criminal statistics data directly from a court computer, and a pilot study, under the direction of a firm of computer consultants, is to begin shortly. If successful, this could lead to a considerable saving in police effort in those areas where there are court computers, since at present all Criminal Statistics returns are completed by the police. It will also ensure that the data produced is more accurate than at present. In addition, pilot projects on the collection of caseflow statistics have been instituted at Poole and Bedwellty (see paragraph 12.18 below).

STATISTICS FOR COURTS' OWN USE

12.17 There are several reasons why an individual magistrates' court should wish to record management information. Perhaps the most important are:

a. to help allocate resources more efficiently within the court;

b. to examine trends in workload and performance;

c. to compare workload and performance with other courts;

d. to asses staff and building needs.

12.18 One major requirement of any court management information system is that it should not involve a lot of extra work for court staff. Annex T is a paper by Mr Church of the Vera Institute of Justice which describes a simple method of obtaining caseflow and performance statistics using a front sheet (or similar form) which is attached to each set of case papers. The use of front sheets has already been discussed in chapter 5 where they were seen as a means of monitoring case progress. Annex T shows how the same front sheets can very easily be used to produce statistics and describes a trial programme which is being carried out in two courts. The fact that the front sheets are operational documents as well as statistical returns is likely to increase the reliability of the data. A further advantage of front sheets is that, while basic statistics can be produced routinely with little effort, more detailed analyses can also be produced occasionally, for example if there is an interest in particular types of offence or disposal.

12.19 Front sheets can be used to obtain information about most of the activities of the court, but some of the pre- and post-court work will not be included. In particular, additional information may be required about the work of the fines and fees and collecting offices. Again it should not be difficult to obtain some basic figures. For example it is already common to number both receipts and new accounts. Similarly, if, as in the new standard manual accounting system, all current fine accounts are listed at the start of each quarter, this has the advantage of enabling the total number of accounts over time to be ascertained very easily and of allowing the drawing of comparisons.

12.20 Computerised courts have rather different problems. There is a danger that packages will be designed which produce too much, rather than too little, data. It is very easy to program a computer to print out large amounts of information at frequent intervals. This is unlikely to be cost effective, both because of the computer time spent in calculating and printing, and in terms of the staff time required to digest the information. The standard management report produced by a computer should probably be quite short, with the option to produce more detailed figures if they are occasionally felt to be necessary. The other major difficulty for courts with computers, is that of producing statistics which all courts with the package agree to.

12.21 Annex U gives some suggestions for the sort of statistics which courts might find useful. This list is intended only to give an idea of the type of information which might be useful and is not an attempt to dictate to courts what they should record. Each court will have its own particular requirements, and if any information system was to be adopted by several (or all) courts some central discussion of requirements and definitions would be needed.

SUPPLY OF DATA FOR OTHER USES

12.22 The preceding discussion shows that there is a lack of information about many aspects of the operation of the magistrates' courts

system. More information is required at all levels of the management of the system, and in many ways the requirements of the different levels are similar. We have described a simple and economical method by which courts could obtain workload statistics for their own use; it would seem sensible for MCCs, paying authorities and central government to make use of this data as well. This would impose an additional constraint on the data collected: all courts would have to use the same recording practices. From the point of view of the Home Office it would also be convenient if any definitions used were compatible with the Criminal Statistics definitions. It seems to us that comparable information will not be produced by all courts unless there is some central direction. This direction should ideally come from the Home Office which has two reasons for improving the supply of information: to increase the efficiency of local management, and to help with central planning and allocation of resources.

12.23 There are several initiatives which we consider the Home Office could take to encourage the production of useful management information. We do not believe that any major new data collection exercise, for example to collect waiting time figures from all courts, can be justified, because of the additional work which would be involved for the courts and the Home Office. However we do feel that there are several ways in which the present situation could be greatly improved with only a small amount of extra effort.

12.24 We have discussed in paragraphs 11.8 to 11.11 of this section the need for C2 Division to obtain more information when MCCs apply for staff increases. This should provide a strong incentive for courts to record more information. The data should also be useful for courts' own purposes, which should encourage accuracy. In order to obtain comparable information from all courts, the Home Office, in consultation with the Justices' Clerks' Society, will need to draw up a list of items which should be recorded with instructions about how each should be defined. This may cause problems for courts or MCCs which already keep statistics in another form and it will be necessary to decide whether these can be adapted to fit in with the Home Office definitions. Courts should not be expected to keep two sets of figures for different purposes.

12.25 We have also identified a number of other ways in which the production and use of statistics could be encouraged:

a. The Home Office should initiate work, in consultation with the JCS working party, on the development of statistical packages for computers. The aim should be to develop a specification for a set of statistics which can be produced by any of the three main computer systems, and which fulfils the needs of C2 and S1 Divisions as well as those of the courts.

b. The Home Office should continue to explore the possibility of obtaining Criminal Statistics directly from court computers.

c. The Vera Institute experiment to obtain statistics from front sheets will provide much useful information about the way

in which a simple statistical recording system can be established. The Home Office should encourage similar trials in other courts.

d. Consideration should be given to redesigning the form which courts send to Accounts Branch each quarter, in order to provide management information which could be used by C2 Division.

e. The introduction of a standard manual accounting system should mean that all courts using this system can produce statistics about fine collection and enforcement on the same basis. The Home Office, in conjunction with IAS, should compile a list of statistics which could be produced easily by all such courts.

f. More use should be made of information which already exists within the Home Office. For example C2 Division could use Criminal Statistics figures to obtain a rough idea of the size of the workload of individual courts.

g. If possible, any figures which are available for the whole country (for example, staffing figures) should be published, so that paying authorities, MCCs and courts can compare their workload and resources with others.

CHAPTER 13 - DISSEMINATION OF INFORMATION

THE REQUIREMENT

13.1 We have indicated that we believe that there is considerable scope for fostering efficiency in the courts service by the dissemination of information about good administrative practice. In the fields of both delay and fine enforcement we were constantly struck by the fact that many practices which had been adopted in one area could well be introduced equally beneficially in another but that generally speaking if similar practices were adopted in different areas this happened quite independently. This state of affairs is in part a function of the local autonomy of magistrates' courts but it is clearly unsatisfactory that courts should be unable to profit by the experience of other courts in dealing with similar problems but must expend effort on working things out for themselves from scratch. Unless they are very lucky, they will find themselves repeating the mistakes of their predecessors. In the interests of the efficiency of the system as a whole the Home Office may well wish to encourage the adoption by courts of a changes in procedure which have been shown to have produced good results elsewhere. It is however a precondition for any such action that knowledge of procedures successfully adopted and of the circumstances in which they are adopted should be capable first of being collected and secondly of being disseminated. It is our contention that, although some mechanisms exist at present for the dissemination of information, they are far too unco-ordinated to make any real contribution to the spread of good practice. It should be possible for a court or MCC with a problem relating to any aspect of its activities to be able to find out whether other courts or other MCCs had faced the same difficulties; if so, what measures they had adopted to deal with them; what problems, if any, they had encountered in making those changes; and how successful those measures had been. Equally, the Home Office may wish to make available for general consultation statistical data, research results and the like.

13.2 There is in fact a whole range of subjects on which it would be useful for one court or one MCC to be able to draw on the experience of others. We have already, in discussing both waiting times and fine enforcement, identified a number of different responses by courts to what are often very similar problems. Some of these involve specific changes of procedure; others are more in the nature of general administrative improvements and their application is not necessarily limited to one area of magistrates' courts activity. Among the areas where it has seemed to us that the sharing of experience would be of particular value are the following:-

- listing procedures;
- policy on length of initial bail and return of summonses;
- policy on adjournments;
- methods of speedy identification of fine defaulters;
- methods of fine enforcement;
- accounting problems;
- applications of computers;
- accommodation problems
- general office organisation and administrative practices;
- local liaison arrangements;
- local training arrangements.

This list is by no means exhaustive but is intended simply to give an indication of the scope that exists.

13.3 It is not sufficient simply to arrange for information to be made available universally as it comes to notice. That may serve to introduce new ideas and indeed to prompt activity and is of course valuable. But it is equally necessary for relevant information to be available to an inquirer at a time when he is seeking assistance with a problem. Moreover, he must not be overwhelmed by vast amounts of detail which are irrelevant for his particular purposes but equally he needs to be aware of the range of known approaches to problems of the kind in question and of the circumstances in which those approaches may or may not be successful.

13.4 There exist already a number of means by which information likely to be of interest to those concerned with the magistrates' courts is spread through the system. Broadly speaking however, they serve only the first of the needs mentioned above - that of spreading information generally - and do not provide a means whereby an individual court or courts' committee with a specific problem can be given access to the fruits of others' experience of that problem. There is accordingly a case either for developing these existing mechanisms or for establishing new ones to meet this need and we discuss a number of options for this. The possibilities discussed in the remainder of this chapter are not mutually exclusive: it would be possible for some of them to be pursued together while others might be considered for adoption if the more radical options were considered not to be feasible.

DEVELOPING THE EXISTING MECHANISMS

13.5 We have identified the following as the main existing mechanisms for the regular dissemination of information on matters of an administrative nature through the magistrates' courts system:-

(a) the Justices' Clerks' Society branch organisation and annual conference;

(b) Home Office circulars and letters;

(c) training courses and conferences for justices' clerks and their staff;

(d) the Internal Audit Service.

There are of course also from time to time ad hoc meetings of various kinds to exchange information on particular problems within, say, an administrative county or a police area: these clearly serve a useful purpose and merit encouragement. They are not however, a substitute for regular methods of disseminating information.

13.6 Of the mechanisms listed above, the Internal Audit Service perhaps comes nearest to fulfilling the kind of function we have been describing, in that it fosters the adoption by courts of particular practices and can take account in its recommendations to one court of the experiences of others in respect of similar problems. On the other hand its remit is limited to the accounting aspects of magistrates' courts administration (although it extends slightly more widely in respect of the acquisition of computers). We have discussed the role of the audit service in relation to fine enforcement in chapter 9 of this Report and in relation to accounts generally and to computerisation in chapter 11: we do not suggest here any further developments of its role.

13.7 Most (though not all) justices' clerks belong to the Justices' Clerks' Society and the Society's Annual Conference brings together clerks from all over the country for discussion of topics of current interest; for example, at its 1981 Conference the Society discussed, inter alia, the question of delay. Such discussions are useful at the strategic level and as consciousness-raisers but they cannot offer a forum for the exchange of ideas except in the most general terms (and, of course, not all members can attend). For exchange of information at the practical level something less formal but more regular and more universal is needed. It is here that the Society's branch organisation has much to offer and it seems to us that its potentialities in this particular direction have hitherto not been fully explored. We therefore welcome the recent initiative taken by the Society in preparing a paper for circulation among branches which aims at the exchange of information about ventures which have been undertaken by members.

13.8 However, we think that it might be possible to add to this initiative. We are aware that JCS branches have regular meetings (though varying in frequency and formality as between areas) at which they discuss a range of matters of mutual interest but our impression is that these may tend to be judicial or quasi-judicial rather than administrative questions. Members ought to be encouraged to bring forward for discussion at meetings problems of an administrative nature, both general and specific. They should not feel that to do so is admitting a failing on their part and should recognise both that their colleagues in other courts may have previously been confronted by and had to deal with a similar problem and that if a new problem arises it may be easier for several heads jointly to arrive at a solution than for one person alone to do so. Similarly, members of branches should be encouraged to report to their colleagues on changes of procedure which they may have implemented in their own offices and in particular on the problems they encountered in doing so and on the degree of success which the measures they adopted had.

13.9 By definition, branches will include a limited number of colleagues among whom problems and measures to deal with them can be discussed. It would be helpful if it were possible for branches to draw on the possibly wider experience of other branches. A means of doing this may lie in the system whereby a member of the JCS Council acts as a liaison officer for each branch. We recognise that members of the JCS Council are very busy people who already give up a good deal of time to the Society's business and that the Society does not have its own administrative machine. Nevertheless we think the Society might explore the possibilities of developing an information exchange, perhaps by the liaison officers bringing back to Council any particularly significant problems or interesting solutions and the Council's circulating branches with very brief indications of the nature of matters in which other branches had recently been taking an interest. Any follow-up could then be left as a matter between one branch and another.

13.10 It is clear that justices' clerks generally regard Home Office circulars and other communications that they receive from the Home Office as containing useful advice and that as a result they will take note of what is said therein. Circulars may be prompted by the implementation of new legislation, for example, or (which is of more significance for the present discussion) may emerge as a response to a general procedural or administrative difficulty which has come to notice. We have noted, as a particular means of bringing to the attention of justices' clerks generally appropriate responses to problems which have come to notice, the circulation of the reports of the Working Party on Magistrates' Courts. As we understand it, this Working Party has been concerned more with procedural than

administrative matters and it would seem to be helpful for clerks to be encouraged to regard it as a forum to which problems of an administrative nature (other than those of purely local relevance) might also be addressed. More generally, while we do not wish to suggest a substantial increase in the number of communications addressed by the Home Office to busy justices' clerks, there seems to be scope for more use of the Home Office circular to bring to clerks' attention new developments including, for example, the results of research or of monitoring exercises relevant to the work of the courts.

TRAINING

13.11 Initial responsibility for the training of a new recruit to the magistrates' courts service lies with the justices' clerk. It is, however, now accepted that it is both unrealistic and unreasonable to expect individual justices' clerks to provide all the training necessary to transform an unqualified junior into an experienced court clerk and that more formal training should be given which the Home Office should play a major part in organising. Accordingly, some two-thirds of the current Home Office training budget (approximately £320,000 in 1981/82) is at present devoted to maintaining three year courses leading, for successful candidates, to the Diploma in Magisterial Law. These courses were set up to provide qualified staff to act as court clerks and the Justices' Clerks (Qualification of Assistants) Rules 1979 require all court clerks (with certain exceptions for long-serving staff) to hold either a diploma or a professional qualification. It is a measure of the Home Office's commitment to these diploma courses that the full costs of sending students on these courses are met from central funds under section 63(5) of the JPA. (The Inner London Magistrates' Courts Service provides a separate diploma course for its own staff). The Home Office also funds the General Administration Course, which is designed for junior staff who have completed between one and four years service and which covers a wide range of topics principally connected with the administration of the courts, eg accounting, and some specifically legal aspects, eg use of the law reports. There is no requirement to take this course and we understand that progressively fewer applications have been received for these courses and that in the current year the number of courses has been reduced from four to two.

13.12 In addition to these two nationally based courses, courses are arranged on a regional basis, a number of which deal with matters relevant to the administration of the courts. These are courses concerning administration both for junior, inexperienced staff and for deputy clerks and senior staff while others deal with fines and fees accounts and enforcement and with collecting officer accounts and enforcement. The majority however, deal with aspects of the law. There are also induction courses arranged locally, for junior staff, but we understand that these are not held in all areas. So far as justices' clerks themselves are concerned, the increase over recent years in the administrative responsibilities of justices' clerks has caused some clerks to suggest that training in these matters might be of value to them.

13.13 We understand that there have been proposals to modify the existing structure of training by substituting for the existing three year diploma course a four year course, composed of a two year course leading to a certificate and a further two year course leading to a diploma. It was considered that a minority of those completing the course leading to a certificate might wish to specialise in court administration rather than

become court clerks and that this need should be met by a course leading to a Diploma in Magisterial Administration as an alternative to that leading to the Diploma in Magisterial Law. This would have covered such topics as accountancy, personnel management and data processing. We are sceptical of the value of such a course which we understand is in any event unlikely to be established, if only for resource reasons. The holder of a diploma in magisterial administration could not aspire to rise to the most senior ranks in the courts service so long as these ranks are required to be filled by staff with legal qualifications and ambitious candidates are thus likely to prefer the Diploma in Magisterial Law. Secondly, we believe that it is preferable to ensure that prospective justices' clerks are well versed in administration rather than to induce a division between 'legal' and 'administrative' specialisms at an early stage in assistants' careers. There is on these grounds a case for revising the syllabus for the existing diploma in magisterial law to include sections relating to court administration and organisation. Alternatively greater encouragement might be given to qualified clerks, as well as to staff who may not wish to take the diploma course, to attend the general administration course.

13.14 In saying this, we are assuming that justices' clerks' functions will remain as they are now, the provision of legal advice to lay justices and supervision of the administration of the magistrates' courts. In other words, the clerk will continue to be both lawyer and manager; we have drawn attention elsewhere to the fact that at present the lawyer seems to predominate over the manager which may not be in the best interests of the efficient administration of the courts. On the other hand, if an attempt to redress the balance resulted in the manager predominating over the lawyer it is clear that other unfortunate consequences would also result. It follows that training in court administration for these court clerks who will in due course rise to become justices' clerks should be interwoven with the training designed to make them skilled in proffering advice to justices in court. The aim should be to ensure that all future justices' clerks have had some administrative training and experience. It is essential that nobody should be appointed to the post of justices' clerk who cannot demonstrate ability in court administration as well as proven legal ability. This does not imply that clerks should have a formal qualification but that they should have received at least some formal instruction on the subject and have demonstrated as principal assistant or deputy clerk the ability to apply the theory in practice. The matter does not, however, end there. At present, there is no regular training provision for serving justices' clerks. We believe that individual clerks and the service as a whole would benefit if they were to attend brief courses at which subjects relevant to the organisation and management of their offices would be discussed and recommend that the Home Office should encourage such courses and recommend them strongly to clerks.

13.15 Even if a court clerk is not going to become a justices' clerk we think that he might benefit from the opportunity to acquire some knowledge of administrative matters. It appears to us essential for the proper running of courts that court clerks should be well aware of the problems faced by administrative staff and, if possible, have practical experience thereof. This is particularly relevant in the case of court clerks who rise to become principal assistants or deputies where, almost inevitably, there is involvement in the managing of the court.

13.16 We also consider that training courses should be continued and if possible expanded for junior staff who will, in due course, occupy senior

positions which do not entail physical presence in the court, eg fines supervisors. It seems that the present general administration course is not heavily supported and it is perhaps opportune that the syllabus of the course be thoroughly examined so that it is more closely in line with courts' perceived needs. Equally courses in specialised areas should be related as closely as possible to the actual work of courts staff in those areas. The level of instruction given to junior staff varies from court to court. We consider that MCCs, who are responsible for these courses, should arrange for them to be held unless they can be quite certain that all justices' clerks within their area are themselves instructing their junior members of staff adequately.

13.17 At present, there is a Committee for the Training of Justices' Clerks' Assistants which meets twice a year to discuss possible courses, training needs etc. We hope that this Committee would examine the various courses at present being held in order to determine how best to deal with the problems of court administration within the context of these courses. There is scope, which the Committee is perhaps well placed to meet, for a greater degree of central interest in the content of courses at all levels in the service: courses can be used both generally to promote awareness of possible approaches to increasing court efficiency and specifically to inform members of courts staff of practices and procedures which have proved beneficial. Training cannot solve all the problems but it has an extremely useful part to play in making staff, particularly junior staff, realise that the successful running of a court involves far more than the hearing of cases in court. In our view, training will be successful if court staff come to realise that if cases are to be handled efficiently and fairly in court it is essential that the administration sections are well run.

ESTABLISHING NEW MECHANISMS

13.18 It seems to us that the disadvantage of the existing mechanisms, even developed as we have suggested, is that they will not necessarily produce a corpus of knowledge which can be dipped into at will but merely ensure an exchange of current thinking. This is not to say that it is not worthwhile to pursue the development of existing mechanisms, whether or not new mechanisms are additionally set up. But if the aim is to produce a store of knowledge into which inputs could come from all parts of the magistrates' courts service (and ideally also from central government, from interested outside bodes and from the academic world) and from which information could readily be sought or retrieved by the courts and others then we think the possibility of establishing new mechanisms has to be explored.

13.19 We have identified three possible options for providing such a store of knowledge. They are:

(a) the establishment within the Home Office of a register of measures taken by courts to deal with problems of general application;

(b) the establishment of an independent centre to act as an entrepreneur of ideas; and

(c) the establishment of a Home Office Inspectorate of the magistrates' courts service.

The last two of these at least would have wider implications in that they would necessarily have additional functions beyond the provision of an

information exchange. For this reason and because they would also have greater resource applications, we stress that we do not consider it within our remit to suggest that one of these options be adopted. Nevertheless we believe that we should have failed to fulfil our task if we did not at least consider these options: what we have aimed to do, therefore, is to provide a basis on which discussion of the merits and implications of the respective options could proceed. These reservations apply less strongly to the first of our three options and we would suggest that serious consideration be given to it even if the other two are regarded as not appropriate to pursue.

13.20 The establishment of a register of measures adopted by courts to deal with problems in the areas listed in paragraph 13.2 above would not seem likely to require a great expansion of administrative effort. There would be a fair amount of work in setting the register up but less in actually running it. The main need would be for the devising of a reference scheme which would allow the categorisation of measures under heads which ensured that relevant ideas could quickly and easily be identified on receipt of an inquiry from someone with a problem. Advice on this could no doubt be obtained from registry and library sources within the Home Office. Clerks would then have to be both requested to notify to the register measures which they had adopted which seemed likely to be of wider than a single court application and encouraged, when confronted with a problem, to seek any relevant information from the register.

13.21 We would envisage that the entries in the register (in card-index or similar form) should be as brief as was consistent with proper identification of their relevance and should indicate no more than the general problem area to which they applied, the essential nature of the measure adopted, and the name of the court concerned. Inquirers would then simply be given those details from the register which seemed likely to be of interest to them and it would be left to them to approach directly the court concerned.

13.22 We believe that such a register might appropriately be placed under the general supervision of the Home Office Adviser on Magistrates' Courts with the day to day work being allocated to, perhaps, an executive officer with clerical support.

AN INDEPENDENT "CENTRE FOR MAGISTRATES' COURTS"

13.23 This report has identified a number of areas in which existing knowledge on magistrates' courts administration needs to be expanded through research and experimentation. Furthermore, we have suggested a need for additional assistance to courts in terms of both training on administrative matters and direct help with special problems. A registry of measures being used by courts would undoubtedly serve to encourage the sharing of existing information, yet it could not address these wider objectives. A new independent foundation with special concern for magistrates' courts might be a promising alternative. We have in mind here establishment of a charitable trust with a specific remit to work toward improving the administration of justice in magistrates' courts. A "Centre for Magistrates' Courts" might be a kind of consortium of the various organizations concerned: the Justices' Clerks Society, the Magistrates' Association, possibly some of the groups representing magistrates' courts committees and other court staff. A governing board made up of representatives of these bodies could direct a small permanent staff of professionals. Finance could come from a combination of private and public sources.

13.24 Several non-profit making foundations concerned with improving court administration already exist in the United States, two of the most prominent being the National Center for State Courts and the Institute for Court Management. Both of these organizations were set up in the 1960's as a co-operative venture of the courts, the relevant professional organizations, and central government. They receive most of their funds either directly or indirectly from the federal government, although an important supplement comes from private sources. Over the past decade these two bodies have been responsible for the creation and nurture of the field of court management in America. They have acted as entrepreneurs, actively seeking out ways to improve court administration through research and experimentation, direct assistance to individual courts, and administrative training for courts personnel. No analogous organization exists in Britain, although several charitable trusts focus on related areas (examples being the Police Foundation, NACRO, the Justice educational and research trust.) Because of the relatively novel nature of this proposal, we felt it would be useful to set out below a more detailed sketch of the kinds of activities in which such a centre could be engaged. This is followed by some thoughts on organization, staffing and funding.

13.25 Information and Research. Information on promising new procedures can be shared through informal discussion at a professional meeting, in published reports, or by a central registry. But a court considering adopting procedures allegedly successful in another court will typically need reliable information as to how the scheme was instituted, how it now operates, and the effect it has on various aspects of court operation. This kind of detailed programme evaluation is generally beyond the resources of an individual court and is seldom done by outside researchers. Yet it need not be expensive nor especially time consuming. The evaluation of the delay-reduction scheme in Colchester, for example, required the equivalent of three weeks full-time work of one person. One way concrete help could be provided by a Centre for Magistrates' Courts is in conducting small-scale evaluations of innovations. Empirical data on the impact of the procedures would be of substantial use to the court instituting a new programme; the evaluations would also be helpful to other courts interested in adopting similar procedures. Examples of current schemes that could profitably be investigated in this way include the pretrial conference system in use in Nottingham, the use of fines enforcement officers in Manchester, or the use of distress in fine enforcement in several courts in the South East.

13.26 There is also considerable room for research of a more general sort focused on questions of direct relevance to running the magistrates' courts. Current research on fines enforcement is one example of the kind of helpful general research that can be conducted. Our chapters on delay and fine enforcement point to potentially fruitful avenues for further research and experimentation. Unfortunately, such practically orientated work is seldom undertaken by academic researchers unless they are directly commissioned to do the work, a fact that is suggested by the paucity of such studies. A Centre for Magistrates' Courts would have a particular interest in conducting research into such topics as listing procedures, ways to enhance the utilization of court time, waiting time and delay, and the strengths and weaknesses of the various computer systems currently available. Furthermore, its research agenda would be guided by a board representing the courts themselves, a situation likely to encourage work that is useful to practitioners.

13.27 Technical Assistance. There are a number of areas in which direct help to an individual court might be provided by a Centre for Magistrates' Courts. Such assistance could be directed at a fairly routine problem - such as design of forms, records management, or listing practices. A justices' clerk wanting to set up a management information system for monitoring case load, for example, might obtain the help of an expert for a day or two. The only assistance of this type currently available to magistrates' courts comes from the Internal Audit Service and is limited to issues of accounts security and computer systems. Much more could profitably be done.

13.28 One a more ambitious level, technical assistance can mix with research in an experimental programme. Setting up a new scheme for dealing with juvenile offenders, for example, or an experiment to provide pre-trial disclosure of evidence could fall into this category. Here the assistance offered would involve helping design the new scheme, monitoring its operation, and evaluating its results. The person providing this assistance sometimes serves as a catalyst for change, acting as an "honest broker" among the various parties to fashion a mutually agreed programme and to endeavour to overcome institutional inertia. An example of this sort of intervention is the work of the Vera Institute in setting up the delay-reduction scheme in Colchester Magistrates' Court. The Colchester project evolved during the intensive consultations between the Vera representative and the Clerk to the Justices, police officials and local solicitors. A data collection system was set up to monitor the progress of the new scheme. The resulting statistical data, together with more subjective observation and interviews, served as the basis for the evaluations that were written by the Vera representative. While some courts are well able to set up such a programme on their own, the day-to-day preoccupations of court work usually takes precedence over such efforts. The mere presence in the court of a neutral outsider can sometimes bring about a beneficial change of attitude. The encouragement, initiation and support of experimental schemes for improving court administration is an activity in which a Centre for Magistrates' Courts could, with a relatively small investment, produce very useful results.

13.29 Education. We have already discussed the need for more training in administration, particularly for justices' clerks. Apart from the Justices' Clerks' Society's bi-ennial training session, much of which emphasises legal rather than administrative issues, and the courses to which we have referred above, few efforts have been made to organise or even encourage a coherent programme of training in court administration. This area might benefit from American experience where the Institute of Court Management has designed an entire curriculum for court administration. The Institute also conducts a series of workshops in various locations that attempt to bring together lawyers, judges and administrators of individual courts to help them identify and work through local problems. Moves in similar directions could be initiated by a Centre for Magistrates' Courts.

13.30 Organisation and funding. A Centre for Magistrates' Courts would be established as a charitable trust. As such, it would be formally independent of central government, the courts, and the existing court-related organisations. The constitution of the governing board, however, should ensure that the centre remained responsive to the needs and concerns of the courts. One possible structure for the board might be one in which certain seats were allocated to nominees of representative bodies in the courts service with additional members chosen to reflect the special expertise and the interests of, for example, central government, local government, magistrates' courts committees, solicitors, police, the probation service and academic researchers. The board would be responsible for setting broad policy for

the Centre, for appointing its director, and for monitoring its financial affairs.

13.31 Permanent staff would consist of a director, three or four professionals from various disciplines, and a very small administrative staff. The director should be a person of considerable standing and experience in the magistrates' courts, very possibly a justices' clerk. The professional staff would consist of individuals with expertise in such fields as management and administration, computers, social research and law. Practical experience in magistrates' courts should also be well represented. The administrative operation could be conducted by one or two secretaries and a part-time bookkeeper.

13.32 Funding for the centre would come primarily from central government. This support, however, could take a variety of forms: a research or scientific officer could be seconded to the centre; local authorities could be asked to pay (with grant-support) for educational programmes and technical assistance rendered; the Home Office Research and Planning Unit or the Social Science Research Council could fund specific research projects. These types of specific support would probably have to be accompanied by a general grant to cover basic administrative expenses. It is likely, however, that such an organization could attract private funds for these purposes as well. As a rough-and-ready estimate, we would expect the total budget (including funds from all sources) of a Centre for Magistrates' Courts, thus constituted, to be in the neighbourhood of £100-150,000.

13.33 An organization of the type described here would have several advantages. First, a remit confined specifically to work on improving magistrates' courts administration would ensure that the resources committed are concentrated on this one problem. Technical assistance could be provided and practical research could be undertaken. Experiments in improving administration could be carried out and evaluated in a far more comprehensive fashion than possible in most courts. Innovative educational programmes in court management and administration could be designed and conducted.

13.34 Second, if research and experimentation, technical assistance, and education were all carried out within the same organization, these activities could build on one another. Hence, a research project on maintenance systems, for example, or on listing contested cases could lead to an experimental programme for improving such systems, which in turn could lead to technical assistance and education for other courts wishing to adopt the new procedures.

13.35 Third, as a consortium of the various professional bodies involved in the magistrates' courts, a Centre for Magistrates' Courts would avoid identification with any particular interest (or with central government.) As such, it would have a unique opportunity to engage in practical research and experimentation with a well-founded expectation of co-operation from all the relevant parties. The role of "honest broker" would come naturally to an organization itself made up of the diverse interests represented in the courts.

13.36 One possible limitation of this option is the non-coercive nature of the Centre's work with the courts: it would necessarily have to rely on good will and co-operation of all concerned in conducting its research and experiments; utilization of its technical assistance and adoption of its recommendations would be entirely voluntary. This fact would probably differentiate

such an organization from the inspectorate to be considered in the next section. The Centre, like its counterparts in America, would have to adpot an entrepreneurial stance and actively seek out ways to be helpful in improving magistrates' courts administration. This observation emphasizes the crucial importance of structuring the board and selcting a director and staff so as to encourage maximum confidence of all concerned. The choice of a director is particularly critical, and it might prove difficult to attract a person of the talents, experience and prominence needed to guide it through the first critical years.

13.37 Probably the major drawback to this alternative is its cost. There is little question that the establishment of a Centre for Magistrates' Courts would incur public expenditure at a time of financial stringency, despite the fact that some of the funding would come from private sources. Yet it should at least be borne in mind that a relatively modest investment in improving the administration of the magistrates' courts could very well pay for itself in increased court efficiency. As one rather crude example, the Lord Chancellor's Department has estimated that in the 1980-1981 fiscal year over 20% of the total expenditure of the legal aid fund was incurred by solicitors waiting in court for their cases to be heard. An improvement in court listing procedures that reduced waiting time nationally by only 10% would not only be appreciated by the public - who, as witnesses, must often endure the same waiting time without compensation - but it could also reduce legal aid expenditure alone by more than £800,000.

A MAGISTRATES' COURTS INSPECTORATE

13.38 We have considered the establishment of an inspectorate of the magistrates' courts service primarily as a means of spreading knowledge of good administrative practice and encouraging its adoption but such a body would almost certainly acquire a wider function of monitoring and reporting on the efficiency of the service. It would need to be made clear that inspection would be confined to the managerial and administrative aspects of court work and that an inspectorate had no locus in respect of the courts' judicial functions.

13.39 In considering the kind of inspectorate which would be suitable for the performance of this kind of function in regard to the courts service we have examined briefly three examples in use elsewhere, two within the government service and one outside. Of these we think the closest pattern for an inspectorate of magistrates' courts administration would probably be provided by the Probation and After-Care Inspectorate. It would nevertheless require considerable modification to take account of the significant differences in the organisation and function of the two services. We discuss in the following paragraphs some of the implications of establishing an inspectorate with a view to providing an agenda of issues which would have to be addressed were such a system to be introduced.

13.40 The primary function of an inspectorate would be to inform individual justices' clerks of the best practices available in court administration and to draw their attention to any deficiencies which became apparent during the course of an inspection. The inspection would concern all aspects of the courts' work other than the giving of advice to magistrates. Thus, such matters as accommodation, office organisation, the administration of fine and collection accounts and case listing would be matters of proper concern. Clearly, the question of the resources available to the courts would be crucial and the inspectorate would therefore need to deal with the MCC

responsible and with the paying authority in order to determine how the budget for the court which was being inspected had been prepared and what assumptions had been made. The remit could be along the following lines: to carry out inspections of magistrates' courts and to offer advice on the administration of those courts both on particular problems and matters of general interest; to report on the position disclosed by inspections; to make recommendations to assist the magistrates' courts in discharging their functions; and to examine and report upon such specific problems as the Secretary of State may request from time to time. The following areas seem to us to be candidates for scrutiny.

(a) case listing;

(b) accounting (both fines and fees and collection accounts);

(c) recruitment policies;

(d) court accommodation;

(e) computerisation;

(f) relations between court, MCC, and paying authority and the efficient working of these relationships;

(g) staff training needs.

13.41 Consideration would need to be given to the question to whom reports should be submitted following inspections in order for any recommendations which might be made to have some effect; the justices' clerks concerned, the MCC, the paying authority and the Home Office would all have an interest. It would be for consideration whether the payment of grant should be made conditional upon there being no outstanding observations following an inspection. It is however relevant that grant is payable to paying authorities and not to individual courts and the withholding of grant would therefore be likely to penalise all courts in the relevant area, or alternatively all ratepayers, for the sins of one court. It would probably be preferable to rely on the likelihood of justices' clerks wishing to follow efficient practices once they were made aware of them and on their natural disinclination to be singled out for criticism or to appear to be refusing to accept well-founded advice.

13.42 The inspectorate would have to inspect some 350 separate units (each unit being the responsibility of an individual justices' clerk) covering a range from very large urban courts to very small rural ones, presenting many different types of problem. This suggests a need for some form of regional organisation which clearly would have resource implications. There would be problems in obtaining people of the necessary quality to staff the inspectorate. They would need to be well versed in the principles of court management and to be able to offer informed advice and comment on a wide-range of topics ranging from the management of fine accounts to recruitment and training policies for court staff. It seems to us that an inspectorate would probably have to include the present functions (and presumably the personnel) of the IAS which relate to the magistrates' courts. IAS has unparalleled expertise in the field of magistrates' courts accounts and it would be economically absurd to have two separate organisations both engaged in the examination of aspects of magistrates' courts administration. If the present IAS organisation were to be incorporated into an inspectorate there would be the advantage that a ready-made

regional organisation would be in existence and that comparatively few new staff would be needed for the additional functions which the inspectorate would wish to undertake. There would however be some organisational problems in that the IAS regional teams currently undertake audits of all magistrates', county and crown courts with the burden being divided roughly equally between the magistrates' courts and the others. The duties would have to be separated out and auditors either transferred to the Home Office, or alternatively, seconded for a specified period to the inspectorate.

13.43 On this basis, one member of each inspection team would be someone from the audit service. The teams would also require expertise in the areas of personnel and of the management of court offices. For the first one obvious source of expertise would be the personnel departments of paying authorities which already provide advice in this area to MCC's. If the paying authorities were willing to co-operate it should be possible to arrange the secondment of staff from personnel departments because the 80 or so authorities concerned are large organisations and should have no problem between them in sparing sufficient middle grade officials. The team would also need to include someone with direct experience of the courts; there would be difficulty in drawing on the ranks of deputy clerks and justices' clerks, if only because it is not easy for people at this level to be spared, and yet the member of the team drawn from the courts would need to head the team, both because he would have the necessary experience of courts and in order that the team might secure the confidence of those justices' clerks whom they meet. This suggests that the "court representative" would have to be of reasonable seniority and to have had experience both as a court clerk and of administration. It would be necessary to make arrangements with MCCs to cover for the absence of the individuals concerned and to ensure that their career prospects were not diminished, and to agree terms upon which staff would be released and then re-employed once their period of secondment was completed.

13.44 We understand that IAS has at present 8 regions in addition to a headquarters operation at Bristol but that the number will soon be reduced to 6. It would seem sensible to build on this network in establishing an inspectorate. If each region had a team with a member from each of the three areas suggested, this would mean a net increase of 12 staff at regional level (assuming that present IAS functions could be divided without the need for additional staff). Secondment from the courts or paying authorities would be necessary both because such a small organisation could not provide adequate career prospects and (more importantly) because it would be desirable that the staff involved should have recent experience of the problems involved if they were to make a worthwhile contribution. Secondments could probably be for a period of not more than, say, two years. (Otherwise the career prospects of those involved might be adversely affected, particularly in the case of court clerks who could find it difficult to go back to offering advice in court if they spent too long away from the job and had grown rusty.)

13.45 There would presumably need to be some form of headquarters to co-ordinate and direct the regional branches of the inspectorate with a chief inspector of magistrates' courts administration responsible for the management of the regional inspection teams, for identification of issues or procedures which should be brought to the attention of the courts service nationally, and for advising the Secretary of State as necessary. The appointment would have to be a senior one and could only be filled by a justices' clerk of considerable experience. The responsibilities of this new post and those of the Magistrates' Courts Adviser currently attached

to C2 Division would overlap and consideration might need to be given to combining the two posts. The chief inspector would not need a large headquarters staff (say, a deputy, one or two inspectors and some secretarial support). If however, it were thought advisable for additional advice on computerisation to be made available to the courts, it would seem appropriate that the necessary specialist staff should come under the chief inspector. The incumbency of the chief inspector's post (and perhaps also that of the deputy) would probably need to be of longer duration than that of the inspectors' posts. The position would therefore have to be graded and described in such a way as to attract a successful justices' clerk to leave the courts service and move into administration. It need not necessarily be difficult to attract candidates of the right calibre since the appointment would obviously be one of responsibility offering great scope to the incumbent.

13.46 It should be possible to establish an inspectorate which could be effective without being too expensive. We have not undertaken detailed costings but for the year ending March 1981 the Home Office paid the Lord Chancellor's Department the sum of £680,000 to cover the costs of the audit services provided and the additional staff which seem likely to be needed ought not to raise the total bill to more the £1million at those prices. Increased efficiency within the magistrates' courts service could well repay this level of investment.

PART VI - CONCLUSIONS AND SUGGESTIONS

We have endeavoured in the preceding chapters to identify the most significant factors relating to the efficiency of the magistrates' courts system both in general and in respect of the reduction of waiting times and the improvement of fine enforcement in particular and to suggest ways in which efficiency could be improved. Some of our suggestions are specific to one or other of the two areas to which our terms of reference required us particularly to address ourselves. However, it soon became clear to us that improvements in waiting times and in fine enforcement were likely also to come from measures directed at increasing the efficiency of the system in general and at promoting the interchange of information within it. It follows that a number of the suggestions which we have made fall into this wider area.

We summarise below the conclusions reached and the suggestions made in the three preceding parts of this report. Our suggestions broadly fall into three categories. First, we have identified a number of specific changes in administrative or organisational procedures which might be made by the Home Office, by local authorities, by magistrates' courts committees or by justices' clerks as appropriate. Secondly, we suggest a number of aspects of both delay and fine enforcement where action research, in the form of the adoption and monitoring of changes of procedure in certain courts, would be of value. Thirdly, we discuss a series of initiatives which might be taken to improve the collection of data on the work of courts for management purposes and to assist the spread of information about good practice around the magistrates' courts system.

Finally, we should like to draw attention to two general propositions which underlie much of what we have been saying. First, it has been implicit in our comments at several points in this report that improvements are likely to come from the development of greater awareness on the part of the individual magistrates' court first of the extent to which problems such as delay and inadequate fine enforcement affect each court and secondly of the existence of measures which can be taken to remedy, or at least alleviate, the difficulties. For this reason we have welcomed a number of recent developments as showing a growing concern and a growing awareness on the part of courts. However, this is not to say that the courts do not need assistance and support in dealing with the problems that face them from the other levels concerned in the management of the system both locally and centrally. It is equally of importance for the Home Office, paying authorities and magistrates' courts committees to take account, in reaching decisions relevant to the administration and organisation of the courts, of the effect that such decisions will have on the ability of the individual court efficiently to meet the problems with which it is presented. We believe that there is much to be gained from discussion at all levels of the difficulties that the courts face and of ways in which their operation can be improved and we hope that this report will itself provide one contribution to a debate which is now gathering momentum.

IMPROVING WAITING TIMES

1. Delay is a general problem in the magistrates' courts service although varying in degree and nature from place to place (paragraph 5.1).

2. All agencies operating in the courts are capable of contributing both to delay and to measures to counter it (paragraph 5.2).

3. Very few courts regularly monitor waiting time on any statistical basis (paragraph 5.3).

4. There is a great variety of factors which can contribute to delay. These can be classified as relating to:

   (a) the amount and nature of court business (paragraphs 5.7-8);

   (b) prosecution attitudes and practices (paragraphs 5.9-11);

   (c) defence attitudes and practices (paragraphs 5.12-14);

   (d) court attitudes and organisation (paragraphs 5.15-17);

   (e) resource problems (paragraphs 5.18-19);

   (f) special problems with contested cases (paragraphs 5.20-21);

   (g) factors outside the court's influence (paragraph 5.22).

5. A number of different types of measure have been taken by courts in an attempt to reduce waiting times. They are concerned with:

   (a) achieving early appearances (paragraphs 5.24-28);

   (b) improving scheduling practices (paragraphs 5.29-32);

   (c) making the best use of court time (paragraphs 5.33-37);

   (d) adjournment policies (paragraphs 5.38-44);

   (e) the use of sanctions (paragraphs 5.45-46);

   (f) liaison with other agencies (paragraphs 5.47-49).

6. The adoption of new attitudes is likely to contribute as much to countering the problem of delay as the provision of extra resources or wholesale reorganisation (paragraph 6.1).

7. Courts should be encouraged to monitor trends in waiting time in order to be aware of the size of the problem and to judge the success of measures adopted (paragraph 6.2).

8. Courts can and should take the initiative over measures aimed at reducing waiting times, even where other agencies are involved (paragraph 6.4).

9. Courts should discuss with others the introduction of changes in procedure aimed at:

   (a) the shortening of the period of initial police bail (paragraphs 6.7-9);

(b) getting a decision on plea and mode of trial at the earliest possible appearance (paragraph 6.10);

(c) cutting down the period taken to produce reports (paragraph 6.11);

(d) the bringing forward of the return date for summonses (paragraph 6.12);

(e) the fixing of firm dates for the hearing of contested cases in consultation with the parties concerned (paragraphs 6.13 and 6.15).

10. Courts should themselves consider making the following organisational changes:

(a) the designation of a listing officer who will be the point of contact for any discussion relevant to the scheduling of a case (paragraphs 6.13-14, 16 and 21);

(b) the separation of different types of court business (pararaph 6.17);

(c) the use of a front-sheet for at-a-glance case history (paragraph 6.18).

11. Where they do not already exist, regular liaison meetings should be established involving the court, the police, prosecution and defence solicitors and the probation service, to discuss general problems relating to delay (paragraph 6.20).

12. Courts should seek to agree with users principles to be adhered to in relation to the scheduling of cases (paragraph 6.23-24).

13. The Home Office should be ready to provide an impetus towards the resolution of problems of delay which require the interaction of the three services (courts, police and probation) for which it is responsible (paragraphs 6.26-27).

14. The Home Office should take into account in considering proposals by courts for increases in staff the likely contribution to be made to the reduction of waiting times (paragraph 6.28).

15. There would be advantage in introducing, and monitoring, at a sample of courts changes of procedure at different stages in case progress (paragraphs 6.29-30).

16. Research is needed into the arrangements for the listing of cases on the day of appearance (paragraph 6.32).

IMPROVING FINE ENFORCEMENT

17. Courts see the hearing of cases as their first priority; consequently, fine enforcement tends to be neglected, particularly when the court is under pressure. Fine enforcement needs to be given a measure of priority if the credibility of the fine as a penalty is not to suffer (paragraph 7.1).

18. General problems seen by justices' clerks and their staffs as affecting fine enforcement included -

(a) pressure of work

(b) in manual systems, difficulty in speedy identification of defaulters

(c) lack of priority given by the police to the service of summonses and warrants

(d) in urban areas, the extreme mobility of defendants (paragraphs 8.2-3).

19. Particular problems were posed by -

(a) certain persistent offenders rather than defendants convicted of particular offences

(b) defendants who plead guilty by post under the procedure laid down in the Magistrates' Courts Act 1957

(c) persons fined for drunkeness, revenue offences or indictable property offences

(d) young offenders convicted of a number of motoring offence attracting a high aggregate fine

(e) heavy fines imposed by Crown Courts

(f) fines on non-working wives, commonly for non-payment of television licences or because the parents had been made liable for the fine of a juvenile (paragraphs 8.4-6).

20. At present courts rarely have details of defendants' means at date of sentence; they should consider the use of forms which would give them some information (paragraph 8.7).

21. Some, but not all, courts use standard forms at means enquiries; those which do not should consider the use of such forms, the specimen provided by NACRO in their report being suitable (paragraph 8.8).

22. Means forms should be sent out in all cases where the defendant is to be tried in his absence (paragraph 8.9).

23. Courts could consider more frequent use of their power to remit fines in whole or in part having regard to any change in the defendant's circumstances (paragraphs 8.10-11).

24. The execution of warrants for fine default is essential to the credibility of the fine as a penalty. Courts should keep track of warrants which have been issued (paragraph 8.14 and 15).

25. In future IAS recommendations concerning security should weigh the benefits against the costs in terms of staff-time and possible lost revenue (paragraph 8.17).

26. Conclusions on the use of various methods of fine enforcement :-

(a) Means enquiry reports are comparatively little used; the Home Office should foster discussions between the probation and courts' services on the feasibility of making greater use of these reports (paragraph 8.19).

(b) The power to fix a date for the reappearance of the defendant if he does not pay is widely used: we note that the Criminal Justice Bill would allow its use in cases where the defaulter is paying by instalments (paragraph 8.20-21).

(c) Attachment of earnings orders tend to be restricted to defendants in full-time employment with large employers. We doubt whether these orders can be used with success for a wider range of defendants than is at present the case (paragraphs 8.22-23).

(d) Money payment supervision orders are not often used, and then generally against defendants under 21 years old. The probation service appears more willing to become involved in the administration of these orders than was once the case (paragraph 8.24).

(e) Distraint arouses more controversy than any other method of enforcement; more than half the courts visited only use it against limited companies. It can, however, be of value in cases where a defaulter refuses to pay "on principle" and cheap in public expenditure terms as the defaulter pays the costs. The Home Office should issue guidance as to whether bailiffs' costs may be added to the total sum payable in cases where there were insufficient assets upon which to distrain. Individual courts could consider more use of distraint provided that they monitor the effects closely (paragraph 8.25-26).

(f) Fine enforcement courts are widely used. There is probably a case for designating magistrates to specialise in fine enforcement (paragraph 8.27).

(g) Few courts employ fine enforcement officers and courts serving widely dispersed populations would probably find it uneconomic to do so. Courts serving compact areas should, however, consider the appointment of such officers, both to relieve pressure on the police and to give justices' clerks greater control over the execution of warrants (paragraph 8.28).

27. Speed and the threat of imprisonment were seen by the courts visited as the two most important factors in fine enforcement (paragraph 8.29).

28. Courts should not only consider the various available methods of enforcement but should be disposed, where possible, in favour of the use of at least one of them before issuing a suspended committal warrant (paragraph 8.31).

29. Enforcement action against a defaulter may be initiated by reminder letter, by summons or by warrant, the latter normally following one or other of the two former. In the interests of cheapness courts should consider using reminder letters or, failing that, summonses sent by ordinary post, as the first stage in enforcement (paragraph 9.4).

30. Courts should consider the adoption of any or all of the following steps to aid speedy identification of defaulters -

(a) the designation by the justices' clerk of a senior officer to supervise fine enforcement

(b) use of a diary to identify defendants due to have paid by a given date

(c) the filing of fine cards in numerical order

(d) the use of coloured tags attached to fine cards to indicate different stages in the enforcement process.

(e) the separation of fine cards relating to defendants paying by instalments from other cards.

(f) the issue of written guidance as to time limits between various stages in enforcement.

(g) maintenance of a diary giving the dates when warrants were issued.

(h) the monitoring of enforcement by senior officer in charge, probably by checking random samples of fine cards. (paragraphs 9.6-8).

31. Computers have a great contribution to make to fine endorcement, provided that a court intending to computerise ensures that its manual systems are running efficiently before transferring them to the computer and that enforcement is given suitable priority. The main advantage of computers in fine enforcement is that they can perform routine clerical tasks quickly and efficiently, regardless of pressure, and compute arrears with accuracy (paragraphs 9.14-17).

32. The administrative burden imposed by instalment payers is greater than that imposed by defendants ordered to pay by a fixed date (paragraph 9.20) but nonetheless the use of instalments is a valuable method of ensuring that defendants are able to pay their fines (paragraph 9.21).

33. Courts should have regard to the means of the defendant before deciding on the level of fine and the size of instalments, whilst at the same time ensuring that the level of individual instalments is not so low as to be uneconomic; where it appears necessary to set very low levels of instalment following a change in circumstances, courts should consider remission (paragraph 9.21).

34. More information is required about the operation of instalments, in particular as to their effectiveness in terms of the amounts of money collected and the workload imposed upon the courts (paragraph 9.22).

35. Many fines are paid on terms other than those ordered originally by the court. Variation is frequently authorised by junior staff without reference to anyone in authority. While a degree of administrative flexibility is crucial to the proper working of enforcement, the present system could lead to inappropriate decisions and inconsistency and the Home Office should therefore review the practice with a view to its regulation (paragraphs 9.23-26).

36. Courts should monitor their performance in all aspects of fine enforcement with the aims both of encouraging good practice for the future and examining workload and performance over time (paragraphs 9.27-29).

37. Courts should consider whether sufficient staff are allocated to enforcement; either reallocation or new posts may be required. Working methods should also be examined (paragraphs 9.30-31).

38. While it is difficult to isolate the costs of fine enforcement, it is nonetheless possible to examine marginal costs if the level of fine enforcement activity is charged. There is need for further research to determine the costs involved in additional enforcement effort (paragraphs 9.32-33 and 36).

39. The costs of changing the level of enforcement activity fall more heavily on outside bodies, notably the police, than on the courts themselves and courts should be aware of this when contemplating changes (paragraph 9.34-35).

40. The Home Office should make it clear that enforcement is regarded as an important activity, perhaps by monitoring arrears figures and also by disseminating information on good practice (paragraph 9.37).

41. The Home Office should take into account, when considering applications for additional enforcement staff, that such staff can increase the revenue from fines and hence recoup the cost of employing them (paragraph 9.38).

42. The Home Office should take a lead in examining what functions in respect of fine enforcement could be transferred to the courts from the police (paragraph 9.39).

43. There is scope for the experimental introduction and monitoring of some of the changes of practice in fine enforcement suggested in this Report (paragraph 9.40).

44. A rigid approach to fine enforcement is unlikely to be successful; the key is firmness combined with flexibility (paragraph 9.43).

IMPROVING THE WORKING OF THE SYSTEM

Managing the system

45. The courts service must be provided with sufficient suitable accommodation and sufficient staff of adequate calibre to carry out its function of enabling the magistracy to deal with matters within their jurisdiction in accordance with the interests of justice but also so far as possible speedily and with an efficient use of resources (10.2).

46. Central government, local authorities and magistrates' courts committees, and individual justices' clerks all need to be concerned with promoting efficiency in the courts (10.3).

47. Information as to the performance of courts is essential to the good management of the system (11.1).

48. The Home Office should know in advance, and in at least as much detail as is given in grant claims, how much individual courts committees are planning to spend in the coming financial year (11.6).

49. The Home Office should examine discrepancies between different MCC areas in respect of staff/workload ratio, costs per case and similar measures (11.7).

50. The Home Office should draw up a list of information to be provided by courts seeking increases in staff, ideally on a standard form (11.10).

51. Consideration should be given to the development of a data base as to the staff, workload etc of courts (11.12).

52. The IAS and Accounts Branch should make more effort to monitor the performance of courts in collecting monies due (11.15).

53. The Home Office could explore ways of providing courts with more wide-ranging advice on computerisation, not confined to accounts applications and taking account of future developments (11.18).

54. In assessing staff savings from computerisation, account should be taken of the possibility of extra tasks being carried out or existing tasks performed more adequately (11.19).

55. Individual justices' clerks should be involved as much as possible in the formulation of the courts budget. They should be able to attend all meetings of the courts committee (in rotation, if necessary, in the larger counties) (11.22-23).

56. Courts' committees should consider arranging for the regular attendance at their meetings as an adviser, of a representative of the local authority personnel department and agreeing with the local authority on the appointment of a liaison officer (11.26).

57. Courts' committees and local authorities should consider the establishment of a machinery for the resolution of disagreements (11.27).

58. Justices' clerks should regard themselves as responsible for the efficient organisation of their offices but should consider the appointment of an office manager (11.28).

59. Both courts committees and individual courts should be ready to look to local authorities for advice and assistance on administrative matters (11.24 and 29).

Management information

60. In general, courts keep only very limited management statistics (12.3-7).

61. There is a certain amount of statistical information about courts available to courts committees, local authorities and central government but comparatively little use is made of this for management purposes (12.8-15).

62. A number of initiatives aimed at improving the collection of statistics are at present under way (12.16).

63. Management information will help the individual court to allocate resources more efficiently, to examine trends in workload and performance, to compare workload and performance with other courts and to assess staff and building needs (12.17).

64. Caseload information can be obtained relatively simply by the use of a front sheet (12.18).

65. We suggest a list of information which courts might find it useful to keep for management purposes (12.21).

66. Data produced by courts for their own purposes will also be of use at other levels of the management of the system, provided recording is consistent: the Home Office should provide the central direction for this (12.22-4).

67. The Home Office should encourage the production and use of statistics (a) by initiating work, in consultation with the Justices' Clerks' Society, on the development of statistical packages for computers, (b) by continuing to explore the possibility of obtaining criminal statistics directly from court computers; (c) by encouraging trials of methods of producing caseload statistics; (d) by considering the the redesign of the quarterly return to Accounts Branch to provide management information; (e) by compiling a list of statistics which could easily be produced from the standard manual accounting system; (f) by making more use of information which is already available; and (g) by publishing, if possible, comparative data for the whole country (12.25).

Dissemination of information

68. Efficiency in the courts can be fostered by the dissemination through the system of information about good practice. Courts cannot at present readily learn from one another's experience and should be able to do so (13.1).

69. Relevant information must be available to an inquirer at the time when he is faced with a problem (13.3).

70. There is scope both for developing existing mechanisms and for establishing new ones to meet this need (13.4).

71. Existing mechanisms for the dissemination of information are:

(a) the Justices' Clerks' Society;

(b) Home Office circulars and letters;

(c) training courses for justices' clerks and their staff

(e) the Internal Audit Service (13.5).

72. There is scope for the development of the JCS branch organisation to allow members to seek advice on problems and to inform colleagues of measures that have been adopted. The Society should explore the possibilities for developing the exchange of information among branches (13.8-9).

73. Home Office circulars and particularly the reports of the Working Party on Magistrates' Courts, might be more used to spread information relevant to administrative problems (13.10).

74. Court clerks who are likely to become justices' clerks or rise to other senior posts should receive administrative as well as legal training and be given the opportunity to gain administrative experience. Serving justices' clerks should attend short courses on matters relevant to the organisation and management of their offices (13.13-15).

75. Administrative training for junior staff other than court clerks should if possible be expanded and there should be greater central interest in the content of such courses (13.16-17).

76. We have identified three possible options for the establishment of new mechanisms designed to provide a continuing store of knowledge and we discuss the implications of these:

(a) the establishment within the Home Office of a register of measures taken by courts to deal with general problems (13.20-22);

(b) the establishment of an independent centre to act as an entrepreneur of ideas (13.23-37);

(c) the establishment of a Home Office inspectorate for the magistrates' courts service (13.38-45).

ANNEX A

MEMBERSHIP OF THE STEERING COMMITTEE FOR THE WORKING GROUP ON MAGISTRATES' COURTS

Home Office

Mr A J Langdon (1st to 3rd meetings) Mr A P Wilson (4th and 5th meetings)	Criminal Justice Department (Chairman)
Mr M J C Butcher	C2 Division
Mrs J Thompson (1st and 2nd meetings)	"
Mr B Gange (3rd to 5th meetings)	"
Mr M Hargreaves	Home Office Adviser on Magistrates' Courts
Mr T C Platt (1st and 2nd meetings)	F2 Division
Mr R M Morris (3rd to 5th meetings)	"
Miss J Vennard	Research and Planning Unit

Outside Members

Dr T W Church	Vera Institute of Justice
Mr I Fowler	Principal Chief Clerk, Inner London Magistrates' Courts Service
Mr D H Kidner	Clerk to the Justices, Coventry Magistrates' Court
Mr A R Rickard	Clerk to the Justices, Colchester Magistrates' Court

The Working Group

Mrs B H Fair
Miss S E Rice
Mr N S Benger

INFORMATION ON THE WORKING OF MAGISTRATES' COURTS, FINE ENFORCEMENT AND DELAYS

List of sources

A. Delay

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2. Programme to reduce waiting time at Colchester Magistrates' Court: (a) Report on Activities of Vera Institute of Justice, London Office: 1 September 1979 - 31 August 1980; (b) Interim Report 20 March 1981.

3. Programme to reduce waiting time in Colchester Magistrates' Court: Final Report (Vera Institute of Justice, 20 July 1981).

4. Delay in hearing cases (Memorandum by Justices' Clerks' Society to the Royal Commission on Legal Services, August 1977).

5. The distribution of criminal business between the Crown Court and magistrates' courts (The James Report, Cmnd 6323, November 1975).

6. The Scandal of the Delays in the Juvenile Court (G M Nightingale, "Justice of the Peace", 31 March 1979).

7. Report of the Royal Commission on Criminal Procedure (Cmnd 8092, January 1981).

8. Arrest, Charge and Summons (R Gemmill and R F Morgan-Giles, Royal Commission on Criminal Procedure, Research Study No 9, August 1980).

9. Memorandum to the Royal Commission on Criminal Procedure submitted by the Magistrates' Association.

10. Applying for an adjournment (Justice of the Peace, 10 January 1981).

11. New Bail Procedure in Dorset (ibid).

12. Interim Report: Listing Officer Experiment, Horseferry Road Court (August 1977).

13. Second Interim Report: Listing Officer Experiment, Horseferry Road Court (January 1978).

14. Delay: A New Study (Justice of the Peace, 1 November 1980).

15. Proposals for the Reform of the System of Legal Aid in Criminal Cases (Justices' Clerks' Society, August 1980).

16. Defendants in the Criminal Process (A E Bottoms and J D. McLean, 1976).

17. Remands during proceedings at magistrates' courts - (Statistical Department, Home Office).

B. Fine Enforcement

1. Local Prisons, The Crisis in the English Penal System (R F Sparks, 1971).

2. A Survey of Fine Enforcement: Home Office Research Study No 16 (P Softley, 1973).

3. Imprisonment of non-payment of fines or maintenance (Miss J Vennard, Home Office Research Unit, 1975, unpublished).

4. A survey of fine defaulters and civil debtors in Pentonville (Miss I Posen, 1976, unpublished).

5. Fines in Magistrates' Courts: Home Office Research Study No 46 (P Softley, 1978).

6. Making them Pay (G Wilkins, NACRO, 1979).

7. Non-custodial and semi-custodial penalties (Report of the Advisory Council on the Penal System, 1970).

8. Report of the NACRO Working Party on Fine Default.

9. Report of Magistrates Association Sub-Committee on Fines and Fine Enforcement (1980).

10. Enforcement of Fines (C Latham 1973 Criminal Law Review).

C. Miscellaneous

1. Annual Reports by Clerks to Justices

2. Annual Reports by the Internal Audit Service of the Lord Chancellor's Department

SECTION B

FINE ENFORCEMENT

I. General

1. What problems do you have in enforcing fines?

   a. staffing

   b. identification of defaulters

   c. service of summonses and warrants

   d. accounting

2. Can you identify any characteristics of defendants or types of cases which tend to make fine enforcement more difficult?

3. What do you think are the most important elements in successful fine enforcement?

II. Default

1. What method do you use to identify defaulters?

   a. how soon after default is action normally taken - why is there this gap?

   b. what is the sequence of events after default is identified?

   c. does this sequence vary? If so, why?

   d. is there any administrative discretion in deciding whether action is taken? - by whom?
   - on what basis?

2. Are any of the following methods of enforcement used regularly?

   a. means enquiry reports

   b. fixing a date for reappearance of defendants who do not pay fines

   c. attachment of earnings orders

   d. money supervision orders

   e. distraint - if so, are bailiffs used?

   f. fine enforcement courts

   g. fine enforcement officers - if so, what are their duties?

3. Which methods of enforcement do you consider to be most effective? Are different methods effective with different types of offence/ offender?

4. Under what circumstances are fines

   a. remitted

   b. written off

   What procedures are used?

5. How does the court try to match its decisions to the defendants' means

   a. when the fines are imposed

   b. at means enquiries - is a standard form used?

III. Accounting/Staffing

1. How many staff work on fine collection and enforcement? Is this number adequate?

2. What tasks in relation to fine enforcement are undertaken by the police?

3. To what extent is the accounting system mechanised?

4. What comments about the system were made in the last auditors' report?

5. What statistics about fine collection and enforcement are kept regularly?

6. How do you prove arrears?

VISITS TO MAGISTRATES' COURTS

Interview schedules

A THE JUSTICES' CLERK

I. General Introduction

1. Refer to approach from the Justices' Clerks' Society. Explain remit of working group; general purpose and work to be carried out in first six months.
2. Purpose of court visits
   - education of working group
   - obtaining from clerks and others their views on how system operates, strengths and possible problem areas; in particular aim to look at fine enforcement procedures and areas relevant to waiting times.
3. Nature of interview - confidential
   - NOT for attribution, either in formal report or in internal Home Office documents: want to encourage candour so can make informed description.
4. Three main areas of enquiry, two particular and one general: fine enforcement, waiting times and working of the system.

II. Fine Enforcement

1. What problems do you have in enforcing fines?
   a. staffing?
   b. identification of defaulters?
   c. service of summonses and warrants?
   d. accounting?
2. Can you identify any characteristics of defendants or types of cases which tend to make fine enforcement more difficult?
3. What are the principal methods of enforcement used here?
4. What do you think are the most important elements in successful fine enforcement?
5. Have there been any recent changes of procedure in relation to enforcement? If so
   - what prompted this and how was it arranged?
   - has the change been successful?
6. How does the court seek to match its decisions on fines to the defendants' means:

a. when the fines are imposed?

b. at means enquiries?

/NOTE: take in questions from section B below if necessary because of the small scale of the court/.

III. Waiting-time

1. Is delay a problem in this court?

   - in what types of cases?

   - at what points in case progress?

2. Do you compile any figures that allow you to monitor waiting times?

3. Is the issue of waiting time a matter of concern to the justices or clerks in court?

4. What in outline are the arrangements for listing and scheduling of cases, including contested cases? Do you have problems with failure of contested cases?

5. What are the main factors that contribute to lengthy waiting times?

6. Has the court any policy on length of adjournments?

7. Has the court recently introduced any procedures designed to reduce waiting time? If so,

   - what prompted this and how was it arranged?

   - what was the change and was it successful?

/Where it appears that there is no designated listing officer, it may be necessary to put some more of the questions in Section C to the clerk himself/.

Now we have some general questions on how your court is organised and how it fits into the wider court system involving the MCC, local authority and central government.

IV. Planning and control of expenditure

1. a. What is the process if a new typewriter or other item of equipment is wanted?

b. what is the process if additional or new accommodation or other works are required?

c. what is the process if an additional member of staff is required?

2. Probe on role played by MCC, local authority and, for the last two, Home Office.

3. How easy or difficult is it to get extra resources?

4. Is an annual budget fixed? If so, how?

V. Other local influences on court operation

1. How far is MCC involved in areas other than those which bear on the financing of the court?

- personnel matters?

- procedures?

- other?

- How frequent is your contact with the MCC
/if clerk is also clerk to MCC, add:/ as clerk to justices
(Probe for whether MCC is real influence or generally agrees with its clerk).

- /for metropolitan districts with single p.s.d/

How does MCC operate, given that it has only this court to deal with?

Are all its members taken from this bench?

- any particular problem areas with MCC?
Can you attend MCC meetings?

2. - What role do the chairman and local bench play in the running of the court? In relation to:

- finance generally?

- accommodation?

- staff?

- procedures?

- Are local committees important?

- any particular problems with bench or committees?

3. Does the local authority become involved in areas other than those which bear on the financing of the court? Do you as clerk have direct contact with them?

- Does the local authority usually accept the MCC's decisions?

- Is the local authority sensitive to the needs of the court?

Why/why not?

- Any particular problems with the local authority?

4. Do you have any regular contact with police, prosecuting solicitor, local Law Society/bar, probation service, others to discuss problems of court? What areas do you discuss? and with whom?

5. Is there a court policy on grant of legal aid?

VI. <u>Now can we move further from home, to central government</u>

1. What divisions of Home Office have most influence on court operation in your experience?

- what experience recently with

G3 - new buildings and other works

C2 - new staff

- accounts

Home Office generally - circulars on procedure etc

accounts branch - fine accounts, others?

Have you found them to be helpful, co-operative? Any problem areas that could be improved?

2. What about the Lord Chancellor's Office

- Audit - what has your experience been here?
  - strengths? Found auditors to be positive help?
  - are audit reports influential with local bench? MCC? local authority?
  - do you generally follow their advice? What would happen if you didn't?
  - any problem areas here?

- Appointment of magistrates: how do they respond to requests for increases in numbers?

3. Are there any other aspects of central government which affect your court in a direct administrative way?

VII. Court organisation and resources

1. - How are the staff organised?
   - Do you think you have adequate staff - numbers and quality?
     Are those who sit in court qualified professionally?
   - Are there any particular problems of recruitment? - turnover?
   - Are the arrangements for training of staff adequate?

2. - Do you have enough court rooms? - ancillary accommodation?

3. - Do you have enough magistrates? Of sufficient quality? Is there any problem in getting extra magistrates?
   - Is the training of the magistrates adequate?

4. - Are there any problems with fine and fees accounts?

5. - Do you have or have you considered having a computer?
   - If not, why not?
   - If you have one or are considering one,
     - how was the decision arrived at?
     - has it/will it have other uses besides accounts?
   - what assistance if any did you have from local authority, IAS, Home Office?
   - if the court already has one what effects have you noticed of having a computer?

VIII. Now we have some general questions concerning the information and help available to you in running your court

1. What statistics, if any, do you regularly keep concerning
   - caseload of court (filings, dispositions, pending cases)
   - waiting time
   - fine enforcement
   - expenditures, etc
   - other
   - What use do you make of these statistics in management?
   - Are there any statistics that would be helpful that you currently don't have?

2. If you had a problem concerning listing of contested cases or with fine enforcement procedures, where would you go for help or advice?

   Any regular exchange of information among clerks?

/Version of Section A, parts IV and V for Inner London courts/

IV. Planning and control of expenditure

1. a. What is the process if a new typewriter or other item of equipment is wanted?

   b. What is the process if additional or new accommodation or other works are required?

   c. What is the process if an additional member of staff is required?

2. Probe on role played by Principal Chief Clerk, Committee of Magistrates, Receiver and Home Office.

3. How easy or difficult is it to get extra resources?

4. Is an annual budget fixed? If so, how?

V. Inner London Court Administration

1. In what other areas of court administration are the Principal Chief Clerk and his staff involved?

   - personnel matters?
   - procedure?
   - other?

   How frequent is your contact with them?

2. In what areas other than those which bear on the financing of the court is the Committee of Magistrates involved?

   - personnel matters?
   - procedure?
   - other?

   (Probe for how far the Committee is a real influence)

3. Do you have any contact with the Receiver's Office on financial matters? On other matters?

4. What role do the local bench and their chairman play in the running of the court? In relation to:

   - finance generally?
   - accommodation?
   - staff?
   - procedures?

5. Are there any particular problem areas in general court administration?

C. THE LISTING OFFICER (OR EQUIVALENT)

1. Please describe the arrangements for listing of cases (a) in general and (b) for contested cases.
   - How are the court sittings arranged eg are there separate custody or motoring courts, do courts sit in the afternoon?

2. In your judgement, how long:
   - do the police typically grant police bail to arrest defendants before their first court date?
   - does it take from incident to first court date in summons cases?
   - are adjournments typically given in this court:
     a. before a plea
     b. from a not guilty plea to a trial date in
        - 2 hour trial
        - all day trial/old style committal
     c. awaiting a social inquiry report and/or other reports
        - do you have any figures on these?

3. Is delay a problem in this court?
   - in what types of cases?
   - at what points in case progress?
   - are any figures compiled that allow you to monitor waiting time?

4. What factors, in your view, contribute most to lengthy waiting time?

5. Does the court make any special efforts to control the number or length of adjournments?

6. Do you have any particular difficulties with listing of contested cases (cases collapsing at the last minute, etc?) If so, how do you deal with them? What are typical reasons for collapse?

7. What liaison if any is there with police, prosecuting solicitor, defence over the progress of contested cases?

8. /Where clerk has indicated that recent changes have been made/, please describe the recent changes in procedure /specify/. Why were they introduced? How? What has been their effect?

6. Do you have regular contact with any of the following to discuss court problems?

   - Metropolitan Police: administration?
   - Metropolitan Police: prosecution?
   - local Law Society/bar?
   - Probation Service?
   - others?

   What areas do you discuss and with whom?

7. Is there a court policy on the grant of legal aid?

WORKING OF THE SYSTEM

INTERVIEW SCHEDULES

A. MAGISTRATES' COURTS COMMITTEE

1. How often does the Committee meet?

2. What sub-committees are there? How often do they meet?

3. How are members of the MCC and its sub-committees chosen?

4. How would you characterise the relationship

   (a) between the MCC and the paying authority, and
   (b) between the MCC and the courts?

5. What is the procedure when dealing with

   (a) proposal for additional staff?
   (b) proposal for new courthouse, major works?
   (c) more routine items of budget - equipment, maintenance etc?

Does the initiative come from psd in each case?

6. Is an annual budget fixed for each psd? If so, how?

7. What is your experience in dealing with Home Office on

   (a) requests for additional staff?
   (b) requests for buildings?

8. Does the local authority normally agree to MCC determinations? Has there been any appeal recently?

9. Do clerks to justices attend (i) the committee or (ii) its sub-committees

   (a) when an item relating to their court is under discussion?
   (b) at other times?

10. Do local authority staff attend MCC meetings?

11. How far is the Committee involved in other than financial matters

   (a) personnel?
   (b) procedure?
   (c) computerisation?
   (d) other?

12. Does the MCC take an interest in audit reports on the courts in its area?

What happens if there is an unfavourable report?

13. What is the procedure when a new clerk to justices is to be appointed?

14. How does the Committee choose its own clerk?

B. THE PAYING AUTHORITY

1. How would you characterise the relationship between the MCC and the local authority?

2. How far does MCC discuss proposals with paying authority before finalising them:

   (a) on additions to staff?
   (b) on buildings and major works?
   (c) on the annual budget?
   (d) other?

3. How does the local authority process MCC determinations?

4. Has the local authority appealed against any MCC determination lately?

5. What is your experience of dealing with the Home Office:

   (a) on staffing?
   (b) on buildings?
   (c) other matters?

6. Has the local authority been involved in any proposals for computerisation of magistrates' courts?

7. Has the local authority been involved in any other aspects of magistrates' courts administration?

8. Does the local authority have direct contact with individual clerks to justices?

THE INNER LONDON MAGISTRATES' COURTS SERVICE (ILMCS)

1. The ILMCS is unique both in practice and under statute. The Inner London area is divided into separate petty sessional divisions, each of which has a senior chief clerk and one or more chief clerks, but for administrative purposes the ILMCS is run as an integrated service. Thus, members of staff are employed by the ILMCS as a whole and will expect to be moved from court to court at fairly frequent intervals and to encounter broadly similar procedures at each court. This contrasts with the procedure elsewhere in the country where staff, although employed by the MCC, would expect to fill a specific vacancy at a court and remain there, moving only for career purposes when they would apply for a position at another court even in the same commission area; the difference is accentuated by the fact that the ILMCS recruits at only two basic grades and deputy chief clerk, the latter being open only to qualified lawyers. This difference naturally affects the chief clerks' role: they tend to have less direct responsibility for staff than do justices' clerks elsewhere as no other area has the separate personnel section possessed by the ILMCS.

2. The Receiver acts as the 'paying authority' for the ILMCS and there is no MCC but instead a Committee of Magistrates which meets under the chairmanship of the Chief Metropolitan Stipendiary Magistrate and is composed equally of lay and stipendiary magistrates. In contrast to the position outside Inner London, the Receiver is obliged, under section 58 of the JPA, to provide ".. such court houses and other accommodation, and such furniture, books and other things, as the committee may determine .."; there is no provision for consultation but, instead there is provision that no determination of the Committee of Magistrates under section 58 shall have effect unless confirmed by the Home Secretary. The Receiver raises the necessary money by precept upon the Inner London boroughs (the Receiver also raises the money needed for the Metropolitan Police and the Inner London Probation and After-Care Service; the proportion of the total relating to the Magistrates' courts is very small and has rarely, if ever, been challenged by the boroughs).

3. The preparation of the budget used to be almost exclusively the responsibility of the Receiver, but this is no longer the case. The ILMCS has now taken over responsibility for personnel and has a section which prepares the necessary forecasts etc. Preparation of the remainder of the budget, however, still involves the Receiver, members of whose staff will tour the courts in order to discover what will be required during the course of the following year. When the draft budget has been prepared it will be submitted to the Principal Chief Clerk, and subsequently to the Committee of Magistrates, which normally approves it without substantial debate.

4. Following an internal management review of the functions and duties of the Receiver, it seems probable that the ILMCS will take a more active role in formulating its requirements and preparing a budget. The review, insofar as it affected the ILMCS, recommended that the Receiver should act as a providing agency leaving the Service to decide upon what was needed. The Committee of Magistrates has broadly accepted these recommendations, although they will take some time to implement as, despite its integrated nature, the administrative structure of the ILMCS is still somewhat underdeveloped, apart from the personnel function. The relationship between the ILMCS and Receiver seems likely to remain close however, given that the latter will continue to

provide the necessary resources which can be viewed as falling into two broad categories, building and allied matters and other services. In the case of the former, the existing facilities available within the Receiver's office to deal with police construction work are available to the ILMCS, whilst in the case of the latter the Receiver is well placed to negotiate advantageous prices because of the very large orders which he can place and the ILMCS can share in these.

5. The day to day administration of the ILMCS is the responsibility of the Chief Metropolitan Stipendiary Magistrate assisted by the Principal Chief Clerk who, in practice, will also fulfil the role of clerk to the Committee of Magistrates. Beyond the reference to the Principal Chief Clerk assisting the Chief Magistrate, contained in section 38 of the JPA, there is no precise definition of his job. The management review of 1973 suggested, however, that the job should be a line management one and this has been accepted by the present incumbent. This is not to suggest that all aspects of the work of the ILMCS fall under the Principal Chief Clerk; under section 37 of the JPA all chief clerks are equated to justices' clerks and therefore have the same powers and responsibilities under enactments referring to justices' clerks as do clerks in the remainder of the country.

6. In many ways, the relationship between the ILMCS and the Receiver resembles that between the MCC and the paying authority in a shire county where there are comparatively few courts. The Principal Chief Clerk, who, as mentioned above, also acts as clerk to the Committee of Magistrates, is as involved in the administration of the courts and the provision of resources as any justices' clerk who also acts as clerk to his MCC. In many ways, he is more involved in that he has a staff to assist him, and takes an active role in formulating the budget, preparing building projects, the allocation of staff to individual courts and office systems. At the same time however, it should be noted that the individual chief clerk has less control over the provision of resources for his court than does the individual justices' clerk elsewhere. This is probably due to the integrated nature of the ILMCS which means that chief clerks play little or no part in the formulation of budgets for their courts and so cannot be sure whether requests for additional resources are reasonable or not. Also, chief clerks do not have control over the employment of staff who are then assigned to courts and removed again in pursuit of central objectives and not necessarily to the benefit of the individual courts, and chief clerks, concerned.

7. The procedure for deciding whether additional staff are required is also unique to Inner London. In the provinces the individual justices' clerk concerned will press for an increase in the establishment of his own court whereas the ILMCS, whilst obviously working from the appropriate establishments of individual courts, tends to think in terms of the service as a whole. Furthermore, any determination by the Committee of Magistrates that any additional new post be created, must be approved by the Home Secretary if it is to have effect (section 37, JPA). This procedure constrasts with that in use outside Inner London in that, since the Home Office requirement that it should give prior approval to new additional posts relates only to the payment of grant, an MCC could determine on an additional post and the paying authority could in theory fund it against the wishes of the Home Office, although grant would not be payable. In Inner London, the withholding of approval for an additional post would mean that no further action could be taken.

ANNEX F

PROCEDURE FOR APPROVAL OF ADDITIONAL STAFF

1. Home Office approval is required before an MCC may create new additional posts. The normal procedure is for the justices' clerk concerned to approach the MCC and if he obtains its approval it will consult with the paying authority with a view to securing their support; once this has been done the MCC approaches the Home Office to seek their approval and once this has been granted the MCC will be free to fill the new post. In some areas the procedure differs in that the MCC will approach the Home Office before (or at the same time as) it approaches the paying authority; in these instances the Home Office will give approval subject to the comments of the paying authority. The issue is not pre-judged should the paying authority subsequently wish to appeal since the Home Office will initially have received only the MCC's version and may therefore take a totally different line once it has heard the paying authority's side of the case, eg that the authority is not able to pay for the additional post.

2. In many areas, particularly the non-metropolitan counties, there will be a very close relationship between MCC and paying authority with the result that the MCC will not determine upon an additional post unless they have already consulted the paying authority which will then conduct a management survey and will agree to the additional post only if it is shown to be necessary. In these instances, where MCC and paying authority are agreed on the justification for an extra post, the Home Office would be unlikely to reject the proposal. It would be erroneous, however, to assume that Home Office approval for additional staff is a mere formality; in general the MCC concerned will be asked to supply details (including numbers and grading) concerning the number of staff already employed on the type of work for which the new post would be created together with evidence of increasing workload which would justify a further post. In instances where the Home Office does not consider that a sufficient case has been made out approval for the additional post will be withheld.

3. There are no specified requirements as to the information to be supplied in support of applications for staff increases and the Home Office must rely first on what figures the MCC chooses, or is able to provide, to demonstrate increased workload and on the MCC's own assessment of what other factors may be relevant to the staffing levels of the court in question. Given that there are no standard criteria for measuring workload against numbers of staff there is some doubt as to the value of the evidence thus provided: it could happen that an inefficient court had to be given additional staff to cope with a situation created by its inefficiency and conversely that an efficient court was penalised in that it would never appear to be in such a serious position that it was essential for it to be given additional staff. In general Home Office officials will reach a decision on a balance of the merits of the case as put to them.

ANNEX G

PAY DETERMINATION

1. There are in effect ? separate procedures for ? different areas to be considered:-

   (a) England and Wales excluding Inner London - in theory individual courts committees set pay levels for their staff but in practice they will follow the recommendations of the Joint Negotiating Committee for Justices' Clerks' Assistants (JNC) composed of staff side representatives and management side representatives drawn from local authorities and courts committees. There is also a JNC for Justices' Clerks composed of management representatives and representatives from the Justices' Clerks' Society.

   (b) Inner London - the pay of chief clerks and deputy chief clerks is linked to that of justices' clerks; these grades are represented by the London Magistrates' Clerks' Association which is affiliated to the Institution of Professional Civil Servants. The remaining grades within the Inner London Magistrates' Courts Service are represented by the Society of Civil and Public Servants and the Civil and Public Servants' Association, not by the Association of Magisterial Officers; over the past few years their pay has diverged somewhat from that for equivalent grades in the remainder of the country. As the Home Secretary must approve the determinations of the Committee of Magistrates on pay as of everything else before they take effect he is necessarily more involved in pay negotiations in so far as they affect Inner London than for other areas of the country.

2. The recommendations of the JNC concerning the pay of staff outside Inner London are still subject ultimately to scrutiny by the Home Office because the Home Secretary must decide whether or not to pay grant on pay settlements which have been reached within the forum of the JNC. On one occasion, during a period of pay restraint, the Home Secretary did refuse to pay grant on a pay increase which exceeded the current guidelines. As a result, the JNC will normally wish to consult closely with the Home Office before reaching a final decision on a pay increase.

3. It has been agreed at the JNC that MCCs should, in consultation with justices' clerks, review annually the establishments and gradings of courts for which they were responsible. The exact interpretation placed upon this provision appears to vary from area to area; some courts committees appear to think that this permits assistants to make representations where they consider that the establishment for their court is too low and that this is placing an undue burden upon them whilst other areas have interpreted it in such a way as to permit every assistant automatically to apply for regrading at the beginning of each year. In areas where this latter interpretation has been adopted there have been complaints from paying authorities which regard this custom as bad practice, particularly as there is no analogous provision for local authority staff.

ANNEX H

PROCEDURE FOR DECIDING LEVEL OF EXPENDITURE ON MAGISTRATES' COURTS

1. In theory the financial arrangements for the magistrates' courts are very simple with the MCC deciding how much money is needed and then demanding this sum from the paying authority which has a statutory duty to provide the resources necessary for the running of the magistrates' courts service. Initially, this sum has to be paid from the paying authority's own resources and the Home Office later pays 80% grant. In the event of any dispute between the paying authority and the MCC, the former may appeal within one month of the relevant determination to the Home Office whose decision is final. As explained in Chapter 2, some central monitoring of expenditure is essential and the following notes describe the system at present in use:

Forecasts

2. Early March - the Public Expenditure Survey forecasts covering the next 5 years' expenditure are prepared by Finance Division in consultation with C2 and G3 Divisions. These forecasts are prepared largely by reference to the expenditure in previous years.

3. May/June - the forecasts for the Public Expenditure Survey are discussed and agreed with the local authorities; this is done in the Rate Support Grant Committee (any central government department which has a responsibility for expenditure incurred by local authorities will have such a committee which will be composed half of central government representatives and half of local authority representatives). A number of MCC treasurers sit on this committee which means that the committee has the benefit of informed comments and at the same time the MCC treasurers present can gain an impression of the resources which are likely to be available in the future and then disseminate that knowledge to their colleagues. Also in June, the first return of rates for the current year is received which shows the exact amount that the local authorities are budgeting to spend on the magistrates' courts service during the current year. This return is useful for 2 purposes; firstly, it provides up-to-date information which can be used to modify the estimates for the Public Expenditure Survey and also assist in defining the likely requirements for next year's Rate Support Grant. Secondly, the Home Office can use the return to discover whether the forecast for expenditure during the current year upon which it is paying quarterly advances of grant (see section on distribution below) is correct. If the return shows that a comparatively small overspend is likely, the Home Office will seek permission from the Treasury to transfer funds from other heads within the law and order budget which have been under-spent. If a large overspend seems likely it would be necessary to turn to the Contingency Fund or, alternatively, to require MCCs to take immediate remedial action, eg by not filling staff vacancies.

4. Autumn - the out-turn figures for the previous year will now be available and the final agreed revised figures for next year's expenditure can be prepared in all areas. Once this has been done, the Government will set the block grant for the coming year. Because the block grant merely represents the amount of money which will be available nationally for all local authority expenditure on all services, local authority treasurers who are not already aware of the element

which has been incorporated in the grant to cover magistrates' courts will consult Finance Division when preparing their budget. The Home Office does not seek to control individual MCC budgets but in general treasurers will take their cue from the block grant settlement when deciding on any increases for the forthcoming year.

Distribution of Grant

5. The grant is paid quarterly in advance to paying authorities on the basis either of any estimates of future expenditure which may have been submitted by the paying authorities, or of the proportion of national expenditure on magistrates' courts accounted for by each paying authority during previous years.

6. In February of each year the Receiver's precept for the coming year is received and paid after which the Home Office will write to individual paying authorities informing them of a grant payment for the coming year. In many cases these grant payments will be an accurate reflection of the total grant which will be payable to individual authorities both because the Home Office will have taken account of those likely changes of expenditure of which it has been made aware, and the paying authorities will have formulated their budgets in the light of the block grant settlement. There will, however, be some authorities which have, for various reasons, budgeted to spend more than the Home Office has anticipated. These authorities will therefore contact Finance Division, which retains a part of the total available for grant payments to deal with problems of this sort and to iron out any unexpected cash flow difficulties; it will therefore usually be possible to adjust the advance payments of grant as necessary.

7. After the end of the financial year the paying authorities complete grant claim forms showing their actual expenditure on magistrates' courts during the past year; these forms do not give a great deal of information as they are not designed to enable the Home Office to exercise detailed control over expenditure. It is likely that these returns will show that the paying authority concerned has received either too much or too little in advance payments and that accordingly an adjustment needs to be made; this will be done in the first advance payment of grant during the next financial year.

8. In effect outside Inner London, the Home Office must rely on the local authority's desire to minimize its 20% contribution, backed up ultimately by the District Auditor's power to disallow expenditure, as the only controls upon magistrates' courts expenditure. It should be noted that the criteria given to the District Auditor in order to enable him to decide whether or not expenditure was "properly incurred" are less detailed than those given for both the police and the Probation Service, which must make it more difficult to monitor expenditure.

ANNEX I

PROCEDURE FOR THE PLANNING AND BUILDING OF A NEW COURTHOUSE IN ENGLAND AND WALES

1. Until the mid 1970s there was no grave shortage of money for the building of new courthouses and considerable construction was undertaken. Since that time, however, there have been considerable cutbacks in central government allocations; and, more recently, pressure on local government expenditure has resulted in a reduced willingness on the part of paying authorities to undertake multimillion pound courthouse building schemes. Accordingly, it has proved impossible to make building starts on a number of projects, the operational need for which the Home Office has acknowledged.

2. It takes at least 3 years, and sometimes longer, to plan a new courthouse from scratch. Accordingly, to guard against any inability to take up resources which may in future become available at short notice, G3 Division have drawn up a short-list of schemes of the highest operational priority for which it seems realistic to allow forward planning.

3. Additional capital resources have been made available at central government level since this list was compiled in 1978, and building start dates in 1981/82 and 1982/83 have been approved for 10 new courthouse schemes, though for over 30 others in planning no start date can yet be realistically identified.

4. It is commonly difficult to ensure a match between the availability of resources and of schemes ready to begin the significant expenditure associated with construction. In addition, the scheduling of expenditure may be upset by slippages in the planning of new schemes, or in the rate of expenditure on a particular job, or in the availability of resources in a local authority to progress a scheme. These problems are not peculiar to the courts service, of course.

5. Central government involvement in the construction of new court buildings is far more detailed than for any other aspect of expenditure on magistrates' courts. This is largely because of the sums involved. A new courthouse commonly costs in toto about £½ million per courtroom in the provinces and rather more than this in London: and less than half of the courthouses in planning are designed to have fewer than 6 courtrooms. G3 Division's usual point of liaison is not with the magistrates' courts' committee, but with the local authority because it is the latter who are statutorily responsible for the provision of courthouse accommodation and equipment, albeit in consultation with the MCC.

6. On the assumption that there is no dispute between the MCC and the paying authority there will be the following phases in the planning and construction of a new courthouse:

   (a) The Home Office has first to be satisfied of the high operational need for the proposed new building. Generally, this involves the existing facilities meeting at least some of G3 Division's criteria - shortage of courtrooms, shortage of staff accommodation, shortage of ancillary facilities (for magistrates, advocates, witnesses, prisoners and the public) and more than one venue in a PSD. Only then may approval be given to an authority to start

planning the scheme.

(b) Grant is payable on the cost of planning a new scheme (generally about 15% of the construction costs) and on the acquisition, other than by appropriation, of a site. Here again, however, G3 will wish to be satisfied that the site will be as economic as possible to buy and to develop before it gives approval to its acquisition.

(c) The next stage to be approved is the proposed number of courtrooms. Here, G3 Division apply the broad rule of thumb that a courtroom has a capacity of 1,000 sitting hours per year. Accordingly, they seek information on the current and recent past workload of the PSD so as to assess how many courtrooms are needed now and how many are likely to be needed in the reasonable lifetime of the new building.

(d) The paying authority, in consultation with the MCC, then prepares a schedule of accommodation, which is essentially a list of the rooms, and their functions, for the new courthouse. G3 Division, together with professional advisers in chief architect's branch, consider such schedules in the light of the design guidance which the Home Office has formulated in recent years (authorities have copies of the basic documents, the Magistrates' Courthouse Design Study 1977 and associated Room Data Sheets); and, as relevant, in the light of advice from C2 Division (on staffing), Probation Inspectorate (probation service accommodation), Internal Audit Service (computer equipment), and their own police building section (cells). Suggestions may be made as to more efficient and economical provisions, and gradually a schedule is evolved which G3 Division can approve.

(e) On the basis of this approval, the paying authority's architects (or their nominates) will prepare sketch plans and a cost estimate for the scheme which are similarly considered and, eventually, approved. The approved cost estimate becomes the Maximum Cost Limit (MCL) within which an authority is required to construct the courthouse. It may make cheaper provisions (with G3's approval, so that operational efficiency and cost-benefit are safeguarded as far as possible); but it may not exceed this limit without the explicit agreement of G3 Division on pain of liability to the withholding of grant (a very rare occurrence indeed).

(f) Given approved sketch plans and MCL, together with a building start date approved by G3 Division, the authority will prepare working drawings and bills of quantity and, once it has an approved building start date, it may put the job to tender. The lowest resulting tenders are then required to be put to G3 Division for approval of the authority's preference before the tender is let.

(g) Construction may then proceed without G3 involvement unless the authority decides to propose a major and more expensive amendment to the approved scheme during its construction (also very rare): any minor cost variations arising during this scheme are ironed out once a final account has been formulated and submitted to G3 for approval of final grant payments.

7. Once the need for a scheme has been recognised and approval to plan has been given, the way ahead is clear; and although the major share of work falls on the providing authority, the MCC is always involved to the extent of agreeing, at each stage, what facilities should be incorporated in a scheme.

8. However, the identification of a need for a new courthouse is much less clearly formalised. This depends very largely on an MCC identifying the inadequacies of its existing facilities and successfully stimulating its paying authority to make a bid for Home Office recognition of its needs; then, on the authority successfully demonstrating to the Home Office so high an operational need for improvements as to obtain approval to plan a scheme.

PROCEDURE FOR ACQUISITION OF A COMPUTER

1. Prior to 1976, there was no central control over the acquisition of computers and any court committee which wished to install a computer, or come to an arrangement with a local authority to use its computer, could do so without further ado. This arrangement was less than satisfactory because it led to separate programs which are designed to perform the same function being written for separate courts which was likely to be a wasteful arrangement. In 1977, following comments by the Public Accounts Committee, the Home Office issued a circular (109/1977) which, as noted in Chapter 2, reminded MCCs of the expertise of the Internal Audit Service and required them to give the audit service particulars of proposals for computerisation. It was made clear that computers should only be introduced where compensating savings as to staff and other costs would rapidly materialise.

2. IAS initially became involved in advising on proposals for computerisation because computers in the courts tended to be seen primarily as accounting machines: there was also concern that a number of proposals involving the use of local authority mainframe computers were not economic. In giving advice, IAS are careful not to recommend one specific package. At present, there are 3 manufacturers all of whom offer a fairly extended package with a reasonable degree of flexibility built in; the field is open, however, to any manufacturer who can provide a full package and can offer a competitive price at the first court for which he tenders, ie he should not seek a substantial payment to cover his development costs, but rather seek to cover these by selling a large number of his computers to the courts.

3. There is no standard procedure laid down by which a computer should be acquired although IAS will always wish to be involved quite closely. In general, a justices' clerk will probably decide that he requires a computer after consultation with colleagues who already have one. The next stage will be to consult with both IAS and the MCC in order to get outline agreement; once this has been achieved the clerk will form a working party with a small number of his staff and then report back to the MCC. Almost invariably the paying authority will be involved as they will have experience with computers; this involvement can range from offering assistance in framing technical requirements and carrying out full-scale evaluations to the suggestion that the courts should use the local authority's mainframe computer without any real attempt to discover whether or not this is the best solution. As noted above, IAS firmly refuse to give opinions on the relative merits of the packages on offer, preferring to have the courts frame their own requirements and so decide which manufacturer could best fulfil them. This approach is not liked by some justices' clerks who consider that they should be given more positive guidance in a field where they have no specialist knowledge.

4. Once the court and the MCC have decided on the package which they require, IAS will make a pre-installation visit at which they will endeavour to pass on any useful hints which they can give about computerisation; for example, they would suggest that courts computerise their pre-court work first and then work through the system. Some 6 weeks to 3 months after the system has first become "live" IAS will return to offer advice on any difficulties which may have arisen. This procedure will be repeated on several occasions before a full computer audit is carried out.

5. IAS have concluded that in the main the installation of computers has proved to be a success in terms of contributing to the efficiency of the courts. The initial problems with the 3 commercial packages now on offer have largely been ironed out and it should be relatively simple for a court which wishes to computerise to do so. On the other hand, some courts do not appear to have realised that an inefficient manual system cannot be improved simply by transferring it to a computer; the problem may become even more severe. Also, as noted elsewhere, many courts do not have an office manager in overall charge of the administrative work connected with the court, and the lack of a person experienced in this area has meant that many courts have not been able to make the most efficient use possible of their computers which are capable of producing a great deal of management information. It is considered that in such a decentralised organisation as the magistrates' courts service, progress will inevitably be rather slow in the absence of any firm statement from central government.

REMAND DECISIONS BY MAGISTRATES' COURTS ANNEX K

1. During the first year of operation of the Bail Act 1976, which came into force on 17 April 1978, magistrates' courts throughout England and Wales sent copies of court forms recording remand decisions to the Home Office Statistical Department. These forms provided information about individual remand decisions relating to persons first remanded during this period. A random sample of about 8,000 cases where the first remand was between May and October 1978 was chosen by Statistical Department for the purpose of analysing the granting and refusing of bail and - by linkage between forms and with information in Statistical Department's Offenders Index - the incidence of offending while on bail. The results of these analyses were published in Criminal Statistics 1979 (Cmnd 8098) and in Home Office Statistical Bulletin 22/81. The selection and nature of the sample, described in paragraph 8.8 of Criminal Statistics 1979, indicate that it was not chosen specifically to be representative of court workloads.

2. Some further analysis of the same data has since been carried out by the Home Office Research and Planning Unit, and some of the results are shown in tables 2 to 7 of this annex. The main objectives of this new analysis were firstly to investigate whether there might be differences in remand practices at courts of different size, and secondly to examine the pattern of remands for cases resulting in different types of magistrates' court disposal.

3. To investigate the first point, the 640 petty sessional divisions in England and Wales were divided into 5 groups according to size. Because of the many organisational and administrative differences between courts in Inner London and those in the rest of the country, Inner London courts were treated as a separate group, called group 5 in the tables. The remaining psds were divided into 4 groups in such a way that each group dealt with approximately the same total workload as estimated from information about the number of persons proceeded against obtained from the criminal statistics database for 1978. This ensured that the sample of cases for each group was reasonably large, but meant that there were different numbers of psds in each group. Group 1 contains about 400 small psds which are mostly in rural areas and which each dealt with less than about 3500 proceedings in 1978. Group 2 contains about 120 psds, typically medium to small towns in shire counties which had between about 3,500 and 7,000 cases in 1978. Group 3 has about 60 psds, with up to about 11,000 persons proceeded against in 1978. The group 3 psds are mainly urban or suburban areas but exclude the largest cities. Group 4 contains the 22 largest city centre courts outside Inner London, which are listed in table 1.

4. The second point was examined by looking at cases leading to 2 different results at the magistrates' courts: those where the defendant was disposed of by the magistrates' court, and those resulting in a committal for trial. Cases where the defendant was committed to the Crown Court for sentence were excluded, and so were those where the defendant was remanded for reports after conviction (the latter all have an adjournment, normally for 4 weeks, after conviction and it was felt that their inclusion might distort the picture). Other disposals such as those where the defendant failed to appear, were also ignored. In all the tables in this annex only persons who were on bail throughout have been considered, since it was thought that courts were less likely to differ in their treatment of persons who were remanded in custody. Throughout the tables cases where the relevant data was missing have been excluded.

5. Tables 2 and 3 show the number of remands which persons in the sample received. (By definition the data excludes persons whose cases were disposed of at the first appearance). The differences between the groups are not statistically significant.

6. Tables 4 and 5 show the length of time spent on remand. In these tables there are some significant differences between the groups. In particular, in both tables, groups 4 and 5 have a significantly higher proportion of cases where the defendant was on remand for more than 7 weeks than the other groups do.

7. Taken together, the figures in tables 2 to 5 suggest the possibility that for this sample of cases the larger courts tended to adjourn cases for longer periods, although they did not adjourn cases any more often than the small courts did. Tables 6 and 7 examine this possibility further. These tables show the duration of individual adjournments, and indicate a trend towards longer adjournments in the larger courts. For example, in table 6 over 70% of group 1 adjournments were for 4 weeks or less, whereas for group 4 the corresponding figure was 55%. In fact in both tables the proportion of adjournments which were over 4 weeks long is significantly higher for groups 4 and 5 than for the other groups. It is possible that the larger courts had a higher proportion of contested summary trials and section 7 committals, and hence a higher proportion of long adjournments before these cases could be heard. No information was available about the plea or the type of committal so it was not possible to tell whether this was true. To explore the possibility that the last adjournment before a case is finally dealt with by the magistrates' court is likely to be long, tables similar to tables 6 and 7 were also produced for the last adjournment only, and for all other adjournments (for cases where there were at least 2 adjournments). These tables are not reproduced here as they showed very similar patterns for the last adjournment as for all other adjournments. This suggested that not all the very long adjournments observed for this sample of cases were immediately before contested trials or committals.

Note: The percentages in the tables have been rounded individually and do not always add up to exactly 100%.

TABLE 1

Courts in group 4

Bristol
Teesside
Derby
Bolton
Manchester
Portsmouth
Southampton
Kingston Upon Hull
Leicester City
Liverpool
Wirral
Nottingham City
Edmonton
Doncaster
Sheffield
Newcastle upon Tyne
Birmingham
Coventry
Bradford
Leeds
Newport
Cardiff

TABLE 2 Number of remands

Persons on bail throughout disposed of by magistrates' courts (excluding those remanded for sentencing after conviction)

Court group	Total number of persons (= 100%)	Number of remands 1	2	3	4	more than 4
Percentages of total number of persons in the May - October 1978 sample						
1	492	54	32	10	3	2
2	552	56	26	12	3	2
3	667	47	32	12	5	4
4	807	49	33	11	5	2
5	376	43	35	15	4	4

TABLE 3 Number of remands

Persons committed to the Crown Court for trial

Court group	Total number of persons (= 100%)	Number of remands				
		1	2	3	4	more than 4
Percentages of total number of persons in the May - October 1978 sample						
1	236	51	27	14	5	3
2	238	40	32	19	6	2
3	318	45	30	16	4	6
4	346	36	31	18	9	7
5	224	35	31	23	5	6

TABLE 4 Time spent on remand

Persons on bail throughout disposed of by magistrates' courts (excluding those remanded for sentencing after conviction

Court group	Total number of persons (=100%)	Time spent on remand (weeks)						
		0-1	2-3	4-5	6-7	8-12	13-26	27 and over
Percentages of total number of persons in the May - October 1978 sample								
1	492	9	25	27	13	18	8	-
2	552	9	22	21	14	21	11	2
3	667	6	19	23	16	19	15	2
4	808	9	23	17	10	20	18	3
5	376	8	12	20	10	21	23	7

TABLE 5 Time spent on remand

Persons on bail throughout committed to the Crown Court for trial

Court group	Total number of persons (=100%)	Time spend on remand (weeks) 0-1	2-3	4-5	6-7	8-12	13-26	27 and over
Percentages of total number of persons in the May - October 1978 sample								
1	236	3	23	28	13	21	10	1
2	240	3	20	20	17	23	16	2
3	319	5	19	22	12	27	14	2
4	349	7	14	22	13	22	20	2
5	225	3	10	16	15	28	22	5

TABLE 6 Length of adjournments

Adjournments of persons on bail throughout disposed of by magistrates' courts

(excluding those remanded for sentencing after conviction)

Court group	Total number of adjournments (=100%)	Length of adjournment (weeks)						
		less than 1	1-2	2-3	3-4	4-6	6-8	more than 8
Percentages of total number of adjournments in the May - October 1978 sample								
1	800	9	13	20	29	19	7	3
2	925	10	14	17	21	21	9	8
3	1213	10	13	18	24	16	10	8
4	1361	7	16	16	16	17	10	18
5	671	10	8	9	22	18	10	24

TABLE 7 Length of adjournments

Adjournments of persons on bail throughout committed to the Crown Court for trial

Court group	Total number of adjournments (=100%)	Length of adjournment (weeks)						
		less than 1	1-2	2-3	3-4	4-6	6-8	more than 8
Percentage of total number of adjournments in the May - October 1978 sample								
1	432	8	18	22	24	20	6	2
2	467	9	16	15	28	16	7	8
3	622	11	16	16	22	23	8	5
4	761	13	16	16	19	19	10	7
5	469	10	9	14	21	21	12	13

SCHEDULING PRACTICES ANNEX L

1. A medium sized suburban court

First court appearance is treated as a pre-trial review: where possible mode of trial and plea are decided at this stage. Dates of hearing are decided by a small scheduling office which allows so many cases of different types to each sitting (apart from overnight charges). No one but the scheduling office is allowed to decide on dates of hearings and the office thus knows exactly how many cases are listed on each day.

2. A fairly large court in a metropolitan district

A trial diary is kept and is sent for by the clerk in court when a not guilty plea is entered so that he can fix a date for the hearing. An estimated 4 hours trial would be scheduled as a full day. Court time is normally over-booked by $\frac{1}{3}$: it is rare to have to adjourn a case because it has not been reached.

3. A medium sized court in a provincial town

Solicitors representing clients intending to plead not guilty will go to the listing office on the morning of the first hearing; the prosecuting solicitor will also be present and a mutually convenient date for a hearing will be agreed with the listing officer taking account of the probable length of the case. This agreed date will then be given to the magistrates. Both sides are required to inform the court if they realise that it will not be possible for a case to be ready on the agreed date. It is the practice to schedule some 50% more work than could actually be dealt with by the court at a sitting, to allow for the failure of contested cases. For first appearances the court gives the police a quota for each day.

4. A medium sized court in a provincial town

The Deputy Clerk is in overall charge of listing and there are master diary sheets on which all the cases scheduled for hearing in each court on a given day are entered. The listing officer working under the Deputy Clerk allows for each case the solicitor's estimate plus a small amount extra; he does not over-book.

5. A medium small suburban court

The Deputy Clerk is in charge of listing. When a not guilty plea is entered the court adjourns the case for a formal 7 days and the clerk then consults the diary and adjourns it further under delegated powers to a date which is suitable for hearing.

6. A medium sized suburban court

There is a designated listing officer who keeps diaries for (a) traffic summonses and trials, (b) crime trials, and (c) other crime appearances. There are separate courts for each of these categories. Dates for the hearing of a not guilty plea are normally fixed on the morning of appearance before the case comes up in court. The officer in the case, having ascertained from the defence that a not guilty plea is intended and found out what dates would be suitable both to the defence and to the police, sees the

listing officer to "book" the first free suitable date. The listing officer will re-evaluate the estimate made by the defence or the police of the likely length of the case.

7. A large city centre court

The listing officer is the only person who is allowed to fix court dates after the first appearance. The lists are overloaded and cases transferred between court rooms if necessary. There is a fixed allowance of cases per sitting. Each court clerk is allocated a number of dates to be used for the hearing of guilty pleas. In the case of a not guilty plea, the prosecution and defence solicitors fill in a listing form either before the hearing or in court. This includes the nature of the case, the number of witnesses for each side, the estimated length of the case, whether any special difficulty is foreseen, and any dates that should be avoided. In addition, the police officers concerned give dates when they are unavailable. The form is sent out of court to the listing officer who decides on a suitable date immediately and returns the form to court. Only the listing officer has authority to change this date.

8. A smallish country town court

The listing officer is the Deputy Clerk. A diary for the hearing of contested cases is kept and in simple cases the date will be fixed at the first appearance, whilst in complex cases the matter will be adjourned *sine die* so that a generally convenient date can be fixed.

9. A large city centre court

Scheduling of contested cases is in the hands of a designated listing officer. When the court is notified of a not guilty plea, the case is normally remanded to a date 6 weeks ahead. If that date is already heavily booked or one of the parties cannot make it, the listing officer will fix a revised date in consultation with the prosecution and the defence and adjourn to the new date under delegated powers. In determining the amount of business that can be scheduled for a particular day, the listing officer allows about $\frac{1}{2}$ an hour per witness and will schedule some 7 hours of trials for the 6 hours court time available each day in each court room. The parties in court will make estimates but the listing officer does not rely on these. "Special" cases (that is those estimated to take over 3 hours) are outside these arrangements and dates will be fixed individually.

10. A large court in a metropolitan district

A court listing officer has been appointed. A day-to-day court plan is kept which allows 6 hours per court per day. An estimate is made of the length of all cases new or adjourned and they are fitted in against the time-scale. Police do not bail to "closed" lists.

11. A medium sized court in a metropolitan district

The court listing officer supervises the issue of all process, arranges the business of the courts, and allocates cases to individual courts where appropriate. The listing officer maintains a diary and approves dates for hearing of summonses. For contested cases the court clerks have with them in court an abbreviated calendar giving details of available dates, which is up-dated daily by the listing officer.

12. A medium sized court in a provincial town

All adjournments for the hearing of a contested case are for a fixed period of 28 days unless the suggested date is inconvenient to witnesses. If it is there is normally only a variation of a few days.

13. A medium large urban court

A listing officer has been appointed with the job of maintaining the master court diary, allocating dates for and entering details of new cases together with details of those cases adjourned and maintaining a daily list of the availability of court dates. Court clerks are provided with a calendar which indicates which days are clear, which can take short not guilty cases only, which can take guilty cases only, and which days are closed.

14. A medium sized urban court

Each court clerk has a diary with him in court and enters in it all trial adjournments with the estimated time for each. In addition a listing officer's master diary is maintained as a check.

COMMENTS ON RECOMMENDATIONS OF NACRO WORKING PARTY ON FINE DEFAULT

Recommendation 4 - more information is needed about fine enforcement and default. In particular, enforcement methods and practice should be evaluated and we recommend the setting up of an action research experiment.

The results of the Home Office Research Unit project to examine fine enforcement in magistrates courts and of the examination by Morgan and Bowles of the costs of fine enforcement should be available soon and will both add to the available store of knowledge. We have drawn up proposals for the speedy identification of default and guidelines for good practice in taking enforcement action which we suggest (paragraph 9.6) might be the subject of experimental use and evaluation in courts.

Recommendation 11 - the use of a form at means enquiries and for applications for further time to pay can assist courts in obtaining more adequate information about an offender's means. There should be a pilot scheme to assess the value of a form to be completed when a fine is imposed.

We agree that a form can be useful and we noted that a number of courts already do send out such a form together with the warrant or summons requiring a defaulter to attend a means enquiry court; some of these courts will require a defaulter to swear to the contents of the form when he attends court. There appears to be no need to specify a standard form provided that each court uses one which gives the necessary information and can be completed without undue difficulty by defendants. The specimen attached at Appendix 5 to the NACRO Report would be quite adequate; alternatively, a form based upon that which has to be completed by applicants for legal aid would provide the necessary information. It should be noted, however, that it is not always easy to persuade people to complete forms giving details of their income either after default or, more particularly, before sentence. (See also paragraphs 8.7 to 9).

Recommendation 12 - greater use should be made of means enquiry reports for young defaulters and where social or personal problems may be related to default.

A number of the courts that we visited referred to the problems which arose with young defendants, especially over motoring offences where the "tariff" system could lead to high overall fines when a number of offences was involved. This proposal is therefore supported subject, of course, to the availability of resources within the probation service. (See also paragraph 8.19).

Recommendations 13 and 14 - although money payment supervision orders need to be used selectively, mainly for those cases where default is associated with social or personal problems, the decline in the number of such orders in recent years should be reversed (13). Money payment supervision orders should be considered in all cases where an offender under the age of 21 is involved (14).

We found that the majority of the courts visited made use of these orders and several regarded them as particularly appropriate for young defendants. Amongst those which made use of supervision orders there was no indication that major difficulties were encountered, whilst at the same time they had proved successful in practice. We would therefore agree that the use of supervision orders should be considered by courts when enforcing fines; it

must be remembered however, that the co-operation of the defendant is essential, and this may well not be forthcoming in many cases. Equally, the attitude of the probation service is likely to be crucial. (See also paragraph 8.24).

Recommendation 15 - the present power to enforce fines by process in High Court and county court should be abolished and the powers available to those courts to enforce fines transferred to magistrates' courts.

We found no sign at any of the courts which we visited that consideration was ever given to these methods of fine enforcement; there would therefore seem to be value in reminding magistrates' courts that this power exists. On the other hand, the transfer of an essentially civil procedure to the magistrates' courts could well cause more problems than it solves, particularly if the power is unlikely to be used in many instances. At no court that we visited was any desire expressed to have powers of this kind. We did, however, learn of one court which has made use of a High Court procedure in order to enforce fines. In the case of limited companies which default, this court issues a petition applying to have the company wound up. In the vast majority of cases which will concern small companies, often "one man" companies, the winding up order will not be opposed, but a larger company, which is trading successfully, will be disposed to pay the outstanding fine.

Recommendation 16 - greater use can and should be made of distress warrants using county court bailiffs or reputable firms of bailiffs. The law on distraint should be revised to assist in the wider use of this power. Guidance should be given on distress warrants issued against limited companies.

A number of courts already use distraint but to recover fines levied on limited companies only, where no other enforcement method is practicable. At present, several courts are making experimental use of distraint against individuals. In our opinion, it might be unwise to encourage wider use of distraint without further information on its effects, especially as the court loses a substantial degree of control over the enforcement process once a distress warrant is issued. It should also be noted that a number of courts have very strong ethical objections to the use of distraint. (See also paragraphs 8.25 and 26).

Recommendation 17 - attachment of earnings orders are highly successful and should be considered in a greater number of cases. It should be possible to make an attachment of earnings at the first hearing with the consent of the offender and the employer.

Almost all the courts which we visited made some limited use of attachment orders which were in general successful. It appears, however, that this success was largely due to the fact that only those defendants with whom success was likely were selected and it was thought that the success rate would decline markedly if attachment orders were used on a larger scale because it would no longer be possible to select only "good bets". We can see no objection to the use of attachment orders at the time of sentence but would enter one caveat; courts should where possible aim to obtain payment of the fine in one lump sum as soon as possible and only permit extensions of time to pay or instalments in cases where the defendant's lack of means justifies such a course. Courts should not therefore permit the use of attachment in cases where defendants could afford to pay in one lump sum, albeit at the cost of some inconvenience. (See also paragraphs 8.22 and 23).

Recommendation 18 - Consideration should be given to the possibility of extending attachment of earnings orders to all forms of income.

The major impact of this suggestion would be that State benefits could be attached. Attachment in order to pay fines can be distinguished from the present "rent and fuel direct" system under which deductions are made to cover debts, the main distinction being, of course, that Supplementary Benefit is intended specifically to cover these items. The nearest parallel to this proposed form of attachment must be sought in Northern Ireland where, following a campaign of civil disobedience, the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971 was introduced to provide that debts for public services or for housing accommodation could be deducted from, inter alia, State benefits. In order to operate this system, the Department of Health and Social Services in Northern Ireland established a Benefit Allocation Branch to recover rent and rate debts at source from State benefits. The whole scheme proved to be very contentious and also expensive (in 1976 a weekly statutory collection charge of 50p was imposed to meet part of the administrative cost of debt recovery): in November 1980 the whole system was abolished in favour of a rent and fuel direct scheme similar to that operating elsewhere in the United Kingdom. Severe practical problems must therefore be expected if such a system were introduced into England and Wales to deal with fine enforcement because of the large number of individual DHSS and magistrates courts which would be involved; it must be assumed that an equivalent to the Benefit Allocation Branch would have to be set up with a substantial staff. In addition to the practical difficulties which are, in themselves, sufficient to make the entire scheme problematic, there are objections in principle based on the inviolability of State benefits; it is not for us to comment on the validity or otherwise of these objections but they are undoubtedly substantial.

Recommendation 23 - Courts should make greater use of their power to remit all or part of a fine where offenders' circumstances have changed since the fine was imposed. There should be legislation to give enforcement courts the power in appropriate cases to direct a review of sentence by the sentencing court in lieu of remission or enforcement procedure.

All the courts that we visited made it clear that fines were only remitted in cases of grave hardship. There was no suggestion that courts were not aware of their power to remit fines in appropriate circumstances; it appeared to be a conscious decision by the courts to take this line. (See also paragraphs 8.10 and 11).

Recommendation 25 - Prompt enforcement is essential. The administration of fine enforcement needs to be improved to cope with present day pressures, and should receive higher priority and status. The Home Office should encourage greater exchange of information and experience between courts about enforcement practices.

We would strongly endorse this recommendation. It is very clear that prompt enforcement of a fine is crucial, being in many ways more important that the precise procedure adopted. As mentioned before in connection with recommendation 4, we have been looking into methods by which defaulters may be more speedily identified (and the research projects mentioned elsewhere will no doubt yield further, more detailed, information on fine enforcement procedures). Chapters 8 and 9 or our Report deal with further aspects of

this. We also agree that the Home Office should encourage greater exchange of information on fine enforcement between courts, as many of the problems encountered are the same in different courts which could therefore draw on each other's experience and ideas. We discuss means to this end in Chapter 13 of our Report.

Recommendation 26 - Fine enforcement should receive a high priority in the training of magistrates to ensure they are aware of the full range of powers at their disposal and the circumstances in which it would be appropriate to use them.

It is plainly desirable that any magistrate who may have to deal with a fine defaulter should be fully aware of the options available to him to enforce that fine. The need to train all magistrates in this aspect of court work may however be avoided if, as in some courts, a comparatively small number of magistrates specialises in fine enforcement and, by sitting at frequent intervals, rapidly gains considerable experience and also gets to know some of the individual defendants concerned, although it can be argued that a knowledge of enforcement options can be of assistance to a magistrate at the stage of imposition of a fine. (See also paragraph 8.27).

Recommendation 28 - There should be greater incentive for offenders to pay fines promptly. Payment by Post Office Giro and Credit Card should be permitted.

The Home Office is considering the use of both credit cards and the Giro system. Although this is only conjecture, there must be some doubt as to whether the typical defaulter will often possess a credit card; there seems a slightly higher chance that he might make use of Giro facilities if they were available. There was no suggestion to us that defendants frequently sought to pay fines by credit card or Giro.

Recommendation 29 - Consideration should be given to the possibility of defaulters making a contribution to the costs of enforcement, with appropriate safeguards, as happens in civil cases and some courts where bailiffs are used.

We have found that there are some differences of view over the propriety of adding the bailiff's fee to the total amount of the fine outstanding, especially where the bailiff does not, in fact, succeed in collecting the money. The Home Office should consider the issue of advice on this point.

Recommendation 30 - Greater use should be made of the power to fix a date for re-appearance if payment has not been made and this power should be clarified through legislation if necessary, to ensure that it includes cases where payment is to be made by instalments.

When discussing the power to fix a date for re-appearance, a distinction should be made between such an order made at the time of imposition of the fine and an order made at a means enquiry. The impression given to the Working Group was that this power was used far more frequently in the latter case than in the former: certainly, the vast majority of courts visited make use of the power to fix a date for re-appearance at some stage. We note that clause 37 of the Criminal Justice Bill will enable courts to fix a date for re-appearance in cases where payment by instalments has been ordered. (See paragraph 8.20).

Recommendation 31 - The growing use of computers by courts can assist efficient fine enforcement and reduce delays in detecting default. Further guidance on and evaluation of the use of computers is needed.

The Working Group agrees that computers can be of great assistance in fine enforcement, particularly as this job tends to suffer in non-computerised courts when staff are under pressure in other areas. Moreover, computers can offer great advantages in the speedy identification of defaulters provided that the relevant program is run regularly and does not allow too long a period of grace. Considerable assistance is already available from the Internal Audit Service of the Lord Chancellor's Department for any justices' clerk who wants to instal a computer and the Justices' Clerks' Society have published a booklet giving advice to clerks intending to computerise. The three main computer systems on offer have packages which deal adequately with fine enforcement and no court which intends to computerise should encounter any major problem in having the computer deal with its fine accounts. (See also paragraphs 9.14 to 17).

Recommendation 32 - Greater use of fine enforcement officers may be justified and further assessment of their potential is needed. Their role in dealing with defaulters should be a broad one.

The Working Group found that a number of officials classed as fine enforcement officers in fact occupied purely administrative posts; only in three courts among those visited did the fine enforcement officer perform a more active role, eg in executing warrants. We agree that courts should consider making use of fine enforcement officers but it should be accepted that in some areas they cannot be used effectively and that the job must be left to the police. Essentially, the test is geographical; in urban areas the officer can visit a large number of defaulters whereas in rural areas he would spend a disproportionate amount of time travelling: it is more effecient to have the police responsible for such areas execute process during the course of their normal duties. As a final point, we would support the use of enforcement officers for a wider range of duties and commend the practice of one court where money payment supervision orders are supervised by the enforcement officer. (See also paragraph 8.28).

FINE ENFORCEMENT METHODS

ANNEX N

Method / Court	a	b	c	d	e	f	g
A	++	++	-	+	-	++	-(7)
B	-	++	+	+	-	++	-(7)
C	-	+	+	-	+(5)	++	-
D	+	+(3)	+	+(1)	+(5)	++	++
E	+	++	+	+(1)	-	++	-
F	+	(4)	(4)	++	(4)	++	++
G	+	++	+	+	+(6)	++	-
H	-	++	+	+	+	++	-
J	-	++	+	+(1)	+(5)	++	-
K	-	+	+	-	+(5)	++	-
L	+(1)	++	++	+(1)	-	++	-
M	-	++	+	+	+	++	-
N	-	+	+	+	+	++	-
O	-	++	+	+	+(5)	++	-
P	-	+	-	(4)	+(5)	-	-
R	-	++	++	+	+(5)	++	-
T	++(2)	++	+	+(1)	+	++	++(8)

KEY - Not used
\+ Used infrequently
++ Used frequently

a = means enquiry reports
b = fixing date for reappearance of defendant who failed to pay fine
c = attachment of earnings orders
d = money supervision orders
e = distraint
f = fine enforcement courts
g = fine enforcement officers

NOTES:

(1) Young defendants

(2) Standard form dealing with means sent out with warrants, magistrates will send out FEO if dissatisfied with information given

(3) Recently, justices have started to do this in cases where they suspect that the defendant will default.

(4) Information not available

(5) Limited companies only

(6) Some conflict between clerk and enforcement staff as to whether distraint still used; clearly rare

(7) London courts have police warrant officers attached

(8) FEO does not execute warrants but arranges enforcement courts, supervises money payment supervision orders and has considerable discretion over the granting of instalments

ANNEX O

FINE ENFORCEMENT DATA FOR PROVINCIAL MAGISTRATES' COURT USING DISTRESS AND CERTIFIED BAILIFF

Of 249 fined defendants*:

75% (187) Full payment within 12 to 16 months of fine:

52%	(128)	paid with no court action
15%	(38)	paid after reminder letter or means inquiry warrant
4%	(11)	paid after issue of distress warrant
3%	(8)	paid after attachment of earnings order
1%	(2)	paid after issue of committal warrant
75%	(187)	
0%	(1)	committed to prison
11%	(27)	still outstanding after 12 to 16 months
14%	(34)	fine totally or partially written off
100%	(249)	

For 249 fined defendants*, 29 (12%) distress warrants issued

Of 29 distress warrants,

38%	(11)	resulted in full payment
10%	(3)	resulted in partial payment
52%	(15)	warrants returned by bailiff

* from random sample of fined defendants convicted of crimes not involving motoring or public revenue offences

ANNEX P

STAGES IN FINE ENFORCEMENT

court	reminder letter	summons	warrant
A	1	-	2
B	1	-	2
C	1	-	2
D	-	1	2
E	1	2	-
F	1	-	2
G	1	-	2
H	-	1 (warrant if no fixed abode)	2
J	1	2	- (warrant if unlikely to answer)
K	1	-	2
L	-	1	2
M	1	-	2
N	-	1	2
O	-	1	2 (warrant issued first in serious case)
P	1	-	2
R	1	-	2
T	1	-	2

Key

1 = first action after default has been discovered

2 = action taken if 1 proves ineffective

- = method not used

FINE ENFORCEMENT: SPEED OF IDENTIFICATION ANNEX Q

General Points

1. At present, fine enforcement is frequently abandoned temporarily when other business becomes pressing and it is suggested that clerks consider the designation of a senior member of staff to supervise fine enforcement directly.

2. These recommendations are designed to be compatible with the new standardized manual accounting system.

Specific points

1. A diary could be used in conjunction with the card index. This would be possible regardless of whether the court was using an alphabetical or a numerical filing system although clearly there would be more work involved in writing out names rather than numbers. The additional effort involved in this is unlikely to be worthwhile except for very large courts where one member of staff would be involved almost entirely in the identification of default. If a diary system is introduced it would be necessary to diarise all the cards, both for instalments and fixed date payments but it should be possible to avoid diarising fixed date payments if a numerical run is used because numerical order will correspond with date order by and large (although not exactly because, for example, a court which normally gives 14 days to pay may give 28 days in certain cases).

2. Arising from this, a numerical system seems preferable to an alphabetical system for filing fine cards because it is in the same order as the list of fines imposed and can help to avoid confusion over defendants who have the same name. Moreover, a numerical system with an alphabetical index has advantages in dealing with payments and queries where no reference number is quoted and in cross-indexing different fines imposed upon the same individual; it should also be possible to use the index to indicate whether or not a defendant is paying by instalments. As with the use of diaries, smaller courts will need to consider whether the additional effort involved would be worthwhile and in all cases it is essential to adopt an efficient, easy-to-use indexing system.

3. A system of coloured tags used in conjunction with the standard system can be a useful aid. In one such system which has been seen by us a tag is placed on every card after the standard reminder letter has been despatched; a different coloured tag is used when a warrant is issued and finally a black tag is attached after the issue of a suspended committal warrant. The great advantage of this system is that defaulters can be identified very rapidly and attention can be drawn to those cards where action is likely to be required. Also, this system can give a good picture of the current state of fine enforcement; for example, a large number of tags showing that a reminder letter has been issued would tend to indicate that follow-up action has not yet been taken.

4. Consideration should be given to separating instalment payers from non-instalment payers. This latter class should be administratively more simple to deal with as they should remain within the system for a comparatively short time. Moreover, it is simple to recognize default whereas in the case of instalments individual cases will remain within the

system for some time and defendants may be making either part payments or late payments which, although they amount to non-compliance, do not justify enforcement action. It would be undesirable to divide up the number of runs into too many separate categories because the need to check all these runs would negate any advantage gained by grouping similar types of account together. Once again, smaller courts may find that their workload does not justify the initial effort in setting up and subsequently checking separate runs.

5. At present, courts tend to lay down internally rules governing the intervals which elapse between various stages in the enforcement process. These rules vary from court to court and, it would appear, are not invariably observed by the staff who, as noted elsewhere, tend to abandon enforcement work when other business presses. Clerks might consider laying down written instructions governing time limits; an example would be to decide that a reminder should be sent out no more than 2 weeks after a defendant has first defaulted and that a warrant should be issued if no response is received after a further 2 weeks. These instructions could also name the senior officer with overall responsibility for fine enforcement (see recommendation (1) under 'General points') and could perhaps take the form of a wall chart. It is essential if such targets are to be met that the whole run of fine cards be checked at regular - preferably weekly - intervals. Further advantages could be gained from checking part of the run each day and this would of course make the task more manageable.

6. After warrants have been issued it is necessary to ensure that they are being executed. The most effective way to do this is to maintain a diary and to chase up outstanding warrants at regular intervals. Such a system is also desirable from a security point of view.

7. The senior officer responsible for fine enforcement should monitor performance. The most effective method of carrying out this task would probably be to make random checks on fine cards, reminder letters and warrants etc.

ANNEX R

CHANGES IN EXPENDITURE ON MAGISTRATES' COURTS BETWEEN 1975/76 AND 1979/80

1. Tables 1 to 4 show, for each paying authority in England and Wales, the percentage changes in expenditure on magistrates' courts between 1975/76 and 1979/80. Tables 1 and 2 refer to non-metropolitan counties, plus the GLC: table 1 shows changes in expenditure on employees and table 2 shows changes in net expenditure (ie total current and capital expenditure less total income). Tables 3 and 4 give similar information for all metropolitan districts, the City of London and Inner London. The first column in each table is the percentage change between 1975/76 and 1976/77, the second is the change between 1976/77 and 1977/78 and so on. The final column gives the percentage increase over the whole period

$$\text{(ie } 100 \times \left(\frac{\text{expenditure in 1979/80 - expenditure in 1975/76}}{\text{expenditure in 1975/76}}\right)\text{)}$$

The paying authorities are ranked in order of this final column. All expenditure figures were obtained from form RO1O which is the return of expenditure submitted annually to the Department of the Environment by paying authorities.

2. The tables show marked differences in the way expenditure has changed in different parts of the country, although some generalisations can be made. In general, expenditure, especially on employees, increased least in 1977/78 and 1978/79. This could be because of low national pay agreements or because allowances for inflation were relatively low in those years. Also, throughout the period metropolitan districts have tended to increase expenditure more rapidly than shire counties.

3. Some paying authorities have had consistently lower increases in expenditure than others. For example, Humberside and North Tyneside increased expenditure relatively little from year to year, whereas Bedfordshire and Sheffield generally had high increases. However, the changes in expenditure of some authorities have fluctuated widely from year to year. For instance, Hertfordshire had a 2% increase in net expenditure in 1977/78 followed by a 19% increase in 1978/70. Similarly Rotherham increased spending by 34% in 1978/79, but only by 4% in 1979/80. It is not possible to explain these variations with the available data, but some are probably due to new capital projects which result in increases in debt charges and other expenses, and some to staff increases.

4. The variations in the changes in expenditure on employees, both between authorities and from year to year, are large considering that pay scales are negotiated nationally. Many paying authorities, mostly metropolitan districts, have more than doubled employee costs between 1975/76 and 1979/80 while others have increased this expenditure by less than 50%. This could, of course, be because workload has increased much more rapidly in some areas than in others. It is noticeable that two paying authorities, Manchester and Cambridgeshire, where computers were introduced into courts in the early 1970s, have had very low increases in employee costs. This suggests that computers have been effective in keeping staff costs down in these areas. In most parts of the country, however, there were no operational computers in magistrates' courts during this period, so this explanation does not account for other relatively low increases in expenditure on employees.

5. The disparity between the various authorities suggests that there cannot have been the same level of service in magistrates' courts in all parts of the country throughout this period, unless workload has changed at very different rates in different areas, which is unlikely. Also, it is clear that paying authorities do not all aim to increase expenditure by the same amount in any particular year.

6. It is also interesting to note the percentage changes in employee costs and net expenditure for the whole of England and Wales over the same period. These are:

	1975/76 to 1976/77	1976/77 to 1977/78	1977/78 to 1978/79	1978/79 to 1979/80	1975/76 to 1979/80
% increase in total employee costs	16.1	10.7	13.9	22.0	78.6
% increase in total net expenditure	15.3	11.2	14.9	19.9	76.7

These figures are important because the aim of the Home Office is to keep the increase in total net expenditure (ie expenditure on which grant is payable) down to a specific percentage each year (or one percentage for employee costs and another for other expenditure). Total employee costs have increased at about the same rate as total net expenditure, which is not the case for individual paying authorities. Also the total figures fluctuate less from year to year than many of the individual figures do. It seems to be fortuitous that the overall increase has generally been close to the specified limit. For example, in 1979/80 when the overall increase in net expenditure was 20% the percentage changes for individual paying authorities ranged from a 2% decrease to a 60% increase.

TABLE 1 CHANGE IN EXPENDITURE ON MAGISTRATES' COURTS EMPLOYEES
NON-METROPOLITAN COUNTIES 1975/76 TO 1979/80

	PERCENTAGE CHANGE				
	75/76 TO 76/77	76/77 TO 77/78	77/78 TO 78/79	78/79 TO 79/80	75/76 TO 79/80
CAMBRIDGESHIRE	12.1	4.8	9.1	17.1	50.1
SOMERSET	10.3	6.9	10.2	15.8	50.4
POWYS	8.5	12.6	8.6	17.5	55.9
WARWICKSHIRE	13.5	12.0	11.4	12.5	59.3
HUMBERSIDE	14.2	10.7	10.6	15.3	61.3
CORNWALL	18.9	9.6	9.1	14.1	62.2
ISLE OF WIGHT	12.4	9.5	8.3	21.9	62.6
NORTH YORKSHIRE	16.5	8.9	5.1	22.0	62.7
LEICESTERSHIRE	16.4	10.5	8.8	16.8	63.4
SOUTH GLAMORGAN	12.0	10.5	10.3	20.0	63.7
KENT	10.2	10.1	14.6	18.1	64.1
OXFORDSHIRE	17.5	9.1	11.3	15.6	64.9
BUCKINGHAMSHIRE	15.6	6.3	15.2	16.8	65.4
GLOUCESTERSHIRE	16.6	7.8	12.6	17.4	66.2
DEVON	15.2	7.2	11.3	22.1	67.9
WILTSHIRE	-	-	8.5	21.2	68.2
CLWYD	12.5	10.7	12.7	20.1	68.7
SUFFOLK	15.8	10.7	10.9	18.9	69.2
EAST SUSSEX	15.3	8.8	13.9	19.2	70.3
GWENT	14.6	9.1	10.6	23.7	71.1
ESSEX	16.3	9.3	11.0	22.3	72.4
SURREY	17.1	10.3	11.0	20.3	72.5
NORFOLK	13.7	6.9	11.1	28.7	73.6
DYFED	15.2	10.5	10.2	23.9	73.9
DERBYSHIRE	16.1	12.4	12.3	18.9	74.1
STAFFORDSHIRE	19.8	12.6	10.4	17.0	74.2
CLEVELAND	19.1	12.8	12.3	15.9	74.7
DURHAM	9.9	12.3	10.0	28.9	75.1
WEST GLAMORGAN	19.4	10.1	13.4	17.6	75.3
AVON	17.7	10.0	13.5	20.2	76.6
DORSET	18.0	12.3	13.8	17.8	77.7
CUMBRIA	15.3	15.3	11.4	20.0	77.8
HAMPSHIRE	17.2	10.2	11.3	23.7	77.9
NORTHAMPTONSHIRE	17.4	16.7	11.4	18.1	80.2
NOTTINGHAMSHIRE	17.5	11.3	13.6	21.8	81.0
HEREFORD AND WORC	16.2	11.1	15.5	21.7	81.5
LINCOLNSHIRE	17.2	18.3	5.5	24.1	81.5
WEST SUSSEX	20.0	11.3	8.5	25.2	81.5
HERTFORDSHIRE	18.1	3.1	17.7	27.6	82.8
SALOP	16.1	11.5	12.7	25.4	83.0
LANCASHIRE	22.1	10.2	12.4	21.9	84.6
NORTHUMBERLAND	19.5	16.1	12.3	18.7	85.0
BERKSHIRE	13.3	14.3	14.3	25.3	85.5
CHESHIRE	15.8	11.3	15.2	25.9	87.0
BEDFORDSHIRE	18.6	11.1	13.4	25.9	88.1
GLC	22.1	9.6	17.2	21.1	89.9
MID GLAMORGAN	18.8	17.1	11.8	23.9	92.7
GWYNEDD	16.4	11.4	15.7	39.9	110.0

TABLE 2 CHANGE IN NET EXPENDITURE ON MAGISTRATES' COURTS
NON-METROPOLITAN COUNTIES 1975/76 TO 1979/80

	PERCENTAGE CHANGE				
	75/76 TO 76/77	76/77 TO 77/78	77/78 TO 78/79	78/79 TO 79/80	75/76 TO 79/80
DYFED	-7.0	1.5	13.2	22.6	31.0
SOMERSET	-4.3	6.8	9.8	24.5	39.5
GLOUCESTERSHIRE	6.4	3.0	6.0	19.9	39.3
CHESHIRE	7.5	10.4	6.2	14.4	44.2
NORTH YORKSHIRE	12.5	5.0	7.5	18.5	50.5
HUMBERSIDE	9.0	10.4	16.2	9.2	52.6
ISLE OF WIGHT	10.1	7.7	7.4	20.3	53.2
AVON	13.5	14.4	7.0	13.1	57.2
WARWICKSHIRE	15.6	5.6	9.4	20.8	61.2
SOUTH GLAMORGAN	17.9	8.0	3.6	23.1	62.3
OXFORDSHIRE	15.8	11.3	8.6	17.6	64.8
ESSEX	11.4	11.5	11.2	19.1	64.6
MID GLAMORGAN	18.4	9.2	13.7	11.7	64.4
CORNWALL	21.6	3.7	15.0	13.8	65.1
EAST SUSSEX	15.9	2.7	18.0	17.8	65.5
HERTFORDSHIRE	10.8	2.2	19.1	22.7	65.4
LEICESTERSHIRE	11.4	20.7	6.7	19.6	71.5
GLC	14.5	7.0	19.1	19.0	73.7
DERBYSHIRE	20.7	20.9	2.0	16.6	73.6
GWENT	32.7	-5.9	15.6	22.2	76.5
WEST SUSSEX	24.9	8.7	12.6	15.5	76.6
LANCASHIRE	17.7	6.5	12.9	24.8	76.8
WILTSHIRE	-	-	10.1	19.2	77.3
BUCKINGHAMSHIRE	23.8	2.8	6.9	31.2	78.5
HAMPSHIRE	16.1	9.9	33.4	5.2	79.1
CUMBRIA	4.4	15.1	24.4	19.7	79.0
DURHAM	15.0	14.3	10.9	24.5	81.5
DORSET	28.7	11.8	11.3	13.4	81.6
SUFFOLK	16.2	12.2	20.1	16.6	82.7
LINCOLNSHIRE	32.0	15.0	4.8	14.5	82.2
CLEVELAND	22.6	14.8	5.3	23.5	83.1
HEREFORD AND WORC	2.0	22.4	21.7	21.2	83.9
NORFOLK	10.9	18.6	14.1	23.4	85.0
KENT	7.5	34.2	11.5	15.8	86.3
POWYS	21.4	14.2	20.8	11.3	86.5
STAFFORDSHIRE	20.6	9.9	16.0	22.2	87.8
SALOP	18.6	7.8	15.4	28.4	89.4
SURREY	24.2	16.0	9.0	21.9	91.4
GWYNEDD	15.1	25.4	4.4	27.0	91.3
WEST GLAMORGAN	26.8	18.6	11.7	15.9	94.6
NORTHAMPTONSHIRE	13.1	22.2	17.5	20.6	95.8
DEVON	13.5	8.6	26.4	25.9	96.2
NORTHUMBERLAND	17.1	21.5	11.8	23.7	96.8
BERKSHIRE	16.6	20.4	12.1	25.4	97.2
CLWYD	28.4	18.2	13.6	17.0	101.6
BEDFORDSHIRE	34.2	15.6	19.8	24.0	130.2
CAMBRIDGESHIRE	16.1	25.6	23.1	31.6	136.2
NOTTINGHAMSHIRE	31.1	3.7	9.1	60.2	137.8

TABLE 3 CHANGE IN EXPENDITURE ON MAGISTRATES' COURTS EMPLOYEES METROPOLITAN DISTRICTS 1975/76 TO 1979/80

	PERCENTAGE CHANGE				
	75/76 TO 76/77	76/77 TO 77/78	77/78 TO 78/79	78/79 TO 79/80	75/76 TO 79/80
TAMESIDE	-	14.4	15.7	21.8	-
MANCHESTER	-5.6	9.5	10.7	20.5	37.9
NORTH TYNESIDE	15.4	3.2	7.8	14.4	46.9
SOUTH TYNESIDE	14.7	10.9	7.5	14.5	56.6
TRAFFORD	14.3	3.6	17.6	17.2	63.2
CITY OF LONDON	11.2	6.0	8.1	28.8	64.0
SANDWELL	12.9	15.8	9.3	17.3	67.5
GATESHEAD	18.4	12.8	8.2	18.6	71.5
BRADFORD	20.4	7.2	11.5	19.6	72.0
ROTHERHAM	15.5	12.6	22.0	8.8	72.6
SALFORD	16.5	11.1	11.7	19.7	73.0
KIRKLEES	18.4	8.5	12.8	19.9	73.6
CALDERDALE	16.3	9.6	14.6	19.0	73.8
NEWCASTLE-UPON-TYNE	16.9	9.7	8.0	25.6	73.9
WIRRAL	9.3	19.1	18.0	13.5	74.5
BIRMINGHAM	17.0	10.4	10.6	23.9	77.1
KNOWSLEY	20.9	10.8	13.1	19.3	80.8
WIGAN	14.5	11.1	12.9	26.1	80.9
INNER LONDON	10.9	8.8	20.9	25.2	82.7
STOCKPORT	17.6	10.0	8.7	31.2	84.6
BOLTON	12.2	16.0	12.5	26.2	84.8
SOLIHULL	22.4	14.9	6.1	24.1	85.1
WAKEFIELD	29.3	8.6	10.7	20.2	86.8
BURY	18.3	20.0	10.5	20.4	88.9
ROCHDALE	22.1	13.8	12.5	22.7	92.0
WOLVERHAMPTON	15.5	11.5	21.2	23.1	92.1
DUDLEY	21.1	12.0	23.2	15.8	93.6
SUNDERLAND	25.6	17.1	9.6	20.3	93.9
DONCASTER	18.9	8.4	11.8	37.7	98.3
COVENTRY	25.3	21.0	15.3	15.9	102.5
WALSALL	24.8	10.7	18.2	24.5	103.2
SHEFFIELD	17.7	11.1	21.0	28.9	103.9
ST HELENS	14.6	15.5	24.3	25.0	105.6
LEEDS	31.3	15.1	15.8	18.6	107.6
SEFTON	16.6	13.2	20.2	35.8	115.4
BARNSLEY	19.0	28.7	19.7	19.7	119.4
LIVERPOOL	28.8	16.8	16.4	33.3	133.4
OLDHAM	19.2	23.6	23.9	31.1	139.3

TABLE 4 CHANGE IN NET EXPENDITURE ON MAGISTRATES' COURTS METROPOLITAN DISTRICTS 1975/76 TO 1979/80

	PERCENTAGE CHANGE				
	75/76 TO 76/77	76/77 TO 77/78	77/78 TO 78/79	78/79 TO 79/80	75/76 TO 79/80
TAMESIDE	-	12.4	16.4	26.0	-
MANCHESTER	13.2	6.5	8.1	-2.3	27.4
DONCASTER	-8.3	7.4	-0.8	44.8	41.5
NORTH TYNESIDE	11.5	2.4	10.3	17.2	47.4
ROCHDALE	0.8	38.6	-9.4	19.4	51.1
SOUTH TYNESIDE	7.1	13.1	7.2	17.9	53.1
ROTHERHAM	0.6	10.0	34.3	4.0	54.7
BIRMINGHAM	4.2	6.8	16.6	20.8	56.7
KNOWSLEY	12.6	7.8	13.1	16.0	59.2
CITY OF LONDON	9.5	5.7	10.8	26.9	52.7
KIRKLEES	13.8	8.3	12.4	17.3	62.4
INNER LONDON	8.1	6.9	19.0	20.5	65.7
NEWCASTLE-UPON-TYNE	13.2	8.3	11.3	22.0	66.4
TRAFFORD	20.5	2.7	17.6	14.3	66.4
GATESHEAD	30.6	-1.4	14.9	14.1	68.9
WIGAN	4.0	13.5	17.1	22.7	59.8
BRADFORD	29.0	7.6	8.2	15.9	73.9
ST HELENS	1.3	21.1	16.5	22.1	74.5
SALFORD	20.1	17.4	5.9	20.2	79.4
WALSALL	24.7	2.8	16.0	20.5	79.4
WIRRAL	15.6	17.4	24.5	7.2	81.2
CALDERDALE	17.1	19.6	9.8	17.7	81.0
DUDLEY	28.8	9.1	6.2	23.1	83.8
WAKEFIELD	28.3	9.2	13.7	17.0	86.4
LEEDS	15.8	13.9	18.7	19.0	86.4
SUNDERLAND	30.9	15.8	5.3	17.9	88.2
BURY	22.2	13.6	14.1	19.6	89.4
BOLTON	15.7	17.2	12.1	25.6	90.9
SANDWELL	13.5	17.0	10.6	30.5	91.5
STOCKPORT	13.5	12.0	18.8	31.5	98.8
SEFTON	16.5	10.7	32.6	18.9	103.5
COVENTRY	22.3	18.4	18.4	18.9	103.8
SOLIHULL	17.0	12.3	13.5	36.3	103.4
LIVERPOOL	23.2	12.2	18.3	35.9	122.3
WOLVERHAMPTON	14.2	9.1	29.2	43.9	131.7
SHEFFIELD	27.1	15.1	39.0	19.8	143.5
OLDHAM	54.3	66.0	24.2	9.9	249.5
BARNSLEY	155.8	17.2	23.4	12.6	315.9

TABLE 2

METROPOLITAN DISTRICTS ENGLAND AND WALES

	(1) No. of persons proceeded against at Magistrates' Courts 1979 (Note a)	(2) Employee costs 1979/80 (£) (Note b)	(3) No. of staff employed in Magistrates' Courts (Note c)	(4) Employee costs per case (£) ((2)/(1))	(5) Employee costs per member of staff (£) ((2)/(3))	(6) Cases per member of staff ((1)/(3))
BARNSLEY	8024	170 306	40.5	21.2	4205	198
BIRMINGHAM	40779	871 990	166.0	21.4	5253	246
BOLTON	12249	214 769	43.5	17.5	4937	282
BRADFORD	17416	505 749	96.0	29.0	5268	181
BURY	11671	150 246	30.5	12.9	4926	383
CALDERDALE	6647	151 859	26.0	22.8	5841	256
COVENTRY	11533	290 485	50.0	25.2	5810	231
DONCASTER	12299	256 101	50.0	20.8	5122	246
DUDLEY	8789	219 553	38.0	25.0	5777	231
GATESHEAD	6498	195 564	35.0	30.1	5588	186
KIRKLEES	13390	293 251	55.0	21.9	5332	243
KNOWSLEY	7902	202 320	41.0	25.6	4935	193
LEEDS	29305	748 940	135.0	25.6	5548	217
LIVERPOOL	42265	675 092	135.5	16.0	4982	312
MANCHESTER	38544	715 323	145.0	18.6	4933	266
NEWCASTLE	17128	261 305	58.5	15.3	4467	293
NORTH TYNESIDE	6263	154 232	30.0	24.6	5141	209
OLDHAM	9026	230 290	45.5	25.5	5061	198
ROCHDALE	10915	207 328	39.0	19.0	5316	280
ROTHERHAM	8522	119 913	31.0	14.1	3868	275
ST HELENS	8183	153 754	28.0	18.8	5491	292
SALFORD	15079	298 560	60.0	19.8	4976	251
SANDWELL	12455	272 944	63.0	21.9	4332	198
SEFTON	13743	291 889	57.5	21.2	5076	239
SHEFFIELD	18358	556 789	96.5	30.3	5770	190
SOLIHULL	5678	149 318	34.5	26.3	4328	165
SOUTH TYNESIDE	5857	160 829	35.0	27.5	4595	167
STOCKPORT	10830	271 814	56.5	25.1	4811	192
SUNDERLAND	10023	321 412	52.5	32.1	6122	191
TAMESIDE	10216	207 709	47.0	20.3	4419	217
TRAFFORD	9287	195 647	39.0	21.1	5017	238
WAKEFIELD	11568	261 211	46.5	22.6	5617	249
WALSALL	10420	204 960	38.0	20.0	5394	274
WIGAN	12197	269 314	49.5	22.1	5441	252

WIRRAL	15579	267 622	50.0	17.2	5352	312
WOLVERHAMPTON	9029	222 171	46.5	24.6	4778	194
TOTAL	501823	10740 565	2080.0	21.4	5164	241

NOTES

a From Criminal Statistics England and Wales 1979

b From form RO10 submitted to DOE by local authorities

c From Home Office Scientific Advisory Branch questionnaire completed by all justices' clerks in 1981. Part time staff numbers are multiplied by 0.5

TABLE 1 NON-METROPOLITAN COUNTIES ENGLAND AND WALES

	(1) Estimated population mid-1980 (Note a)	(2) No. of persons proceeded against at Magistrates' Courts 1979 (Note b)	(3) Employee Costs 1980/81 (£) (Note a)	(4) No. of staff employed in Magistrates' Courts 1981 (Note c)	(5) Persons proceeded against per 1000 population ((2) x1000)/(1)	(6) Employee costs per 1000 population ((3)x1000/(1))	(7) Employee costs per case (£) ((3)/(2))	(8) Employee costs per member of staff (£) ((3)/(4))	(9) Cases pe member o staff ((2)/(4)
AVON	920 600	41 983	820 698	163.0	45.6	898	19.7	5072	258
BEDFORDSHIRE	505 250	23 723	538 091	100.0	47.0	1065	22.7	5381	237
BERKSHIRE	694 200	25 802	585 210	104.5	37.2	843	22.7	5600	247
BUCKINGHAMSHIRE	541 000	20 411	458 768	84.0	37.7	848	22.5	5462	243
CAMBRIDGESHIRE	600 760	21 585	362 859	54.5	35.9	604	16.8	6658	396
CHESHIRE	930 800	39 917	945 692	149.5	42.9	1016	23.7	6328	267
CLEVELAND	571 200	29 840	610 041	125.5	52.2	1068	20.4	4861	238
CLWYD	382 530	11 475	353 840	59.5	30.0	925	30.8	5947	193
CORNWALL	422 000	11 579	363 342	68.0	27.4	861	31.4	5343	170
CUMBRIA	472 000	20 905	409 696	76.0	44.3	868	19.6	5391	275
DERBYSHIRE	907 500	33 995	732 352	131.0	37.5	807	21.5	5591	260
DEVON	956 800	31 902	785 532	134.0	33.3	821	24.6	5862	238
DORSET	593 600	20 068	477 848	75.5	33.8	805	23.8	6329	266
DURHAM	604 400	20 452	577 202	99.0	33.8	955	28.2	5830	207
DYFED	325 600	12 292	333 088	54.0	37.8	1023	27.1	6168	228
EAST SUSSEX	656 000	32 663	730 084	117.0	49.8	1114	22.4	6240	279
ESSEX	1457 700	50 120	1058 290	181.5	34.4	726	21.1	5831	276
GLOUCESTERSHIRE	499 700	18 636	381 770	60.5	37.3	764	20.5	6416	308
GWENT	435 600	29 643	429 937	84.0	68.1	987	14.5	5118	353
GWYNEDD	228 000	9 855	217 050	40.5	43.2	952	22.0	5359	243
HAMPSHIRE	1461 300	65 512	1556 284	315.0	44.8	1065	23.8	4941	208
HEREFORD & WORCESTER	624 290	26 167	567 479	112.0	41.9	909	21.7	5067	237
HERTFORDSHIRE	953 500	38 188	759 939	152.0	40.1	797	19.9	5000	251
HUMBERSIDE	848 000	40 982	727 584	130.5	48.3	858	17.8	5575	314
ISLE OF WIGHT	116 000	2 644	79 460	12.0	22.8	685	30.0	6622	220
KENT	1456 800	55 869	1560 232	263.5	38.4	1071	27.9	5921	212
LANCASHIRE	1388 100	58 487	1313 142	224.5	42.1	946	22.5	5849	261
LEICESTERSHIRE	845 500	31 454	530 974	103.5	37.2	628	16.9	5130	304
LINCOLNSHIRE	540 600	23 980	472 484	85.0	44.4	874	19.7	5589	282
MID GLAMORGAN	541 700	21 984	627 830	106.0	40.6	1159	28.6	5923	207
NORFOLK	689 800	20 144	568 395	89.5	29.2	824	28.2	6351	225
NORTHAMPTONSHIRE	522 000	20 608	463 536	81.5	39.5	888	22.5	5688	253
NORTHUMBERLAND	287 400	9 686	248 314	43.5	33.7	864	25.6	5708	228
NORTH YORKSHIRE	667 400	24 708	509 893	87.0	37.0	764	20.6	5861	284
NOTTINGHAMSHIRE	984 300	33 856	1130 900	199.5	34.4	1149	33.4	5669	170
OXFORDSHIRE	550 100	23 996	486 288	87.0	43.6	884	20.3	5590	276

POWYS	108 400	3 483	89 321	17.0	32.1	824	25.6	5254	205
SHROPSHIRE	376 000	12 220	322 984	51.0	32.5	859	26.4	6333	240
SOMERSET	414 700	15 220	378 621	62.5	36.7	913	24.9	6058	244
SOUTH GLAMORGAN	396 900	19 921	381 817	66.5	50.2	962	19.2	5742	300
STAFFORDSHIRE	1001 900	36 219	835 584	150.0	36.2	834	23.1	5571	242
SUFFOLK	602 900	23 173	460 012	87.0	38.4	763	19.9	5288	266
SURREY	988 500	29 324	876 799	138.5	30.0	887	29.9	6331	212
WARWICKSHIRE	476 500	13 018	296 859	50.5	27.3	623	22.8	5878	258
WEST GLAMORGAN	364 900	17 971	429 487	62.0	49.2	1177	23.9	6927	290
WEST SUSSEX	648 900	25 841	599 583	98.0	39.8	924	23.2	6118	264
WILTSHIRE	521 700	21 502	486 746	79.5	41.2	933	22.6	6123	271
TOTAL - ENGLAND AND WALES	31 083 330	1223 003	27943 914	4956.5	39.3	899	22.8	5638	247

NOTES

a From Administration of Justice Statistics 1980/81 produced by CIPFA

b From Criminal Statistics England and Wales 1979

c From Home Office Scientific Advisory Branch questionnaire completed by all justices' clerks in 1981. Part time staff numbers are multiplied by 0.5

SUMMONS CASES

TREDEGAR

IN THE COUNTY OF GWENT
PETTY SESSIONAL DIVISION

OF

TO :

ADDRESS :

INFORMANT :

ADDRESS :

DATE :

PLACE :

ALLEGED OFFENCE :

TAKEN before me this:- 19

CLERK OF THE COURT

ISSUED FOR ON DAY 19

ADJOURNMENTS

ADJ to ..... 19 ..... for .....

ADJ to ..... 19 ..... for .....

ADJ. to ..... 19 ..... for .....

BENCH
(Where Part-Heard)

.....

.....

.....

RESULT

SOLICITOR :-

☐ PLEADED GUILTY
☐ FOUND GUILTY
☐ FOUND NOT GUILTY
☐ WITHDRAWN

ON.....19....

RESULT:

TREDEGAR CHARGE CASES

SERIAL NUMBER _____

NAME	REPRESENTED BY	LEGAL AID Gr.	LEGAL AID Ref.	DEPOSIT

DATE BAILED _____ 19__

FIRST DUE APPEARANCE AT _____ COURT ON _____ 19__

- ☐ PLEADED GUILTY
- ☐ FOUND GUILTY
- ☐ FOUND NOT GUILTY
- ☐ PROSECUTION WITHDRAWN /NO EVIDENCE OFFERED

_____ COURT ON _____ 19__

- ☐ COMMITTED TO CROWN COURT FOR TRIAL

RESULT:-

1.

(or 2. COMMITTED TO CROWN COURT FOR SENTENCE)

REMANDED TO	DATE	BAIL (tick)	CUST. (tick)	PURPOSE
Ct.				
Ct.				
Ct.				
Ct.				
Ct.				
Ct.				

Names of Justices not to adjudicate ultimately:-

MONTHLY REPORT – CASEFLOW STATISTICS

	1st Month: November		2nd Month: December		3rd Month: January		4th Month: February	
	Charge Cases	Summons Cases	Charge Cases	Summons Cases	Charge Cases	Summons Cases	Charge Cases	Summons Cases
Cases pending 1st of month	20	141	46	142	42	130	54	106
New cases	134	359	133	301	102	227		
Total	154	500	179	443	144	357		
Cases disposed:								
Guilty Pleas	84	264	108	225	74	181		
Not Guilty Pleas	14	79	15	77	13	64		
Committed to Crown Court for trial	9	11	9	2	1	0		
Others(no evidence, sine die etc.)	1	4	4	9	2	6		
Total cases disposed in month	108	358	137	313	90	251		
Cases pending to carry forward	46	142	42	130	54	106		

MONTH OF January

MONTHLY REPORT

WAITING TIME STATISTICS IN WEEKLY UNITS
(with cumulative %ages of completion)

SUMMONS CASES

OFFENCE DATE TO PROCESS DATE

0	1	2	3	4	5	6	7 - 8	9 - 12	13 - 20	TOTAL	AVERAGE
0	2	12	35	44	49	32	36	26	14	250	5.81
	8	5	19	37	56	69	84	94	100		

PROCESS DATE TO 1ST COURT DATE

0	1	2	3	4	5	6	7 - 8	9 - 12	13 - 20	TOTAL	AVERAGE
0	0	2	10	18	122	67	30	1	0	250	5.40
		8	4	12	60	87	99	100			

1ST COURT DATE TO FINDING DATE (GUILTY PLEA)

0	1	2	3	4	5	6	7 - 8	9 - 12	13 - 20	TOTAL	AVERAGE
122	0	21	6	6	8	7	9	2	0	181	1.37
67		79	82	85	90	93	98	100			

1ST COURT DATE TO FINDING DATE (NOT GUILTY PLEA)

0	1	2	3	4	5	6	7 - 8	9 - 12	13 - 20	TOTAL	AVERAGE
21	1	10	4	3	6	5	12	2	0	64	1.40
32	34	50	56	60	70	78	96	100			

1ST COURT DATE TO COMMITTAL FOR TRIAL

0	1	2	3	4	5	6	7 - 8	9 - 12	13 - 20	TOTAL	AVERAGE
0	0	0	0	0	0	0	0	0	0	0	0

1ST COURT DATE TO WITHDRAWAL ETC.

0	1	2	3	4	5	6	7 - 8	9 - 12	13 - 20	TOTAL	AVERAGE
2	0	0	1	1	1	1	0	0	0	6	3.00
33			50	66	83	100					

FINDING DATE TO SENTENCE DATE

0	1	2	3	4	5	6	7 - 8	9 - 12	13 - 20	TOTAL	AVERAGE
215	0	7	5	5	1	1	5	1	1	241	0.50
89		92	94	95	96	97	98	99	100		

MONTH OF January

MONTHLY REPORT

WAITING TIME STATISTICS IN WEEKLY UNITS

(with cumulative %ages of completion)

CHARGE CASES

CHARGE DATE TO 1ST COURT DATE

0	1	2	3	4	5	6	7 - 8	9 - 12	13 - 20	TOTAL	AVERAGE
9	4	12	16	27	12	9	2	0	0	91	2.91
10	14	27	45	74	87	97	100				

1ST COURT DATE TO FINDING DATE (GUILTY PLEA)

0	1	2	3	4	5	6	7 - 8	9 - 12	13 - 20	TOTAL	AVERAGE
53	3	11	5	1	1	0	0	0	0	74	0.66
71	72	90	97	98	100						

1ST COURT DATE TO FINDING DATE (NOT GUILTY PLEA)

0	1	2	3	4	5	6	7 - 8	9 - 12	13 - 20	TOTAL	AVERAGE
7	2	3	1	0	0	0	0	0	0	13	0.84
53	69	92	100								

1ST COURT DATE TO COMMITTAL FOR TRIAL

0	1	2	3	4	5	6	7 - 8	9 - 12	13 - 20	TOTAL	AVERAGE
0	0	1	0	0	0	0	0	0	0	1	2.00
		100									

1ST COURT DATE TO WITHDRAWAL ETC.

0	1	2	3	4	5	6	7 - 8	9 - 12	13 - 20	TOTAL	AVERAGE
1	0	0	0	0	0	1	0	0	0	2	3.00
50						100					

FINDING DATE TO SENTENCE DATE

0	1	2	3	4	5	6	7 - 8	9 - 12	13 - 20	TOTAL	AVERAGE
78	1	0	0	1	3	0	2	0	0	85	0.41
91	92			94	97		100				

DAILY DISPOSITION COUNT - TREDEGAR DATE _____

Summons Cases

Weeks:	0	1	2	3	4	5	6	7-8	9-12	13-20	TOTAL	AVERAGE
Offence date to issue date												
Issue date to 1st court date												
1st court date to conviction date (Guilty Pleas)												
1st court date to conviction or acq. (Not Guilty Pleas)												
1st court date to withdrawal, adj.sine die or others												
1st court date to committal for trial												
Conviction date to sentence date (incl. committal for or deferment of sent.)												
TOTAL												

NO: 308

FRONT SHEET

CHARGE CASE

Accused .....

Represented by .....

DATE	charged by police

	HEARING Accused present (tick if yes)	REMAND OR COMMITTAL (tick)		COMMENTS
		On bail	In custody	
	← DATE OF CASE			

DISPOSITION:

GUILTY PLEA
FOUND (NOT) GUILTY
WITHDRAWN
TO CROWN COURT FOR TRIAL

Other .....

MODE OF TRIAL DECISION DATE .....

	Summary trial	Trial on indictment
Prosecution ask for		
Defence ask for		
Court decides		

Defendant consents to summary trial YES / NO

POOLE MAGISTRATES' COURT
Monthly Report - Caseflow Statistics
Charge Cases

	December	January	February	March	April	May
I Workload						
Cases Pending - beginning of month	78	123	128			
New Cases	124	91				
Total Workload	202	214				
II Cases Disposed						
Guilty Pleas	54 (68%)	63 (73%)	(%)	(%)	(%)	(%)
Contests	8 (10%)	11 (13%)	(%)	(%)	(%)	(%)
Committals to Crown Court for trial	8 (10%)	6 (7%)	(%)	(%)	(%)	(%)
All other disposals	9 (11%)	6 (7%)	(%)	(%)	(%)	(%)
Total Disposals	79 (99%)	86 (100%)	(%)	(%)	(%)	(%)
III Cases Pending end of month	123	128				

POOLE MAGISTRATES' COURT

Disposition Time Report for January, 1982

Charge Cases

(In Weeks)

Period	0		1		2		3		4		5		6		7-8		9-12		13+		Total
	N	Cum.%	N	Cum.%	N	Cum.%	N	Cum.%	N	Cum.%	N	Cum.%	N	Cum.%	N	Cum.%	N	Cum.%	N	Cum.%	
Charge to First Court date	6	8%	65	91%	2	94%	1	95%	2	97%	2	100%									78*
First Court Date to disposal for:																					
Guilty Pleas	44	70%	3	75%			5	83%	7	91%					3	98%			1	100%	63
Contests									1	9%			2	27%	2	45%	1	55%	5	100%	11
Committals for trial													1	17%	4	83%	1	100%			6
All other disposals	2	33%	1	50%	1	67%			1	83%			1	100%							6
Total - all cases	46	53%	4	58%	1	59%	5	65%	9	76%			4	80%	9	91%	2	93%	6	100%	86

* Charge date unavailable for 8 cases

MAGISTRATES' COURTS STAFFING, WORKLOAD AND EXPENDITURE ANNEX S

1. Tables 1 and 2 give information about workload and staffing of magistrates' courts and about population for each non-metropolitan county or metropolitan district in England and Wales (except for Greater London).

NON-METROPOLITAN COUNTIES

2. The first 4 columns of table 1 show the population, workload, expenditure on staffing and number of staff employed in magistrates' courts for every non-metropolitan county in England and Wales.

3. The population and employee cost figures were obtained from a table published by CIPFA. The expenditure figures are estimates for the financial year 1980/81, since out-turn figures are not yet readily available. In previous years similar estimates have proved to be close to the out-turn figures. Only one aspect of expenditure, that on staff, has been considered because this seems to be the item which is most likely to directly relate to workload. Also it accounts for nearly 60% of net expenditure on magistrates' courts. Other large items of expenditure like debt charges will depend on whether new court buildings have been provided recently and so will not bear any simple relationship to workload.

4. Workload is measured by the total number of persons proceeded against for criminal offences at magistrates' courts in 1979, the latest year for which these figures are available. This data is obtained from returns completed by the police for the annual criminal statistics. Although care is taken in completing and analysing the returns, the detail collected is of necessity subject to the inaccuracies inherent in any large scale recording system. Simple counts of persons proceeded against also have the disadvantage that they do not take into account any variations in the proportions of different types of case. For example it is probable that some counties have a relatively high proportion of motoring cases which create much less work than more serious crime cases do. (It would be possible to weight the proceedings by type of case as this data is available from the criminal statistics, but this has not been done at present.) Finally, the number of persons proceeded against does not include other aspects of magistrates' courts work such as licensing, domestic proceedings and fine enforcement, and so it is not a complete measure of workload.

5. Staff figures were obtained from the replies to a Home Office questionnaire which was sent to all justices' clerks in February 1981. The questionnaire asked for details of "all staff who work for the court" and so some of the replies may have included staff who are employed by the local authority rather than the MCC. A large number of part-time staff work in magistrates' courts; each part-time employee has been counted as half an employee in table 1. Temporary staff are not included. The replies to the questionnaire were analysed as carefully as possible, but inevitably there are likely to be some errors. In particular, it is possible that some of the staff who work for more than one court have been double counted.

6. Columns 5 to 9 of table 1 show ratios calculated from the figures given in columns 1 to 4. These ratios may be used to compare the workload, expenditure and staffing in different counties.

7. Columns 5 and 6 compare caseload and employee costs respectively with population. There is quite a lot of variation in the number of cases per 1000 population, with perhaps a slight indication that it is higher in the more densely populated counties such as Cleveland and South Glamorgan, and lower in more rural counties like Norfolk and Clwyd. However this relationship is not very strong and some counties exhibit quite the reverse characteristics; for example Cumbria and Lincolnshire have high caseloads relative to population. The figures in column 6 should be considered in conjunction with those in column 5, since some differences in expenditure per head of population can be explained partly by the number of persons proceeded against. This is demonstrated by the figures in column 7 which show that some counties which spend quite different amounts per head of population in fact spend very similar amounts per case; for example Bedfordshire and Berkshire. Nevertheless columns 6 and 7 do suggest that some counties (those with high figures in both columns) may spend more on staff than others. Nottinghamshire and Mid Glamorgan fall into this category, whereas Cambridgeshire and Leicestershire, for example, seem to spend less than average.

8. Column 8 shows the average amount spent per member of staff. These figures vary considerably between counties, possibly because of inaccuracies in the data (the expenditure figures are based on estimates rather than out-turns, and the staffing figures depend on the accuracy with which the questionnaires were completed and analysed). Since almost all magistrates' courts employees are paid on nationally agreed scales it is perhaps surprising that the figures in column 8 vary so much. Possibly some counties tend to employ people at higher points on the scales, or a greater proportion of court clerks and senior administrative staff. (It would be possible to do further analysis to examine the latter point .)

9. Column 9 shows the number of persons proceeded against per member of staff. Some of the variation may be attributable to the differing proportions of motoring cases, and some to inaccuracies in the data. Nevertheless, there do seem to be genuine differences in the staffing levels in different counties, although it is difficult to tell whether a county with a high number of cases per employee has efficiently run courts, or whether the courts are understaffed so that, for example, delays are increasing. This point could only be decided by looking at measures of performance, if they were available.

METROPOLITAN DISTRICTS

10. The information in columns 1 to 3 of table 2 is similar to that in the first 4 columns of table 1. The main difference is that the expenditure figures in column 2 are out-turn figures for 1979/80 obtained from the return of expenditure form RO10 which paying authorities submit annually to the D o E. (More recent figures are not yet available for metropolitan districts). The comments about the accuracy of the information in table 1 apply equally to the data for metropolitan districts.

11. The ratios in columns 4 to 6 of table 2 are calculated in the same way as those in columns 7 to 9 of table 1. It should be noted that because the expenditure figures in table 2 are for 1979/80, not 1980/81, columns 4 and 5 of table 2 cannot be compared directly with columns 7 and 8 of table 1.

Moreover the employee costs per member of staff do not represent any actual payments made because the expenditure figures are for 1979/80 and the staff figures are for 1981. However, they are still useful for comparing spending by different metropolitan districts.

12. There is much more variation in all the figures for metropolitan districts than there is for non-metropolitan counties. There are several possible reasons for this. First, counties may on average be more similar to each other, since many contain a similar number (typically 8 to 10) of medium sized courts. In contrast metropolitan districts vary from Solihull with less than 6000 cases per year to Birmingham with 45000, although nearly all contain only one or two courts which should increase the similarities. Secondly, any inaccuracy in the caseload or staffing figures for an individual court has much more weight in a metropolitan district than in a shire county. Thirdly, there may be more variation in the proportion of motoring cases in metropolitan districts than in counties, although this hypothesis has not been checked.

13. The figures for cases per member of staff are directly comparable with the equivalent figures in table 1. The average figure is very similar in both tables but there is considerably more variation among metropolitan districts, probably partly for the reasons given above.

ANNEX T

Discussion Paper

The Collection of Case Flow Statistics in the Magistrates' Courts

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I Introduction

The magistrates' courts of England and Wales compile few statistics describing their operation. Beyond the odd clerk who publishes an annual report, most courts operate in a statistical void. This situation has implications for at least three potential audiences of statistical information on the magistrates' courts: 1) courts themselves (for lack of statistics can hinder court administration and case management); 2) external organizations involved in funding and supervising the work of the courts (since statistics on workload and productivity can inform the allocation of scarce resources); and 3) the research community (who, in the absence of reliable information, must engage in a costly and time-consuming data collection exercise in order to approach even the most basic enquiries concerning the administration of justice).

This paper focuses on one type of statistical information for one audience: data on case flow for use in internal management of the court. The limited emphasis carries no implications regarding the relative importance of other sorts of information collected for other purposes. And data collected for internal management purposes can certainly be useful to other audiences with different interests. The paper describes the rationale and design of a technique to collect basic case flow information in magistrates' courts on a manual basis with a minimum of clerical effort. This statistics gathering programme is currently being tested in two magistrates' courts and the preliminary results of this programme, including estimates of the clerical time consumed in the endeavour, are reported here.

II Case Management Problems of the Magistrates' Courts

Two problems relating to the flow of cases are found to one degree or another in almost every magistrates' court: delay in individual cases, and problems in listing contested cases.

Delay. Case delay has been a subject of considerable contemporary concern. This is not the place to discuss various competing waiting-time standards in the magistrates' courts. Yet it should be clear that whatever temporal guideline is believed appropriate, the dimensions of the problem in a court - or even an informed determination as to whether excessive waiting time is, in fact, a problem - cannot be assessed in the absence of time-lapse data. The only indication of overall waiting time routinely observed in most magistrates' courts is the length of time needed to schedule a contested summary trial. This measure is at best incomplete. It is typically produced in the most haphazard manner. Even if systematically computed, it takes no account of time consumed before a case reaches court, time from first court date to trial request, or the time spent by repeated postponements of trial dates.

Delay in the disposition of individual cases can exist in even the most expeditiously operating courts. This problem is encouraged in those courts that do not organize case history information in a readily accessible manner on the case papers. The magistrates - who must formally rule on remand and adjournment requests - will seldom know of the age of a case or its previous court history unless informed by the court clerk. And the clerk will not have such information readily available in court in the absence of a "face sheet" or similar document included among the case papers. Thus courts often lack both the information necessary to scrutinize particularly old cases as they appear in court and the overall time-lapse figures to allow monitoring the court as a whole.

Listing. In establishing procedures for listing contested cases, every court necessarily choses between conflicting aims. The concern for maximizing use of court time argues for setting down for a session more cases than can possibly be heard so as to provide insurance against a collapsed list caused by last-minute changes of plea and adjournment requests. The desire to avoid involuntary postponements necessitated by insufficient court time (and the accompanying inconvenience to all concerned) pushes courts toward setting only the number of cases that can realistically be heard in the time allotted. Most courts strike a balance between these two aims through a combination of subjective hunches and past experience, followed if necessary by frenzied efforts at the last minute to fill unexpectedly empty courtrooms and relieve the pressure on those discovered to be overburdened. Very often these trial-and-error techniques work remarkably well. There is certainly no simple answer to the inherent problems involved with listing. But the compilation of relatively simple data on settings, adjournments, guilty pleas and contested trial dispositions would allow a degree of insight into the implications of present setting practices and might provide some indications of possible avenues of procedural improvement.

Management Problems and Management Information. The problems of case delay and listing are accentuated by a reluctance on the part of staff in some courts to become actively engaged in case management. A reactive style of administration is present in such courts whereby past practices are maintained without any regular assessment of consequences until a crisis forces their alteration. But while it may be true that the absence of interest in case management is sometimes an underlying factor in problems of delay and listing, this lack of will is only encouraged in an environment bereft of basic case flow information. Regular compilation of such data may not induce a disinterested clerk to change his style of management. It will at least provide the concerned clerk with the data needed to diagnose difficulties, design responses, and measure their subsequent effect. In this sense, case flow statistics are a precondition for effective case management.

III Compiling Case Flow Statistics

Basic Concepts. The system proposed here was designed to meet three basic criteria: simplicity, economy and reliability. The system is simple in that only the most basic information is gathered. In order for a statistical system to be maintained over time, it is not enough that the information produced be "interesting". It should be essential to management of the court. Hence only two types of statistics are proposed: data on workload and productivity, and data on case processing time. The workload data describes the number of cases filed

and disposed by the court, broken down by type of case and mode of disposition. It also keeps track of the number of cases pending at the beginning and end of the time period under examination. The waiting time measures indicate the length of time consumed by cases moving through the various stages in the life of a case.

The system is economical in that it is capable of adaptation in most magistrates' courts without additional staff or equipment. The system does require use of a face sheet or similar document to record the key events in case history. Many courts already utilize some varient of face sheets. For courts that do not, the information to be recorded in court is little more than what is already scribbled about the margins of charge sheets.

The reliable nature of the system is insured by use of operational documents to produce the statistics. The face sheet becomes the central place that essential information is recorded about individual cases. Staff are much more likely to avoid errors on case documents they use every day than on those completed only for "statistical purposes".

The following two sections discuss in turn the use of face sheets and the compilation of the monthly report. These sections are followed by brief descriptions of the operation of the system in the two experimental courts: Poole Magistrates' Court and Tredegar Magistrates' Court.

Face Sheet. The face sheet attached to the front of each set of case papers is the key to the entire system. This sheet can take many forms. Those used for both arrest and summons cases in the two test courts are appended. The face sheet provides one central place to record the key events in the history of each case. It should be noted that one of the courts testing the scheme attaches separate face sheets only to arrest or charge cases. A separate section on scheduling and disposal information is printed on each charge sheet in summons cases and hence the charge sheet serves the same purpose as the face sheet.

For purposes of statistics, only six items need be recorded on the sheet: four dates (date of bail or charge, first court appearance, adjudication, final disposal), the type of case (e.g. arrest, summons, etc.) and type of disposal (e.g. guilty plea, contested summary trial, committed for trial, etc.). Most courts will find it useful to record in addition the dates of each court appearance, bail, plea, venue and legal aid information, and the result in the case. Virtually all of this information is currently set down by the clerk in court in some form. The face sheet merely organizes this information in a form that can be used readily for statistical purposes. It also provides case history information at a glance, allowing easy identification in court of cases with extensive remand histories.

Face sheets should be numbered and attached to the case papers as they are filed with the court. Use of a log book to record each new case filed may be desirable, though not essential. In order to avoid ambiguity, it is suggested that each defendant be identified as a separate "case" and receive a separately numbered face sheet. A case can thus consist of several charges but never more than one defendant. Distinctive colour-coded face sheets (separately numbered) should be used for charge/arrest cases and summons cases. Other types of cases - such as domestic or juvenile - could receive separate treatment as well; these case types were not included in the programme in the experimental

courts.

When the case is finally disposed, the face sheet (or a carbon copy) is torn off the case papers and retained for use in compiling the statistics at month-end. The sheets can then be bound in loose-leaf binders in either alphabetical order (thus providing an index and case history of all closed cases) or in case number order. Alternatively, face sheets can be retained on the case papers, with summary figures on disposed cases assembled from face sheets on a daily basis.

The number of new face sheet numbers assigned in a month is an unambiguous and readily obtainable measure of new case filings. The face sheets of disposed cases can be summarised at daily or monthly intervals to obtain information on number and type of disposals and waiting time. Once an initial count of all cases currently pending is made, subsequent figures on pending cases can be derived arithmetically.

It is important to keep track of each numbered case and ensure that it finds its way into the closed case statistics when it is disposed. Cases that move into a "limbo" status - such as sine die adjournments or cases in which warrants are issued - should be filed together and evaluated periodically to purge those cases that are effectively dead. If this is not done, the pending case statistic will grow inappropriately as a result of accumulating non-active cases. Methods will additionally need to be established for dealing with such situations as consolidation of several cases against the same defendant and unserved summonses.

Monthly Reports. Whether a summary of closed cases is compiled daily or only at the end of the month, it is this activity that will consume the most clerical time. The monthly report is simply a compilation of the daily reports or a formalization of the monthly summary. It is obviously possible to add additional information to this report without a great deal of additional clerical effort. Data on the number and length of remands, for example, or on delay in particular types of cases or segments of case history, can be assembled from the face sheets as the other data are being collected. Furthermore, short-term statistical exercises on, for example, legal aid use or bail, can be mounted quite easily simply by extracting the additional information from the face sheets when the basic statistics are compiled.

IV The Two Test Courts

Tredegar. The Bedwellty Division located in Tredegar already used a face sheet on all arrest/charge cases. This sheet was modified slightly to include the bail date and specific information on the mode of case disposition. In summons cases, the charge sheet was already imprinted with basic scheduling information. A rubber stamp was devised to provide a regular space on the charge sheet for disposition information. Copies of both arrest face sheets and charge sheets are appended to this paper.

The court began using the new forms, unnumbered, for a period of almost two months before statistics were compiled for the first month. This "run in" period ensured that almost all the cases open at the time the system started were summarized on the new forms. The first day of actual operation of the scheme, each case currently open was given a number (arrest and summons were numbered separately). This numbering produced the number of pending cases on the first monthly report.

Subsequent months' pending case figures are obtained arithmetically.

After this initial numbering, new arrest and summons cases were given a consecutive number after their first court appearance. The total new numbers assigned in a month thus constitutes the number of new cases for that month. Numbering of new cases and a daily tally of dispositions are accomplished at the end of each court day. This keeping of daily filing and disposition tally allows the face sheet to remain attached to the case papers when filed and makes compilation of the monthly report a simple matter of summarizing the daily reports. (Copies of the daily tally sheets and monthly reports are appended).

One staff person in the clerk's office is assigned to do the daily tallies and monthly reports. These activities, require a total of four to ten hours spread over the month. As the court clerks become more consistent in recording the relevant information on the face sheets, it is expected that the ½ day figure will become the norm since the major problem in compiling the daily tally sheet is determining information not put on the face sheets in court.

Poole. Because of staff shortages, the Poole Magistrates' Court elected to begin the statistics programme on arrest cases only. As in Tredegar, the Poole court already used face sheet in such cases. This sheet was modified to include a place to indicate mode and date of disposition and date of charge. (A copy of the new form is appended).

The new forms were used for a month before the gathering of statistics began. The new forms were pre-numbered. Each form was removed from the case papers after the case was closed. On the first day of the first month that statistics were to be compiled, a new numbered face sheet was attached to each open case still having an old-style face sheet. The number of the last face sheet attached on that day, less the number of new-style face sheets for cases closed during the "run in" period, constituted the number of pending cases at the start of the first month. Later pending case figures were obtained arithmetically.

As cases are closed, the face sheet is removed from the case papers and kept with the other sheets for the month. At the end of the month, the sheets are tallied on a tally sheet and the monthly reports compiled (examples of these sheets are appended). Compilation of the monthly report requires one to two hours.

V Summary

This paper has set out the broad outlines of a system by which case-flow statistics can be gathered in magistrates' courts with no additional equipment and minimal additional clerical time. While production of such data is unlikely in itself to make courts run more efficiently or expeditiously, it should provide the information necessary to monitor workload, productivity and delay on a regular basis. The presence of such data - particularly if maintained over time - can give the court a clear statistical picture of its caseload, how it is changing, and how it is currently being handled. Such introspection can only encourage efforts to improve case handling procedures.

These workload figures, if compiled on a uniform basis, could also be of interest to magistrates' courts committees, local authorities, and

central government. It should be emphasized, however, that any move in this direction should be preceded by a careful effort to ensure that the figures are uniformly compiled and definitions consistent across courts. Such matters as how to count cases, how to handle sine die adjournments, outstanding warrants, and the like need to be clearly defined or any comparisons of the statistics of different courts will be misleading.

MANAGEMENT STATISTICS WHICH COULD BE COLLECTED BY MAGISTRATES' COURTS

Some of the statistics which courts might consider collecting in order to monitor the main aspects of their workload (particularly caseflow and fine enforcement) are listed below. Although some of the figures could be obtained with relatively little work others would require considerably more effort, and some could only be produced by courts with computers. It is not suggested that all courts should record all these figures, nor that these are the only statistics which might be found useful.

a. Incoming caseload

Number of new cases received, broken down at least between adult, juvenile and domestic, and if possible by crime/motoring, charge/summons or indictable/triable either way/summary.

b. Throughput of cases

Number of cases disposed of broken down as in a. and possibly by type of disposal (guilty plea/not guilty plea/s.1 committal/s.7 committal/withdrawn/other).

c. Pending caseload

If all pending cases are counted once, this can be calculated as pending caseload in this time period = pending caseload in last time period + new cases received - cases disposed of.

d. Sitting hours

Number of sitting hours by type of sitting (adult/juvenile/domestic and, if separate sittings are held, by crime/motoring/enforcement etc.)

e. Other administrative work

Number of licensing applications.

Number of legal aid applications.

f. Waiting times

Average time incident to summons

summons to first appearance

charge to first appearance

first appearance to disposal

Average number of appearances

All figures broken down if possible by type of case and disposal as in b. and, for charge or indictable cases, by whether the defendant was on bail or in custody.

g. Fine collection workload

Number of new fine accounts

Number of receipts issued

Amount of fines imposed

h. Fine enforcement workload

Number of current fine accounts

Number of applications for time to pay

Number of reminder letters issued

Number of means summonses/warrants

i. Fine enforcement efficiency

Arrears of fines (as supplied to Home Office)

"True" arrears ie proportion of money due which has not been received.
Proportion of current fine accounts which have money outstanding which is due to be paid.