Justice Informed:

the pre-sentence report pilot trials in the Crown Court

Volume II

Appendices

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VOLUME TWO

PRE-SENTENCE REPORTS PILOT TRIALS:

MONITORING BY THE HOME OFFICE

RESEARCH AND PLANNING UNIT

A paper by Home Office Research and Planning Unit

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SUMMARY

Section 1: Introduction

This report summarises the findings of the monitoring exercise mounted by the Home Office Research and Planning Unit (RPU) as part of the Pre-Sentence Report Pilot Project. The RPU's brief was to monitor the pilots to allow some assessment of:

- the extent to which the pilot succeeded in mimicking the relevant provisions of the Act;
- the volume of extra reports entailed by the provisions;
- the speed with which these reports were produced, and their knock-on effects on adjournments; and
- implications for other agencies such as the Prison Service.

The RPU asked each of the five probation areas taking part in the pilot project to complete a monitoring form for each case involving a conviction throughout the pilot period. Although we have no independent method of checking how complete the returns were, there are more forms than we would have expected on the basis of LCD statistics in four of the five courts and we regard the data-set as fairly complete and reliable. Resource difficulties prevented the Inner London Probation Service from providing a complete set of forms. Thus much of the analysis reported here excludes returns from Southwark Crown Court.

Section 2: The 'integrity' of the pilots

The five courts were asked to treat the relevant provisions of the 1991 Criminal Justice Act as if they were already in force. Overall, this was done successfully, though in a minority of cases, 'mandatory' PSRs were not completed; this was most marked for contested triable-either-way cases resulting in prison sentences, in a third of which PSRs were not completed. Thus the pilots will have slightly underestimated the demands made on the probation service, the courts and the prison service by the new provisions. Where necessary we have taken this into account in analysis.

Section 3: The volume of additional reports

Our estimate of the volume of additional reports resulting from the CJA provisions is based on the completion rate observed in the four Crown Courts excluding Southwark, applied to the number of cases resulting in sentence in all Crown Courts in 1990. We expect completion rates to rise from an observed national average in 1990 of 67% of sentences in the Crown Court to a post-CJA figure of 87%; this implies an increase in Crown Court reports of 17,900 cases. Taking into account a small increase in Crown Court business by 1992, an estimate of just over 19,000 extra reports is reasonable. If there is any increase in the number of reports prepared for magistrates' courts, this will be small, and unlikely to exceed 5 per cent, as magistrates already routinely call for reports when they are considering either custody or a community

penalty of the sort which will require reports. (This assumes that there will be no growth in the total number of cases proceeded against in magistrates' courts.) Taking the two types of court together, the total number of extra reports will be little more than 20,000 and should not significantly exceed 26,000.

Section 4: Adjournments

The provisions will lead to a substantial rise in the number of adjournments. The participating probation areas estimate that in 1990, around 15% of cases resulting in conviction were adjourned so that a report could be prepared. On the basis of the pilots, this figure will rise to around 30%. This estimate presents a 'worst case', as it is probable that the adjournment rate can be reduced.

One of the largest categories of adjournment arose because of late changes of plea. Many of these changes occurred on the day of the hearing. But in addition to these 'cracked trials', there were many adjourned cases where the change of plea had been made days, or weeks, before the trial. A streamlined procedure for commissioning and preparing reports could reduce this number.

There were also adjournments in a significant minority of cases where guilty pleas had been entered from the start. One can infer from the data that there are two main categories of such cases: those where a report prepared pre-trial fails to provide the sentencer with enough

information; and those where - either through difficulty in contacting the offender or through oversight or misjudgement - a report was not commissioned in the ample time available. It should be possible to reduce the size of both these categories.

Section 5: Time taken to complete reports

Of all those cases adjourned for reports, around 6% were 'same-day adjournments', and a further 18% were adjourned for between a day and a week. 8% were adjourned for periods ranging from 8 to 20 days, and 21% for 21 days. It is probable that more reports were prepared in shorter timescales than in the past. Issues about the quality of these reports are addressed in Appendix I.

Section 6: Implications for the Prison Service

29% of adjourned cases resulted in custodial remands. Such cases were no more likely to involve short adjournments than those where the offender was bailed. Thus there is probably considerable scope for targetting resources for the preparation of fast reports on cases where remands are foreseeable. It is estimated that the overall prison population would be increased by about 100 as a result of extra adjournments in custody, but with a shift of about 290 from the sentenced population to the remand population.

1. INTRODUCTION

1.1. This report gives the findings of the monitoring exercise mounted by the Home Office Research and Planning Unit (RPU) as part of the Pre-Sentence Report Pilot Project. The monitoring aimed to assess:

- the extent to which the pilot succeeded in mimicking the relevant provisions of the 1991 Criminal Justice Act;
- the volume of extra reports entailed by the provisions;
- the speed with which these reports were produced, and their effects on adjournments; and
- implications for other agencies such as the Prison Service.

1.2. To achieve these aims a form was devised to be completed by the probation staff in each of the five Crown Courts on each case passing through the court in the pilot period which resulted in conviction. It was intended that the forms should cover all such cases whether or not a report was prepared. The form collected details on the defendant, the progress of the case through the court, whether information was sought from other agencies, the charge and plea, whether and when reports were prepared, details of adjournments and the sentence finally imposed.

1.3. 4,217 forms were received from the five courts. There were some cases which were recorded as acquitted even though monitoring forms were not required for such cases, which have been omitted in the analyses presented here. Table 1 shows the composition of the sample. The rate of return compares well with statistics collated by the statistical department of the Lord Chancellor's Department which received good data on about 3000 cases, covering about 3750 defendants.

Table 1
Numbers of monitoring forms received

	Total	Convicted
Birmingham	1620	1569
Bristol	829	678
Lincoln	372	370
Newcastle	970	878
Southwark	426	424
Total	4217	3919

1.4. Early in the pilot Inner London Probation Service submitted monitoring forms for Southwark Crown Court only for cases for which a report was prepared, and resource difficulties meant this deficiency could not subsequently be fully corrected. In this report all analysis about the completion rates of reports excludes data from Southwark Crown Court.

2. THE INTEGRITY OF THE PILOTS

2.1. Sentencers and the probation staff in the five courts were asked to operate during the pilot as if the provisions of the Act were already in force. It is impossible to test precisely the extent to which this mimicking was achieved, as sentencers will be required to call for reports whenever they are considering certain types of sentence, and it was obviously impractical to ask judges what options were in their minds. A partial test is possible, however, by examining rates of report preparation by plea, offence and sentence. These are shown in Tables 2A and 2B. Row a. includes all cases with indictable offences. Reports are not mandatory in such cases. Rows b. and c. are triable-either-way cases where custodial or relevant community sentences were passed. Row d. includes other triable-either-way cases.

Table 2
Report preparation by plea, offence and sentence

A. Percentage of cases where reports were completed(1)

	Guilty %	Not guilty %	Unknown/ missing %	Total %
a. Indictable offences(2)	90	43	83	81
b. Custodial sentence	90	64	93	87
c. Community sentence(3)	98	94	97	97
d. Other triable-either-way	79	31	64	68
Total	88	50	83	82

Table 2 (continued)
Report preparation by plea, offence and sentence

B. Actual numbers(1)

	REPORT PREPARED?							
	Y	N	Y	N	Y	N	Y	N
	Guilty		Not guilty		Unknown/ missing		Total	
a. Indictable offences(2)	418	46	50	67	88	18	556	131
b. Custodial sentence	856	91	102	58	160	13	1118	162
c. Community sentence(3)	358	8	43	3	71	2	472	13
d. Other triable-either-way	556	151	59	131	86	48	701	330
Total	2188	296	254	259	405	81	2847	636
Grand total								3483

(1) Excludes Southwark.
(2) Murder, manslaughter, Section 18 assault, rape, incest, robbery, arson, indictable motoring.
(3) Probation with additional conditions and CSO.

2.2. Table 2 shows that in general the provisions of the Act were mimicked successfully, but that there were instances in which reports would be expected but were not prepared. When the custodial and community sentences in rows b. and c. of Table 2 are being considered the calling for reports is mandatory under the terms of the Act. It can be seen that the report preparation rates of these soon-to-be mandatory cases is lowest for cases involving not guilty pleas which result in custodial sentences. Row c, where community sentences were given, shows a similar but less marked effect. Part B of the table shows the actual numbers of reports prepared which correspond to the percentages in part A of the table. These figures will be referred to again later in this report.

2.3. It appears, therefore, that there will be slightly more demands on the probation service and courts than is shown by the pilots. This has been taken into account in estimating the additional number of reports.

3. THE VOLUME OF ADDITIONAL REPORTS

3.1. To make an estimate of the number of additional reports required by the provisions of the Act we need to compare the rate of report preparation before the pilots with that during the pilots, taking into account the non-compliance described above. Table 3 shows the report preparation rates during the pilot.

Table 3
Report preparation during the pilots - RPU monitoring results

	Period	Convicted offenders	Number of convicted offenders on whom reports prepared	Percentage (report preparation rate) %
Birmingham	1 July - 23 Dec	1558	1249	80
Bristol	1 June - 30 Nov	675	526	78
Lincoln	13 May - 27 Sep	370	314	85
Newcastle	20 May - 19 Nov	878	769	88
Total		3481	2858	82

Source: RPU monitoring

3.2. The cases underlined in Table 2B should have had a report prepared in the pilot, but did not. Adding these 175 cases to the 2847 cases for which a report was prepared brings the estimated overall post-CJA report preparation rate up from 82 per cent to 87 per cent.

3.3. Unfortunately, given the time and resources available, it was not possible to set up an exercise to collect pre-pilot monitoring information before the pilots began. It was hoped that the statistics routinely collected by individual courts would be able to provide suitable information. Table 4 shows the information that was finally available from courts.

Table 4
Report preparation before the pilots

Court	Period	Number of convicted offenders	Number of convicted offenders on whom reports prepared	Percentage (report preparation rate)
Birmingham	1990	3457	2450	71
" "	Jul-Dec 1990	1612	1004	62
Bristol	Jul-Nov 1990	1209	568	47
Lincoln	1990	922	518	56
Newcastle	Jan-Apr 1991	763	543	71
Southwark	1 Jun-15 Nov 1990	1070	621	58

Data from probation service areas

3.4. The pre-pilot completion rates shown in Table 4 appear to be open to question. The two Birmingham figures both derive from the local report (Vol 1, Section IV,A), and indicate a reduction from 78 to 62 per cent in the report writing rate between the first and second halves of 1990. Avon Probation Service's own estimate of the report preparation rate during the pilot was 50 per cent, compared with a value of 78 per cent derived from the monitoring, and their pre-pilot value of 47 per cent may also be an underestimate. The figure for Lincoln has been

estimated from values from two different sources, which may not be compatible.

3.5. The completion rates in Table 4 are substantially below the national average, with the exception of Newcastle and Birmingham's full-year figure. Table 5 shows the national rate of preparation of reports in 1990 as shown by the national statistics based on probation service returns to the Home Office. For the Crown Court the preparation rate in 1990 was 67 per cent. Although this figure applies to England and Wales as a whole it is felt to be preferable to use this estimate rather than an average derived from possibly unreliable and inconsistent information from the five areas. Whilst areas' estimates of pre-pilot completion rates varied markedly, the pilot rates, as shown by the monitoring forms, were fairly consistent, giving reason to think that it is safe to extrapolate from the pilot areas to the country as a whole.

Table 5
Persons sentenced and reports prepared 1990

	Persons sentenced (1)	Reports (2)	Report preparation rate %
Magistrates' courts	727,400(3)	133,060	18
Crown Court	90,600	60,860	67
Total	818,000	193,920	24

(1) From 1990 Criminal Statistics (provisional).
(2) Summary Probation Statistics, England and Wales 1990, Home Office Statistical Bulletin 20/91.
(3) Excludes summary motoring offences.

3.6. Had the Act been in effect in 1990, it is estimated that there would have been an additional 17,900 reports at the minimum. This estimate is based on the assumption that the completion rate would have been 87 per cent rather than the observed 67 per cent of the 90,600 persons sentenced in the Crown Court in 1990, and represents an increase of nearly 30 per cent in the number of reports prepared.

3.7. Assuming an increase in Crown Court business of about 7 per cent between 1990 and 1992 the estimated number of extra reports in the first year of implementation will be about 19,200. It is conceivable that our completion rate of 87 per cent is an underestimate, and that once probation areas are properly geared up to produce extra reports the rate may rise to more than 90 per cent. A completion rate of 91 per cent, for example, would yield an extra 21,700 Crown Court reports.

3.8. If there is any increase in reports for magistrates' courts, this will be much less than for the Crown Court. Magistrates already routinely call for reports when considering sentences of the kind requiring a report under the provisions of the Act. It is estimated that the number of cases heard at magistrates' courts will not increase between 1990 and 1992. However, it may be sensible to assume some increase - not exceeding 5 per cent - in the number of reports prepared, resulting in a maximum of an extra 7,000 reports for magistrates' courts. The estimated total increase in the number of reports in both types of court should therefore not greatly exceed 26,000, assuming a Crown Court completion rate of 87 per cent. The figure would rise to nearly 29,000 assuming a completion rate of 91 per cent.

4. ADJOURNMENTS

4.1. Table 6 shows the rate at which cases were adjourned during the pilot. The estimated overall rate of 24 per cent of reports prepared on adjournment should be increased by perhaps 2 or 3 percentage points to compensate for the fact that during the pilot sentencers did not call for reports in all cases that would appear to be mandatory, as described above. The probation areas taking part in the pilots estimate that in 1990 only about 15 per cent of cases resulting in conviction were adjourned so that a report could be prepared. The table suggests that this could rise to about 30 per cent unless arrangements are put in hand to reduce the adjournment rate.

Table 6
Adjournments

	percentage
All cases adjourned	31
Cases adjourned for a report to be prepared	24 (ie 78 per cent of adjourned cases)

n = 3495

4.2. From the monitoring data it is possible to examine the number of times cases were adjourned for reports to be prepared, and to say something about the ways in which the likelihood of an adjournment is affected by features of the case, such as plea, changes of plea, offence

and the sentence being considered. Table 7 shows by court the percentage of convicted offenders on whom reports were prepared pre-trial, or on adjournment and those on whom no report was written.

Table 7
Percentage of defendants on whom reports were prepared

	Prepared pre-trial (a)	Prepared on adjournment (b)	Sentenced without report	Report preparation rate (a+b)	Number of convicted offenders
Birmingham	59	22	20	80	1569
Bristol	48	30	22	78	678
Lincoln	71	14	15	85	370
Newcastle	59	28	12	88	878
Total	58	24	18	82	3495

4.3. The initial plea, how soon the plea is first known to the probation service and any change of plea will affect whether and when a report is written. The diagram at Figure 1 summarises the effect of these factors on the preparation of reports. This 'tree' divides and sub-divides the 3495 cases in the data (excluding Southwark) resulting in conviction. In each box the upper figure is the relevant number of cases, and the lower figure is the number cases as a percentage of all cases. Entered between the boxes of the third row up is the report preparation rate for the relevant branch of the tree.

4.4. The first division separates cases into three groups according to the initial plea. One group consists of those with a guilty or mixed

plea; another group is those initially pleading not guilty; a third small group consists of cases where we had no information about the plea.

4.5. The next division concerns how long before trial any guilty plea became known to the probation service. Those with an initial guilty or mixed plea are divided according to whether or not the plea became known within 21 days of the trial. Those with an initial not guilty plea are divided according to whether there was a change of plea to guilty, and how soon that change was known to the service.

4.6. The third and subsequent divisions are applied to each of the five main groups identified so far. The third division separates defendants on whom a report was prepared. The fourth division divides those with reports according to whether or not the case was adjourned for a report to be prepared. The fifth and final division concerns the length of adjournments. This stage is dealt with in more detail later in this report.

4.7. The tree shows that a large category (approaching a third) of adjournments for reports arose because of a late change of plea. Most of these (about 85 per cent) were changes on the day of the trial - 'cracked trials'. In addition there were some adjourned cases where a change of plea had been made well in advance of the trial. A streamlined procedure for commissioning and preparing reports could reduce this number.

4.8. The largest category of adjournments for reports (about a third) was for cases where guilty pleas had been entered from the start. (Although the rate of preparation is low for guilty pleas, the high number of guilty pleas makes this group large.) It can be inferred from the data that there are two main types of such case: first those those where a report had been prepared before the trial, but a further report was called for at the trial, and second where a report was not prepared even though ample time was available. Of the 264 adjournments in cases with an early guilty plea, 75 were of the first type, and 147 were of the second type. It should be possible to reduce the size of both these categories. The 147 cases in which a report was not prepared may be further sub-divided into 42 that were commissioned but not completed - suggesting non-contact or refusal on the offender's part - and 105 that were not commissioned.

5. THE TIME TAKEN TO COMPLETE REPORTS

5.1. Table 8 shows the lengths of adjournment for cases adjourned for reports, divided according to plea, and the timing of any plea change. Overall about 6 per cent of cases adjourned for reports were 'same-day adjournments', and a further 18 per cent were adjourned for between a day and a week. More than half of all cases adjourned for reports had an adjournment time of 21 days or less; 21 per cent of all cases were adjourned for 21 days.

Table 8
Length of adjournment of cases adjourned for reports

Length of adjournment	Guilty/ mixed plea, known late	Guilty/ mixed plea, known early	Not guilty plea, to guilty early	Not guilty plea, to guilty late	Not guilty, un-changed	Total
	%	%	%	%	%	%
same day	3	3	0	9	7	6
1 day	3	4	0	2	3	3
2-7 days	11	15	0	16	21	15
8-14 days	3	4	3	5	5	4
15-20 days	6	5	3	2	3	4
21 days	24	21	5	28	13	21
22-27 days	11	2	8	1	8	4
28-31 days	15	29	45	20	17	23
32-40 days	14	7	15	6	7	8
41-180 days	9	9	18	10	16	11
181 days or more	2	2	5	1	0	1
Total number	66	237	40	232	176	751

5.2. Table 8 shows that the plea and any change of plea most affects the length of adjournment in cases where an initial 'not guilty' plea is changed well before the trial. In such cases (which are only 5 per cent of adjournments) the length of adjournment is nearly always over 21 days. About a half of the same-day adjournments are due to 'cracked trials'.

5.3. On average the length of adjournment for cases with unchanged not guilty pleas is not significantly different from that for guilty pleas. However, for not guilty pleas there are rather more 7-day adjournments and fewer 21-day adjournments.

5.4. Table 9 shows the completion of reports according to whether they were prepared before the trial or on adjournment. The preparation time of reports prepared before trial is generally longer than that of reports prepared on adjournment. About two-thirds of reports prepared before trial have completion times of more than 21 days.

Table 9
Completion time of reports

Completion time	Prepared pre-trial %	Prepared on adjournment %
same day	1	5
1 day	0	3
2-7 days	4	13
8-14 days	9	17
15-20 days	12	20
21-27 days	16	19
28-31 days	11	6
32-40 days	19	6
41-180 days	26	10
181 days or more	2	1
Total number	1730	692

5.5. As would be expected, the completion times of reports prepared on adjournment have a distribution similar to that of the adjournment time, except that the completion time is generally less than the length of adjournment.

5.6. We were not able to collect information on completion times before the pilots, but it is probable that more reports needed to be prepared quickly during the pilot than in the past. Whether or not the quality of reports is affected by the time available for completion is discussed in the research reported in Appendix I.

6. IMPLICATIONS FOR THE PRISON SERVICE

6.1. Where there was an adjournment for a report to be prepared the defendant was remanded in custody in nearly 30 per cent of cases. Table 10 shows that the lengths of adjournments were not significantly different for those remanded and those bailed. In the few cases where the adjournment was very long, however, the adjournment was not in custody.

Table 10
Adjournments in custody - percentage of cases by length of adjournment
(row percentages)

Length of adjournment	Custody	Bail
0 - 14 days	30	70
15 days or more	29	71
Total	29	71

6.2. Table 11 examines the adjournments in custody in relation to the categories used in Table 2, which separates out cases where reports would appear to be mandatory. It shows that 'mandatory' cases are about 1½ times more likely to attract an adjournment in custody than those in the non-mandatory categories. Since a majority of the extra reports arising from the Act will be in the mandatory categories this greater probability of remand in custody must be taken into account in any

estimate of an increase in the remand population.

Table 11
Adjournments in custody - percentage of cases by type of offence and sentence
(row percentages)

Type of offence and sentence	Custody	Bail
Custodial/community sentence ('mandatory')(1)	34	66
Indictable offences and other cases not included above (2)	22	78
Total	29	71

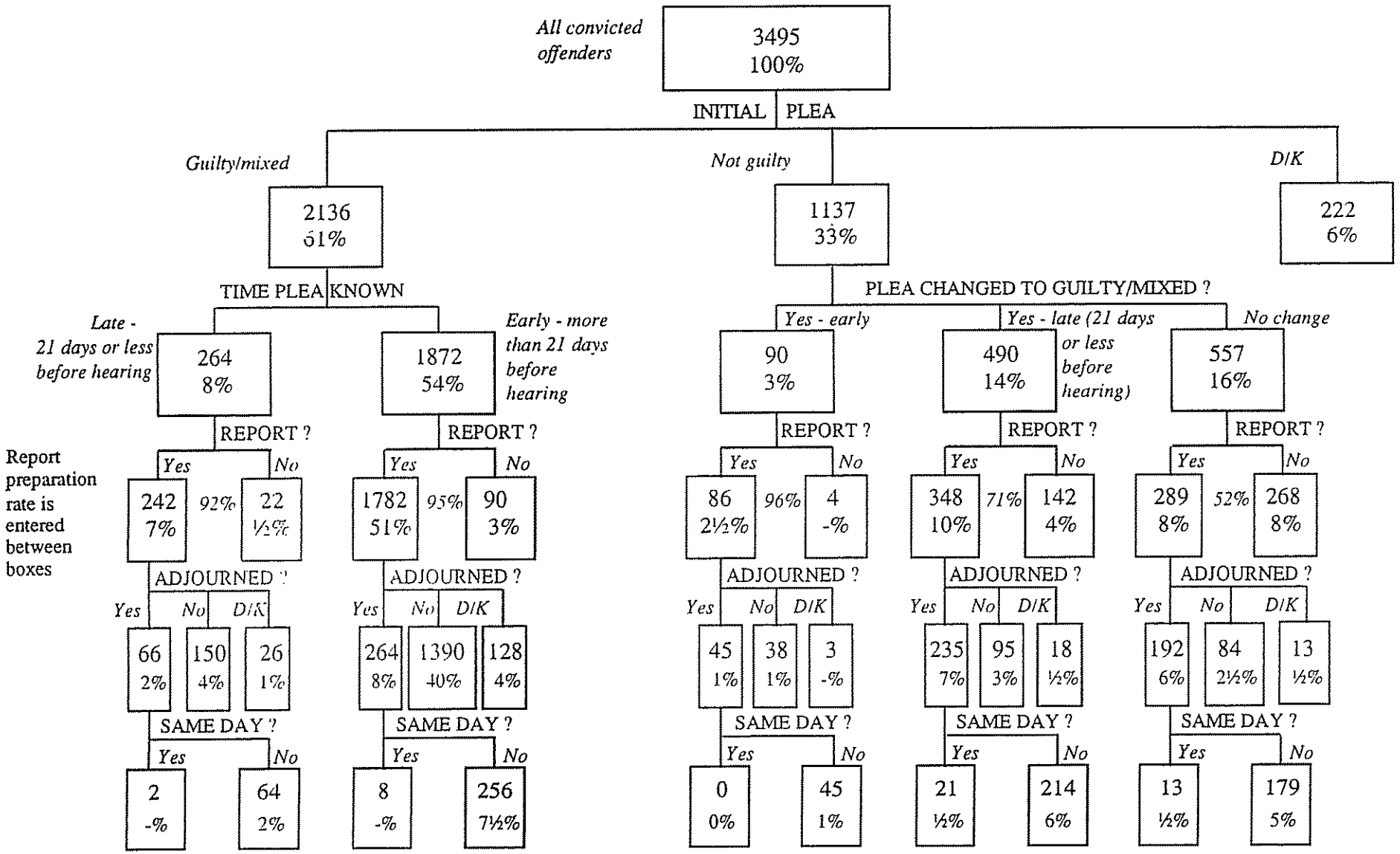
(1) Rows b and c in Table 2
(2) Rows a and d in Table 2

6.3. Assuming that the vast majority of the 19,200 extra reports are 'mandatory' under the terms of the Act, our data show that 34 per cent would involve an adjournment in custody, with an average length of 22 days. This would result in an increase in the remand population of about 390.

6.4. For many defendants remanded in custody the extra time on remand would be offset by less time under sentence. We estimate that, of those where a report is mandatory and who are held in custody during the adjournment, 77 per cent would receive an immediate custodial sentence. The average length of such adjournments would be 21 days. This would result in a reduction in the sentenced population of about 290.

6.5. One can therefore anticipate a small increase in the overall prison population of around 100, but a larger shift of 290 from the sentenced population to the remand population. In the face of other less predictable effects of the Act the impact of pre-sentence reports on the prison population should thus be slight.

Figure 1. Tree diagram (includes all courts except Southwark)



AN ASSESSMENT OF THE COSTS TO THE PROBATION SERVICE OF THE PROVISIONS IN THE CRIMINAL JUSTICE ACT 1991 RELATING TO THE PREPARATION OF PRE-SENTENCE REPORTS FOR THE CROWN COURT

HOME OFFICE

MANGEMENT ADVISORY SERVICES

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THE COSTS TO THE PROBATION SERVICE OF THE PROVISIONS IN THE CRIMINAL JUSTICE ACT 1991 RELATING TO THE PREPARATION OF PRE-SENTENCE REPORTS FOR THE CROWN COURT

CONTENTS

THE COSTS TO THE PROBATION SERVICE OF THE PROVISIONS IN THE CRIMINAL JUSTICE ACT 1991 RELATING TO THE PREPARATION OF PRE-SENTENCE REPORTS FOR THE CROWN COURT

1 INTRODUCTION

1.1 Early in 1991, C6 Division asked Management Advisory Services of the Home Office to assist with the pilot studies that were then being set up to trial the provisions in the Criminal Justice Act relating to the provision of pre-sentence reports in Crown Courts. We were asked to look specifically at the resource implications for the Probation Service.

1.2 We do not give a detailed account of the pilots as this is set out in other parts of the report.

Scope and Constraints

1.3 The review looked only at costs to the Probation Service in England and Wales associated with the preparation of pre-sentence reports (generally known as Social Inquiry Reports) for the Crown Court.

1.4 We did not look at the likely impact on the Probation Service of the changes as they might apply to the preparation of reports for Magistrates Courts; or at the resource implications of any change in sentencing practice resulting from the changes. The review also did not consider any resource implications that may relate to changes in the type of report prepared.

Methodology

1.5 We visited each of the areas early in the pilots to establish the nature of the likely resource implications relating to the changes.

1.6 We designed a monitoring form to record the time probation officers spent on preparing reports and some associated costs (Annex A). Other costs were assessed by observing activities and discussing the implications with the staff concerned.

1.7 We also drew on a Management Advisory Services report from September 1990 called "Review of the Supply of Information by the Crown Prosecution Service to the Probation Service for Social Inquiry Reports" which considered the costs to the Probation Service of handling the paperwork involved.

1.8 The emphasis of the present review was to identify and cost the extra work that would be necessary, not to recommend how Probation Areas might deploy resources to respond to the extra work.

Staffing and Costs of the Review

1.9 The review was conducted by a single HEO assignment officer. The overall cost of the review was £8,750 based on an input of 40 days and including travel and subsistence costs.

2 SET UP COSTS

Management Preparation

2.1 Prior to implementation each Probation area will need to set up systems to ensure that the Service is able to respond to the new provisions. We talked to managers in the pilot areas about the preparation that would be required in a typical area. We assumed that such an area would be able to draw on the experience of the pilots.

2.2 No area thought that extra staff would need to be brought in purely for the preparation work, though it was felt that it would be helpful to have any additional staff that would be needed to run the system in post 2-4 weeks before implementation. (We have costed this particular aspect at 1/12 of the annual staff costs - see Summary of Costs).

2.3 The consensus between the areas was that about three months would be needed to liaise with the other agencies, set up systems, prepare guidance, training, etc. Planning for the appointment of additional staff, however, may need to start up to six months before implementation.

2.4 Day to day responsibility for the preparation work falls naturally to the senior probation officer responsible for the Crown Court. This would be a substantial part of his or her work for this period. We have not costed this work on the basis that this sort of development work would be part of this officer's normal duties.

2.5 We noted that in some areas there may be a clash with work setting up Youth Courts if this is also the responsibility of the Crown Court senior probation officer.

Training

2.6 The training referred to in this section relates to the organisational implications of the new provisions, it does not address any training that may relate to the preparation of new types of reports.

2.7 The training we have considered falls into two categories; training related to new duties for existing staff and training related to new and existing duties for new staff.

2.8 Most of the extra work that the new provisions will require will be work that is already familiar to existing staff; ie processing and preparing pre-sentence reports. There are some aspects of the work, however, that will be new to new and existing staff. These are, firstly, the work clerical staff will do handling the information from the CPS, and secondly the work the probation officers in the Court team will do negotiating with sentencers of the length of adjournments for reports.

2.9 As far as clerical staff are concerned, the clear consensus amongst the areas was that no formal external training would be needed for new staff or existing staff taking on new duties. A week or two induction would be sufficient preparation for the posts. This can be costed in terms of the time of the staff concerned. This falls within that mentioned at para 2.2.

2.10 Existing court liaison officers (CLOs) would need some guidance in handling the negotiations with sentencers over the length of adjournments. Whilst recognising that this could be a difficult process, most areas felt that this would not require formal training. It is likely that some form of written agreement between Probation Service and the judiciary would be a product of the preparations prior to implementation. This would be the basis on which the negotiations would take place.

2.11 Some staff expressed the view that workshops that looked at the negotiation process would be beneficial. We have not attempted to cost such training as there was not a consensus that it would be necessary and also it was described as part of more general training on the way probation officers present themselves in court (so the full cost of running such programmes could not be attributed to the requirements of the new provisions). We flag this up, nonetheless, as a consideration.

2.12 Officers newly recruited to court teams to both write reports and act as a CLO would need extensive training in the role of the CLO. In all areas the minimum training of this sort thought appropriate was a thorough on-the-job induction programme (lasting 2-4 weeks) shadowing an experienced CLO. This would be essential for all staff new to the CLO role and would need to be addressed as part of the preparation work. The cost of this amounts to the time of the staff concerned and falls within that mentioned in para 2.2.

Equipment

2.13 The standard and level of equipment in the areas varied considerably. Some were using word-processors and laser printers others were relying on typewriters, some had facsimile networks others did not, some had a computer link to a central database and others relied on paper records.

2.14 We have identified the level of equipment we regard as necessary to meet the requirements of the provisions and at the time of writing have made some preliminary estimates of the likelihood of such equipment already being in existence. Annex B sets this out. A wider survey of the level of equipment in Probation Areas will be necessary before these figures have sufficient authority to base resource provision upon.

2.15 To provide a satisfactory service within reduced timescales we think a facsimile network is essential. This would be used to transmit copies of printed documents (preconvictions, related reports, information on the offence) that are not immediately available to the report writer and in some cases the network could be used to transmit the actual report (if it is written by a field team).

2.16 Three out of the five areas have a facsimile network. If this pattern is repeated nationally, then 22 areas will need to purchase an average of 15 machines each (assuming an average number of field offices per area of 15). Costs are set out in Annex B. There must be some question mark, however, over whether the cost should be wholly attributable to the requirements of the new provisions. The machines would without doubt be used for other purposes.

2.17 Apart from a facsimile network, no extra equipment would be required in the field. The demand would be too widely spread to justify it.

2.18 For those areas with a computer network and client database (3 out of the 5 pilot areas), an additional terminal may be needed by the Crown Court team if additional staff are to be appointed.

2.19 Crown Court teams would probably require an extra word-processor to be used by additional clerical support and/or probation officers. An additional printer may be necessary if the word-processor could not be linked with existing printers.

2.20 Also additional portable and desktop dictating machines may need to be provided for court teams.

3 RUNNING COST OF PREPARING EXTRA REPORTS

Introduction

3.1 The critical coefficient for calculating the resource implications of preparing the extra reports is the number of extra reports that can be expected once the provisions are implemented nationally. The Research and Planning Unit (RPU) have estimated that there will be an additional 19,200 reports required for the Crown Courts. Our calculations of the costs of producing the extra reports are based on this figure. We recognise that this is not a precise prediction; any modification of the figure would have a proportional impact on the running costs.

3.2 Another factor that has a bearing on the resource implications for preparing the additional reports is the ratio by which the extra reports would be split between field teams and court teams. Practice varied between the participating areas during the pilots, but, overall, something like two thirds of the extra reports were prepared by court teams and about a third by field teams. Discussions with the areas lead us to think that when the provisions are implemented a greater proportion of extra reports may be done in the field. RPU's data indicates that around 50% of adjournments were for more than 21 days. We think that a split of 50:50 is a reasonable prediction of what will happen.

3.3 We have, nevertheless, calculated the costs of preparing the extra reports for five model areas, ranging from one where all the reports were prepared in the field to one where all the reports were prepared in court. The variations in cost this produces are relatively minor. We have based our national calculations on an average split of half the extra reports prepared by field teams and half by court teams (see below).

Probation officer time preparing and drafting additional reports

Cost monitoring form

3.4 As described in the introduction we designed a cost monitoring form to enable probation officers to record time spent on preparing reports (example at Annex A). The categories of activity recorded were based on those used for the National Probation Survey. This was to enable comparisons to be made between the two data sets. We have only extracted the total time taken from our data; it would be possible to break down the time taken between different activities.

3.5 The form was issued to report writers for a consecutive series of reports for a limited period during the pilots. It was completed for reports prepared both on adjournment and pre-sentence and by court teams and field teams.

3.6 Because of the quite lengthy period that can occur between a committal date and a Crown Court hearing it is possible that, at the time of writing, some cost monitoring forms issued for reports prepared pre-sentence are still with field teams. We do not regard it as likely that any forms that are still to be returned

would have any significant effect on the figures in this report. Nonetheless we will be collecting the data from these forms and will issue an addendum to this report if necessary.

3.7 The form was also used to collect information on travel and subsistence costs and on assessments involving other probation officers.

Average time taken

3.8 Annex C to this section sums up the information gathered from the cost monitoring form on the time taken to prepare reports. A total of 326 forms were completed, 164 by field teams and 162 by court teams.

3.9 At first examination the time taken to prepare reports seems to be the same for field teams and for court teams; ie an average of around 5 hours. We do not feel, however, that both figures can be taken at face value.

3.10 In estimating the accuracy of the data, we need to take account of the size of the sample, the range of variation and on whether the sample approximates to a random selection.

3.11 The field team sample of 164 forms represented the work of over 100 different report writers in 5 different probation areas. As such it can be assumed to be a reasonably good random selection. If we assume it is a random sample the accuracy (within 95% confidence limits) of the average figure produced by the sample would be +/- 6%.

3.12 The court team sample of 162 reports represents the work of 17 different report writers. This means that we can be less sure that our sample approximates to a random selection.

3.13 The Lincoln figures are of particular concern in this respect. The returns from the Lincoln Court team represent the work of a single report writer and they make up over 40% of the total sample of 162.

3.14 The average time for this report writer was over 2.5 hours longer than the average for field teams and over 3.5 hours longer than the average of the other court teams. This may be due, in part at least, to the temporary closure of the Court at Lincoln and the fact that a large proportion of these reports were not actually required for more than 4 weeks.

3.15 Removing the Lincoln figures from the Court team figures gives a more even spread of work between the remaining court report writers and so it could be said to be closer to a random sample. The reduction in the size of the sample does not effect its accuracy (on the assumption that it were a random sample) as this is compensated for by a reduction in the range of variation in the times. Assuming random selection this gives an accuracy figure (within 95% confidence limits) of +/- 6% again.

3.16 We feel that the figure for court team times is more reliable if we do not include Lincoln. This gives us an average of 4 hours for court teams and just under 5 hours for field teams.

3.17 Perhaps the most significant explanation for the difference between the time taken by a court team and a field team is that court teams agreed to take on the more straightforward cases as they were working within a tighter timescale. Other relevant determinants may include the fact that in many cases the court team were able to interview the defendant in the court building (thus saving on travel time).

3.18 These times compare with an average of 4.6 hours determined by the National Probation Survey in June 1990 (data as yet unpublished) for Crown Court reports (prepared by field teams). Our figure for field teams may be slightly higher because the officers concerned were focused on monitoring a single activity, where those in the National Probation Survey were recording all activities. Also the National Probation Survey advised officers to ignore activities that took less than ten minutes.

Variations in time taken according to time allowed to prepare report

3.19 As well as cutting the data between court and field teams, we have cut it according to the elapsed time in which the report writer had to prepare the report. Details of this analysis are at Annex D. This demonstrates that for most reports there was no significant relationship between the time actually spent working on a report and the elapsed time the report writer was given to prepare it in. The exceptions to this rule were reports prepared in three days or less and those prepared in more than four weeks.

3.20 Reports prepared on the same day that they were requested took the least time. There were 14 forms completed that fall into this category, though all were completed by the Birmingham team. These took an average of two hours to complete and account to a large extent for the lower average time in the Birmingham area.

3.21 Those reports prepared in between 1 and 3 days took slightly less time than average, around 3.5 hours. This difference is just within the bounds of significance (assuming that it were a random sample).

3.22 Reports that were not required for four weeks or more formed about 20% of the total sample and averaged around 6.5 hours.

3.23 For those reports that were prepared on a timescale of 4-6 days, 1-2 weeks, 2-3 weeks and 3-4 weeks, the time spent working on the report did not vary significantly and what variation there was not in proportion to the elapsed time.

Calculating the resource implications

3.24 The costing calculations are based on an average of 4 hours of probation officer

time for a report prepared by a Court Team and 5 hours for a report prepared by a Field Team. On top of this we have added a 20% allowance in recognition of the fact that in reality such staff would necessarily be involved in certain other activities (eg training, gate-keeping, supervision and management meetings).

3.25 Annex E shows how this translates into a cost of £120 for a report prepared by a Court Team and £139 for a report prepared by a Field Team (probation officer costs only).

3.26 If we assume that half the extra reports are prepared by field teams and half by court teams, this works out for an average Probation Area at about 60% of a post in the field and about 50% of a post for the Crown Court team(s) in the area. Translated into national figures this works out at 63 extra probation officers at a cost of £2.5m. (see Annexes F and G).

3.27 If all the extra reports were to be prepared by the court team(s) in an average area this would amount to just over a whole post. For an area with 50% more reports than average, where all the extra reports were prepared by a court team, this would amount to over a post and a half. We have produced a formula which should enable any area that knows the numbers of SIRs produced for Crown Courts in their area and the number of convictions in the Crown Court to calculate the resource requirement in staff and cash terms. This is at Annex H.

3.28 It should be noted that the staffing implications are given in terms of the net impact over the course of a year. Court teams are likely to find, in practice, that the demands made on them are irregular. For the level of resource indicated to be adequate in practical terms to meet the demands on court teams will depend on a measure of flexibility in how they organise their time and\or a recognition by sentencers that the workload of the court staff is a factor in the negotiations over the length of adjournments.

3.29 As far as organising their time is concerned, there are some elements of flexibility inherent within the court team. The resource level we have identified has some flexibility in it as some of the 20% allowance built into the calculations would not be time critical. Flexibility would also come from the fact that not all normal CLO duties are time critical. There is also the flexibility to be gained by distributing the extra work between CLOs in larger teams. In general, the smaller the court team the less flexibility there would be and the more important it would be for sentencers to recognise limitations on them.

3.30 To keep this issue in proportion, it should be noted that the extra demand works out at about four extra reports per Crown Court per week and that the experience of the pilots suggests that on average only one a week will need to be prepared in 7 days or less.

3.31 As far as impact on the field teams is concerned there is a significant increase in work overall (and our calculations recognise this) but the resource implications are spread very thin. If half the additional reports were to be prepared in the

field, this would work out at about a dozen additional reports per field team per year. The field teams we talked to said that assuming they were given more than 3 weeks to prepare the reports, such an increase in workload would probably go unnoticed.

Associated costs

3.32 The cost monitoring forms were designed to pick up travel and subsistence costs and also whether some form of additional assessment had been carried out in the process of preparing the report.

3.33 We have decided not to use the information collected on travel and subsistence costs. Travel and subsistence costs are already included in the average figure for non-salary costs we have used for our costings (see Annex E), and cannot be readily extracted.

3.34 Annex I collates the information on the forms about specific assessments, such as community service, day centre and hostel assessments, that went towards preparation of the reports.

3.35 Of the 326 forms completed around 50% of court team reports and 50% of field team reports had community service assessments. Around 5% of field team reports had day centre assessments and only one day centre assessment carried out for a court team report. Only one hostel assessment was carried out overall (for a field team report). There were two assessments for drug related problems.

3.36 This aspect of the monitoring was designed to give an indication of the resource implications on probation officers not immediately involved in the preparation of the report. In practice the community service assessment, the most common form of assessment, involved only minimal input from probation staff working in community service offices. This generally involved no more than a telephone discussion about availability of a place and the acceptability of the defendant.

3.37 The other forms of assessment were much more resource intensive. Day centre and hostel assessments demand that the defendant attend for interview(s) or for a period of assessment. They normally result in an addendum report to the pre-sentence report.

3.38 We have not been able, within the framework for this project, to produce a unit cost for day centre or hostel assessments. Their relative rarity suggests that they will not have a significant impact on resource calculations overall. Our figures imply that there will be an increase of fewer than 15 of these types of assessment per area per year.

3.39 We emphasise here that we have not taken account of the resource implications on hostels and day centres of possible changes in sentencing practice.

Verbal reports

3.40 In Bristol Crown Court, as a peripheral study at the special request of the local judiciary, the Probation Service prepared verbal reports or 'stand down' reports that were subsequently transcribed. Cost monitoring forms were filled in for 7 of these cases. They took an average of 3.3 hours of probation officer input. If we include the 20% allowance referred to at para 3.23 this works out at a cost, to the Probation Service, of about £100 per report. This figure does not include the cost of arranging for the transcription of the reports, which was not attributable to the Probation Service.

Impact on the Court Liaison Officer

3.41 The impact of the changes on the role of the Court Liaison Officer (CLO) was not identified at the preparation stage of the project as an area with potential resource implications. No systems were set up to specifically monitor this. However, as this issue emerged, CLOs were interviewed in an attempt to define any additional work.

3.42 The CLO acts principally as a channel for information between the Probation Service and the court. They aim to ensure that the Court knows all it needs to about what the Probation Service offers and that the Service receives all the information it needs about the proceedings of the Court.

3.43 We can detail the extra requirements that the CLO will encounter when the new provisions are implemented. These will apply to the 19,200 cases per annum that initiate additional reports (this works out on average at about four cases a week per Crown Court).

3.44 The requirements will be;

negotiating with sentencers over the period to be allowed for reports

noting salient points from proceedings where there is a finding of guilt or a late change of plea (ie cases where, as well as the papers from the CPS, the report writer requires information about what has happened in court).

Where the CLO was also a report writer, time devoted to preparing a report, including interviewing the defendant would come under the category of report preparation (see above).

3.45 It would be possible to make a broad estimate of the time taken by the former category above. It would be difficult, however, to put a figure on the latter activity because, firstly, it is critically dependent on the progress of the case through the court and, secondly, by the nature of the CLOs job, he or she is not dependent on being in court in person to gather the information.

3.46 In most cases a CLO will cover several court rooms and will be expected to keep broadly in touch with progress in each and to be on hand to appear as required.

The ability to do this depends to a great extent on networking with other workers in the court so that some information can be passed when the CLO is not present. In other words the information may be collected with minimal input from the CLO if he or she has a good quality network.

3.47 There will also be some resource savings for the CLO; it will be less critical in those cases that would have been adjourned for reports, regardless of the new provisions, to record any details of the original prosecution case and evidence. This should be available to the report writer in the information from the CPS. Also those courts teams that currently provide 'stand down' reports will find their number greatly reduced if not eliminated. In both these cases we do not have sufficient information to make a viable resource estimate.

3.48 Overall we are unable to produce reliable estimates of the impact on the role of the CLO. We do not anticipate, however, that there would be a significant impact on most CLOs. Of those interviewed only one felt that the new provisions made a significant difference to their post and the local management of this officer acknowledged that the post was under resourced as it was. Of all the senior probation officers concerned, none felt that the appropriate response to the impact on the CLO's role should be extra resources.

Processing and typing of extra reports.

3.49 We interviewed clerical staff concerned with the processing of reports in court teams and field teams to establish the activities that would be associated with extra adjournments for reports. These varied to some extent between areas, according to the type of systems operated, but we were able to draw out the common activities.

3.50 Annex J is a table of these activities and estimates of the time they take, based, with the exception of typing, on our observations. The typing time is based on the Home Office standard of 5 Treasury Typing Units (TTUs) per hour. An SIR averages at about 4.5 TTUs.

3.51 Annex J sets out these activities for a report prepared by a field team and by a court team. This demonstrates that a report prepared by a court team demands about an hour and a quarter of clerical input, and a report prepared by a field team demands about a quarter of an hour clerical input from a court team and about an hour and a quarter clerical input from a field team.

3.52 If 50% of extra reports are prepared by field teams and 50% by court teams in an average area, this would amount to 13% of a post in the field and 16% of a post in the court team(s). This works out at about 16 posts nationally at a cost of £290,000. If all the reports were prepared in the court this would amount to about 26% of a post per area.

3.53 In practical terms, if half the additional reports were to be prepared by field teams, this would work out at less than 1% of a post per team. A busy court team, however, may justify an additional post or half post (especially if the post

were also responsible for handling the CPS papers - see Section 4 below). The formula at Annex H can be used to calculate the extra resource required to handle the extra reports in a particular court team.

3.54 It is important to note that whilst only a fraction of a post may be indicated for a court team the resource would need to be available at any time that a short notice report might be required; ie it may not be practical to make this a part time post. An alternative would be for the additional post to take on work that was not time critical to the same extent and the additional work was done by existing full time staff.

3.55 Most of the pilot areas needed to bring in an extra clerical post in the court team to assist with the pilots. This is not, however, an accurate indicator of the resources that will be required in the future, as a considerable amount of their time was taken up with monitoring work that would not be necessary when the provisions are implemented nationally.

Postage costs

3.56 Whilst the post is not used in all the pilot areas to transmit all documents from one office to another, it was for most. For the purpose of calculating a national cost we have assumed that all request and reports (usually 6-8 copies) will travel by first class post.

3.57 This works out at about £100 per Probation Area and about £6,000 nationally.

Accommodation

3.58 Where extra staff were necessary they, and any new equipment, will need to be accommodated. All the participating areas had some problems finding space for the extra court team staff that they required for the pilots (no area provided extra staff for the field). The court teams based in court buildings had no room to expand and either doubled up or borrowed space from other court users.

3.59 Where such an arrangement could not be satisfactory on a permanent basis, the alternative would be to locate the additional staff, or other probation court staff in a separate building. This would clearly be a less than ideal arrangement.

3.60 For the purpose of our costings we have <u>not</u> assumed that additional court staff could be accommodated in the court buildings. The staff costs used in this report and in Annex E are based on the total average cost of a probation officer, and as such include an element for accommodation costs (and for other associated costs).

4 PROCESSING PAPERS FROM THE CROWN PROSECUTION SERVICE

4.1 Management Advisory Services of the Home Office produced a report in 1990 called "Review of the Supply of Information by the Crown Prosecution Service to the Probation Service for Social Inquiry Reports". This report considered four methods by which the CPS could pass the information to the Probation Service. The report was concerned with SIRs prepared for both Magistrates Courts and Crown Courts.

4.2 The four options were dependent on whether the information was passed automatically or on request and on whether information relevant to Crown Court hearings was passed at the time the case went through the Magistrates Court (as all Crown Court cases do) or before the Crown Court hearing.

4.3 The report recommended the third of the options set out in the report. This involved information being passed to the Probation Service at the time of the Magistrates Court hearing by means of supplying an extra copy of the advanced disclosure bundle. At the time of writing the CPS have not decided by which method the information will be supplied, although it looks likely that some form of automatic transfer will occur.

4.4 Each option has different implications for the probation service. The automatic options, which are more straightforward for the CPS, involve the Probation Service in handling larger quantities of paper, a lot of which would be of no value to them.

4.5 We have updated these costs for 1992/3 prices in Annex K and have taken account of the extra numbers of reports. Nationally they range from about £340,000 to £650,000, depending on the method of information supply (the recommended option costs about £510,000). This works out at about 40% of a clerical post per area for the recommended option. Probation officer input is negligible.

4.6 If information is to be supplied on an automatic basis, it will most likely need to be sorted at a central point and allocated to particular offices where the information would be needed. It may make sense to make this point a court team where this could be combined with the duties relating to extra reports.

4.7 Annex H includes a formula for calculating the clerical input that would be required for an area with a given number of pre-sentence reports.

5 SUMMARY OF RESOURCE IMPLICATIONS

5.1 We have summarised our estimates of the resource implications under the following headings;

Set up costs
Running cost for extra reports
Costs of processing CPS papers
Total costs for 1992/3

These are given both for a typical area and nationally.

5.2 The following table sets out the costs associated with setting up the systems to meet the requirements of the new provisions. The equipment costs are preliminary estimates, a more detailed breakdown of these costs are at Annex B.

SET UP COSTS				
RESOURCE	AVE NOS PER AREA	AVE COST PER AREA	NOS ENG & WALES	COST ENG & WALES
4 WEEKS PROBATION OFFICER TIME PRIOR TO IMPLEMENTATION	1.13	£3,700	63	£207,000
4 WEEKS CLERICAL OFFICER TIME PRIOR TO IMPLEMENTATION	0.71	£1,100	39	£62,000
OFFICE EQUIPMENT		£13,500		£750,000
TOTAL		£18,300		£1,020,000

5.3 The table below sets out the running costs per annum of meeting the requirements of the new provisions on the basis of half of the extra reports being prepared by field teams and half by court teams. If all reports were prepared by court teams it would cost about £230,000 less and if all reports were prepared by field teams it would cost about £230,000 more. More detailed costs are at Annex G.

RUNNING COSTS (PER ANNUM) OF PROVIDING EXTRA REPORTS				
RESOURCE	AVE NOS PER AREA	AVE COST PER AREA	NOS ENG & WALES	COST ENG & WALES
PROBATION OFFICERS	1.13	£44,400	63	£2,490,000
CLERICAL OFFICERS	0.29	£5,100	16	£290,000
POSTAGE		£100		£6,000
TOTAL		£32,400		£2,790,000

5.4 The table below sets out the running costs per annum of processing the papers from the CPS. These costs are based on the assumption that the CPS will supply the information by a certain method. Most other options would be cheaper for the Probation Service, though one could be 25% more expensive. More detailed costs are at Annex K.

RUNNING COSTS (PER ANNUM) OF PROCESSING CPS PAPERS				
RESOURCE	AVE NOS PER AREA	AVE COST PER AREA	NOS ENG & WALES	COST ENG & WALES
CLERICAL OFFICERS	0.42	£7,500	23	£420,000
OTHER COSTS		£1,700		£95,000
TOTAL		£9,200		£515,000

5.5 The table below puts the costs in the first table together with the running costs for the first 6 months of the new arrangements to give the total cost for 1992/3 (ie assuming implementation for October 1992).

TOTAL COSTS FOR 1992/3 (assuming implementation in October)				
RESOURCE	AVE NOS PER AREA	AVE COST PER AREA	NOS ENG & WALES	COST ENG & WALES
PROBATION OFFICERS	1.13	£25,900	63	£1,450,000
CLERICAL OFFICERS	0.71	£13,700	39	£770,000
EQUIPMENT		£13,500		£750,000
OTHER COSTS		£900		£50,000
TOTAL		£42,900		£3,020,000

A. CROWN COURT PRE-SENTENCE REPORT PILOTS - PROBATION SERVICE COSTS MONITORING FORM

This form is designed to help measure the costs to the probation service of producing Crown Court reports under the conditions and arrangements that apply during the pilots. If you are issued this form during the pilots please read the instructions carefully overleaf and complete it for all the activities connected with the preparation of the relevant report.

NAME OF DEFENDANT		NAME OF REPORT WRITER	

What date did you first learn that the defendant would plead, had plead or had been found guilty? *	/ /
After being asked to prepare the report, what date did you understand the report would be required? *	/ /

ACTIVITIES INVOLVED IN PREPARING THIS REPORT	Draw a vertical line in the appropriate box each time you carry out one of the activities below to keep a running total of the time spent in minutes. An example of how this part of the form should be completed is given overleaf. 5 10 15 20 25 30 35 40 45 50 55 60 65 70 75 80 85 90 95 100 105 110 115 120 125 130 135 140 145 150 155 160 165 170 175 180	TOTAL TIME SPENT
Reading CPS papers		
Contact with client		
Contact with probation colleagues *		
Contact with others		
Report writing		
Court attendance *		
Travelling *		
Waiting or time lost		
Other _ _ _ _ _ _ _ _		
TOTAL		

TRAVEL COSTS OR MILEAGE *	
SUBSISTENCE COSTS *	

Please place a tick in the relevant box if any of the types of assessment opposite were carried out for the purpose of preparing this report	Day Centre	
	Hostel visit	
	Community Service	
	Other _ _ _ _ _ _ _ _ _ _	

CROWN COURT CASE NUMBER*	

ANNEX A

B. GUIDANCE NOTES ON THE COMPLETION OF THE FORM OVERLEAF – PLEASE READ CAREFULLY

General procedure - In West Midlands, Inner London and Avon this monitoring form will be attached to the 'request for a report' form centrally by the Crown Court Unit. In Lincoln and Northumbria the local senior probation officer will distribute them when reports are allocated. In all areas report writers should complete the form as required and attach it to the completed report. The total column should not be completed until the case is concluded, so that any work done subsequent to the completion of the report can be included on the form.

Date of plea/finding of guilt and date report required - The purpose of these boxes is to record the beginning and end of the period that you have in which to complete the report. If the report required date is not known enter the target deadline you work towards, unless a different deadline becomes known to you before you have completed the greater part of the work involved in preparing the report

Activities section - Below is an example of how this table should be filled in and clarification of some of the categories. The idea is that you can use the form to keep a running total of time spent on each activity as you do it; ie by putting in a vertical line in the appropriate box each time you carry out any of the activities listed. This way, for example, if you make a number of calls in the 'contact with others' category, you can enter a vertical line after each call totalling up as you go along how long the calls lasted. Similarly, if the report writing is interrupted for whatever reason the time taken can be entered in stages. The example below records three telephone calls lasting **10, 5, and 15 minutes** and a report written in **60, 30 and 15 minutes**, giving totals of 30 and 105 minutes consecutively. Time spent filling in this form should not be included.

ACTIVITIES	5 10 15 20 25 30 35 40 45 50 55 60 65 70 75 80 85 90 95 100 105 110 115 120 125 130 135 140 145 150 155 160 165 170 175 180	TOTAL
Contact with others		30
Report writing		105

a. Contact with.... - These categories are meant to pick up any formal or informal contact, in person, over the telephone or time spent writing letters.

b. Contact with probation colleagues - This should include time spent in supervision and other contact with line management

c. Court attendance - It is recognised that in most areas it is unlikely that the report writer will attend in court. The form should be remain attached to the report so that this section can be filled in, as appropriate, by the Crown Court team. Only time spent for the particular purpose of supporting **this** report in court should be included, not time spent in court for other purposes.

d. Travelling - Where a journey is for more than one purpose a notional amount of time should be entered here in proportion to that required by the report.

Travel and subsistence costs - Travel details may be entered either in miles travelled, if a car was used, or the cost, if public transport was used. Where a journey is for more than one purpose a notional amount should be entered here. If subsistence costs were claimed please enter them here.

Crown Court case number - This should be filled in by the Crown Court team.

Any queries regarding the form should be addressed to the local pilot coordinator _____ on tel _____ or to Jeremy Johnston at the Home Office on tel 071-273-2688.

ADDITIONAL EQUIPMENT COSTS
(BASED ON 90 CROWN COURTS IN ENGLAND AND WALES)

EQUIPMENT	APPROXIMATE COST PER ITEM (£)	ESTIMATED FREQUENCY OF NEED IN PROBATION AREAS	TOTAL COST ENGLAND & WALES (£)
Wordprocessor	1,000	100%	90,000
Printer	1,000	50%	45,000
Additional terminal	1,000	60%	54,000
Facsimile network (15 machines)	15,000	40%	540,000
Dictating machine (portable)	70	100%	6,300
Dictating machine (desk)	180	100%	16,200
TOTAL			751,500

TIME SPENT ON THE PREPARATION OF REPORTS BY PROBATION OFFICERS IN THE FIVE PILOT AREAS AS RECORDED ON THE COST MONITORING FORM

PILOT AREA	COURT TEAM NOS OF FORMS COMPLETED	COURT TEAM AVERAGE TIME TAKEN (MINS)	FIELD TEAM NOS OF FORMS COMPLETED	FIELD TEAM AVERAGE TIME TAKEN (MINS)
BIRMINGHAM	47	170	29	268
BRISTOL	8	233	50	278
LINCOLN	41	455	33	354
NEWCASTLE	8	273	42	300
SOUTHWARK	51	298	6	293
TOTAL (INCLUDING LINCOLN)	162	296	164	291
TOTAL (WITHOUT LINCOLN)	121	242	131	275

	COURT TEA	FIELD TEAM
AVERAGE TIME TO PREPARE A REPORT (MINS)	242	291
ALLOWED TIME 20% (1)	48	58
TOTAL TIME (MINS)	290	349
TOTAL TIME (HOURS)	4.8	5.8

NOTE (1) See para 3.24 of report (Appendix B)

TIME TAKEN BY PROBATION OFFICERS TO PREPARE REPORTS IN THE PILOT AREAS ACCORDING TO THE TIME THE OFFICER HAD TO COMPLETE THE REPORT

TEAM	ELAPSED TIME OFFICER HAD TO PREPARE REPORT	NUMBER OF MONITORING FORMS COMPLETED	AVERAGE TIME TAKEN TO PREPARE REPORT (MINS)
COURT	SAME DAY	15	121
COURT	1-3 DAYS	17	204
COURT	4-6 DAYS	16	266
COURT	1-2 WEEKS	44	268
COURT	2-3 WEEKS	15	279
COURT	3-4 WEEKS	2	270
COURT	4+ WEEKS	5	236
COURT	UNKNOWN	7	290
FIELD	1-3 DAYS	1	220
FIELD	4-6 DAYS	5	316
FIELD	1-2 WEEKS	15	282
FIELD	2-3 WEEKS	23	293
FIELD	3-4 WEEKS	38	255
FIELD	4+ WEEKS	42	366
FIELD	UNKNOWN	40	247
ALL	SAME DAY	15	121
ALL	1-3 DAYS	18	205
ALL	4-6 DAYS	21	278
ALL	1-2 WEEKS	59	271
ALL	2-3 WEEKS	38	288
ALL	3-4 WEEKS	40	256
ALL	4+ WEEKS	47	352
ALL	UNKNOWN	47	254

SALARY AND ASSOCIATED COSTS FOR PROBATION OFFICERS AND CLERICAL STAFF

STAFF COSTS STAFF	SALARY COSTS 1991/92 (1)	ESTIMATED SALARY COSTS 1992/3 (2)	ESTIMATED NON-SALARY COSTS 1991/92 (3)	ESTMATED NON-SALARY COSTS 1992/3 (2)	ESTIMATED TOTAL COST 1992/3 (2)	ESTIMATED COST PER HOUR 1992/3 (4)
PROBATION OFFICERS (FIELD)	28,456 (5)	29,879	8,228	8,639	38,518	24
PROBATION OFFICERS (COURT)	30,295 (6)	31,810	8,228	8,639	40,449	25
CLERICAL OFFICERS	11,500 (7)	12,075	6,149	6,457	18,532	11

COST PER REPORT FOR REPORT PREPARED BY	TIME TAKEN PER REPORT (8)	COST PER HOUR (£)	TOTAL COST PER REPORT (£)
FIELD TEAM (PROBATION OFFICER RESOURCES)	5.8	24	139
FIELD TEAM (CLERICAL OFFICER RESOURCES)	1.5	11	17
FIELD TEAM (TOTAL STAFF COSTS)			156
COURT TEAM (PROBATION OFFICER RESOURCES)	4.8	25	120
COURT TEAM (CLERICAL OFFICER RESOURCES)	1.2	11	13
COURT TEAM (TOTAL STAFF COSTS)			134

NOTE (1) These are based on figures provided by C6 Division. The figure given has been adjusted to take account of allowances such as London Weighting and excess rates that apply in some areas

NOTE (2) These are based on applying a 5% increase to 1991/2 figures

NOTE (3) These are based on subtracting salary costs from a figure provided by C6 Division for the total cost of a probation officer and adjusting for inflation

NOTE (4) This is calculated on the assumption that probation officers work 7.5 hours a day and 215 days a year

NOTE (5) Based on the average salary of a main grade officer

NOTE (6) Based on the salary of a probation officer who has been on the maximum of the pay scale for more than two years (this reflects the fact that court officers have more than average experience)

NOTE (7) Based on C6's figures for the average salary of a clerical officer

NOTE (8) Probation officer time includes 20% allowance referred to at para 3.23

ANNEX E

NUMBERS OF EXTRA STAFF NEEDED FOR PREPARING EXTRA REPORTS

MODELLED FOR DIFFERENT RATIOS OF REPORTS PREPARED BY FIELD TEAMS AND BY COURT TEAMS FOR AN AREA WITH AN AVERAGE NUMBER OF EXTRA REPORTS, AND NATIONALLY

Report prepared by field team	Time taken	Report prepared by court team	Time taken
Probation Officer time	5.8 hours	Probation Officer time	4.8 hours
Clerical Officer time (field)	1.2 hours	Clerical Officer time (court)	1.2 hours
Clerical Officer time (court)	0.3 hours		

MODEL PROB-ATION AREA	TOTAL NO OF EXTRA REPRTS	NO OF REPORTS PREPARED BY FIELD TEAM	NO OF REPORTS PREPARED BY COURT TEAM	NO OF PROBATION OFFICERS NEEDED (FIELD)	NO OF PROBATION OFFICERS NEEDED (COURT)	NO OF CLERICAL OFFICERS NEEDED (FIELD)	NO OF CLERICAL OFFICERS NEEDED (COURT)	TOTAL NO OF PROBATION OFFICERS NEEDED (ENG&W)	TOTAL NO OF CLERICAL OFFICERS NEEDED (ENG&W)
1	343	0	343	0.00	1.02	0.00	0.26	57	14
2	343	86	257	0.31	0.77	0.06	0.21	60	15
3	343	171	171	0.62	0.51	0.13	0.16	63	16
4	343	257	86	0.92	0.26	0.19	0.11	66	17
5	343	343	0	1.23	0.00	0.26	0.06	69	18

EXPLANATION OF MODELS:

MODEL PROB-ATION AREA	PROPORTION OF REPORTS PREPARED BY FIELD TEAM	PROPORTION OF REPORTS PREPARED BY COURT TEAM
1	0%	100%
2	25%	75%
3	50%	50%
4	75%	25%
5	100%	0%

ANNEX F

TOTAL COSTS OF PREPARING EXTRA REPORTS

MODELLED FOR DIFFERENT RATIOS OF REPORTS PREPARED BY FIELD TEAMS AND BY COURT TEAMS
FOR AN AREA WITH AN AVERAGE NUMBERS OF EXTRA REPORTS AND NATIONALLY

Report prepared by field team	Cost per report (£)	Report prepared by court team	Cost per report (£)
Probation Officer cost	139	Probation Officer cost	120
Clerical Officer cost (field)	13	Clerical Officer cost (court)	13
Clerical Officer cost (court)	4		

MODEL PROB-ATION AREA	TOTAL NO OF EXTRA REPORTS	NO OF REPORTS PREPARED BY FIELD TEAM	NO OF REPORTS PREPARED BY COURT TEAM	COST OF PROBATION OFFICERS (FIELD) (£)	COST OF PROBATION OFFICERS (COURT) (£)	COST OF CLERICAL OFFICERS (FIELD) (£)	COST OF CLERICAL OFFICERS (COURT) (£)	POST-AGE COSTS P/ANN (£)	TOTAL COST PER AREA PER ANNUM (£)	COST PER REPORT (£)	TOTAL NATIONAL COST PER ANNUM (£)
1	343	0	343	0	41,160	0	4,459	0	45,619	133	2,554,664
2	343	86	257	11,919	30,870	1,115	3,687	57	47,648	139	2,668,279
3	343	172	172	23,839	20,580	2,230	2,916	113	49,677	145	2,781,895
4	343	257	86	35,758	10,290	3,344	2,144	170	51,706	151	2,895,510
5	343	343	0	47,677	0	4,459	1,372	226	53,734	157	3,009,125

EXPLANATION OF MODELS:

MODEL PROB-ATION AREA	PROPORTION OF REPORTS PREPARED BY FIELD TEAM	PROPORTION OF REPORTS PREPARED BY COURT TEAM
1	0%	100%
2	25%	75%
3	50%	50%
4	75%	25%
5	100%	0%

ANNEX G

RESOURCE CALCULATION FORMULAE

A. FORMULA FOR CALCULATING STAFF RESOURCES PER PROBATION AREA FOR HANDLING ADDITIONAL REPORTS FOR A CROWN COURT TEAM

PROBATION OFFICERS: COST = £120np

PROBATION OFFICERS: NUMBERS OF STAFF = $\frac{np}{336}$

CLERICAL OFFICERS: COST = £13np + £4n(1-p)

CLERICAL OFFICERS: NUMBERS OF STAFF = $\frac{np}{1319} + \frac{n(1-p)}{5717}$

Where;

n = the number of extra reports that could be expected.

This can be calculated from the following formula;

$$n = (0.87 - \frac{\text{No of reports for court pa}}{\text{No of convictions at court pa}}) \times \text{No of reports for court pa}$$

and;

p = the proportion (as a fraction of 1) of the additional reports that will be completed by Crown Court teams.

B. FORMULA FOR CALCULATING STAFF RESOURCES PER PROBATION AREA TO HANDLE CPS PAPERS (ASSUMING THE CPS COPIES PAPERS TO THE PROBATION SERVICE AT THE MAGISTRATES COURT STAGE)

CLERICAL OFFICER: COST = 2.6n

CLERICAL OFFICER: NUMBERS OF STAFF = $\frac{n}{8300}$

where n = the number of SIRs prepared for all courts in the area

ASSESSMENTS INVOLVING OTHER PROBATION STAFF AS RECORDED ON THE COST MONITORING FORMS

	BIRM COURT TEAM	BIRM FIELD TEAM	BRIS COURT TEAM	BRIS FIELD TEAM	LINC COURT TEAM	LINC FIELD TEAM	NEWC COURT TEAM	NEWC FIELD TEAM	STHWRK COURT TEAM	STHWRK FIELD TEAM	TOTAL COURT TEAM	TOTAL FIELD TEAM	TOTAL ALL TEAMS
TOTAL NUMBER OF FORMS	47	29	8	50	41	33	8	42	51	6	162	164	326
TYPE OF ASSESSMENT													
COMMUNITY SERVICE	8	15	5	24	33	15	5	11	26	5	77	70	147
DAY CENTRE	0	1	1	2	0	3	0	3	0	0	1	9	10
HOSTEL	0	0	0	0	0	0	0	1	0	0	0	1	1
OTHER DRUG	0	0	0	1	0	1	0	0	0	0	0	2	2
UNKNOWN	0	3	0	1	0	1	0	1	2	0	2	6	8
TOTAL NO OF ASSESSMENTS	8	19	6	28	33	20	5	16	28	5	80	88	168

ANNEX I

ADDITIONAL CLERICAL WORK PER REPORT FOR REPORTS PREPARED BY CROWN COURT TEAM (A) AND FIELD TEAM (B)

A REPORT PREPARED BY CROWN COURT TEAM	time taken per report (mins)
Crown Court Team Activities	
Recording details of adjournment hearing	2
Copying report	5
Preparation of papers for final hearing	2
Relaxation time (12%) (NOTE 1)	2
Allowed time (18%) (NOTE 2)	3
CROWN COURT TEAM TIME WITHOUT TYPING (A)	14
Typing report (NOTE 3)	55
CROWN COURT TEAM TOTAL TIME (A)	**69**

B REPORT PREPARED BY FIELD TEAM	
Crown Court Team Activities	
Identifying field office, issuing request form, recording details and filing papers	5
Chasing up report	5
Processing report on arrival	2
Preparation of papers for final hearing	2
Relaxation time (12%) (NOTE 1)	2
Allowed time (18%) (NOTE 2)	3
CROWN COURT TEAM TOTAL TIME (B)	**19**
Field Team Activities	
Handling request form, recording details, preparing for allocation and filing papers	5
Copying report	5
Forwarding report to field	1
Filing papers	1
Relaxation time (12%) (NOTE 1)	1
Allowed time (18%) (NOTE 2)	2
FIELD TEAM TIME WITHOUT TYPING (B)	16
Typing report (NOTE 3)	55
FIELD TEAM TOTAL TIME (B)	**71**
COURT AND FIELD TEAM TOTAL TIME (B)	**89**

NOTE 1	Relaxation time recognises that clerical staff cannot be expected to work continually on repetitive activities without breaks
NOTE 2	Allowed time recognises that a proportion of staff time will be taken up with internal activities such as training and supervision
NOTE 3	Typing time already allows for the considerations in NOTEs 1 and 2

RESOURCE IMPLICATIONS OF PROCESSING PAPERS FROM THE CROWN PROSECUTION SERVICE FOR MAGISTRATES AND CROWN COURT CASES BY FOUR DIFFERENT METHODS OF SUPPLY, MODELLED FOR A TYPICAL PROBATION AREA AND NATIONALLY

OPTIONS	NUMBER OF BUNDLES PROCESSED PER AREA (REQUESTED BY PROBATION) SERVICE)	NUMBER OF BUNDLES PROCESSED PER AREA (SUPPLIED AUTOMATICALLY BY CPS)	TOTAL CLERICAL INPUT (HRS) PER AREA (NO OF POSTS)	TOTAL CLERICAL COSTS PER AREA (£)	TOTAL PROBATION INPUT (HRS) PER AREA (NO OF POSTS)	TOTAL PROBATION COSTS PER AREA (£)	TOTAL NON-STAFF COSTS PER AREA (£)	TOTAL OTHER COSTS PER AREA (£)	TOTAL COST PER ANNUM PER AREA (£)	TOTAL COST PER ANNUM (ENG&W) (£)
1	3,500	0	0.14	2,567	0.07	2,683	1,003	3,687	6,253	350,179
2	1,800	2,000	0.20	3,520	0.04	1,380	1,144	2,524	6,044	338,464
3	600	6,400	0.42	7,480	0.01	460	1,236	1,696	9,176	513,878
4	300	8,400	0.53	9,460	0.01	230	1,863	2,093	11,553	646,990

EXPLANATION OF OPTIONS

	METHOD OF SUPPLY MAGISTRATES COURT	CROWN COURT
OPTION 1	On Request	On Request
OPTION 2	On Request	Automatically
OPTION 3	Automatically	On Request
OPTION 4	Automatically	Automatically

NB - Numbers of requests in option 3 are low because the information for most Crown Court cases will have been forwarded at the Magistrates Court stage

THIS MODEL IS BASED ON THE FOLLOWING ASSUMPTIONS;

- the CPS will not supply advance information summary only cases
- An average area will experience 8,000 indictable only or triable either way cases per annum
- Automatic supply systems are 80% effective

ANNEX K

BACKGROUND TO THE SURVEY

1. PRE-SENTENCE REPORTS

One of the principal aims of the Criminal Justice Act 1991 is to create a more structured approach to sentencing, by relating the severity of the sentence more closely to the seriousness of the offence. To this end, the Act requires a judge when passing sentence to consider, in the majority of cases, a "pre-sentence report" providing information about both the offender and the offence and intended to assist the court "in determining the most suitable method of dealing with an offender,[1]" whether it be a custodial sentence or a non-custodial measure such as a probation order or a community service order. These reports will replace the "social inquiry reports" currently used and national standards for their contents will be drawn up in due course; they will be consulted in considerably more cases than were social inquiry reports. The more widespread use of this type of report will affect the workload and costs incurred at various stages of a criminal trial. This report is intended to describe the implications for the Lord Chancellors Department, in terms of the courts' ability to list cases effectively and to minimise delays when cases have to be adjourned awaiting pre-sentence reports and in terms of the extra resources which are likely to be needed.

2. THE SURVEY

In order to assess the likely implications of the implementation of the Act in October 1992 a pilot study was conducted at five Crown Court centres, in which all criminal justice agencies were to act as if the Act were already in force. The Crown Court centres chosen for the pilot study were Birmingham, Bristol, Newcastle, Lincoln and Southwark. It was hoped they would represent a reasonable geographical spread over both urban and rural areas and be broadly representative with regard to factors

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[1] Criminal Justice Act 1991, Part I, Section 3(5).

such as size of court, number of cases dealt with, proportion of cases heard by part-time judges and type of offence. It was agreed that the pilot would run for six months.

Forms were sent out to each of the crown courts involved (copy attached at Annex A), together with guidance and instructions as to their completion and a log-sheet for listing officers (with its own instruction sheet) to help them to assess the extra time they spent dealing with cases adjourned awaiting pre-sentence reports. The form requested five categories of information. The first, entitled "Case Details", included subsections referring to the type of case, type of judge, listing of the case for trial or plea and outcome of the case. The second section, entitled "Pre-Sentence Reports", referred to the reports themselves - whether they were prepared in advance, whether they were actually required, whether the case had to be adjourned while awaiting their preparation and if so for how long. The next three sections referred only to those cases which *were* adjourned awaiting pre-sentence reports. The "Adjourned Hearing" and "Representation at Adjourned Hearing" sections asked for information about the adjourned hearing itself and about the judge and legal representation at the hearing. The final section, entitled "Other Factors", sought information about any extra work which the requirement for pre-sentence reports may have caused the listing officer and any other comments about the particular case.

GENERAL RESULTS

A total of 2 925 survey forms were received from the five crown courts - 556 from Birmingham, 359 from Bristol, 342 from Lincoln, 1155 from Newcastle and 513 from Southwark. Of these, it was possible to use 2 835 for all purposes of analysis while 90 forms were insufficiently complete or incorrectly completed and were either unusable or usable only for certain analyses (41 from Birmingham, 27 from Bristol, 11 from Newcastle and 11 from Southwark).

1. CASE DETAILS

Of the 2835 forms completed, 83% of cases involved only one defendant with a further 12% involving 2 defendants. There was an average number of 1.25 defendants per case. Approximately 11% of cases were committals for sentence and 89% were committals for trial. According to Home Office figures, around 13% of the committals for trial were triable on indictment only, while the remaining 87% were triable either way. The majority of cases were heard by circuit judges (64%) with virtually all other cases being heard by recorders or assistant recorders (34%). A very small number of cases were heard by a high court judge or a deputy circuit judge (2%). Of the cases triable either on indictment only or either way 38% were listed as trials and 62% as pleas. There was considerable variation from court to court, with ratios of trials to pleas ranging from 35:65 (Southwark) to 70:30 (Bristol). Of all not guilty pleas registered at committal, 54% led to acquittals and 46% to convictions.

2. PRE-SENTENCE REPORTS

Pre-sentence reports were prepared in advance in 46% of cases and, in the event, were required in 68% of cases. Of the 1 317 cases in which pre-sentence reports had been prepared they were

actually required in 89% of cases (the proportion varied from 77% at Lincoln to 95% at Bristol), while of the 1 934 cases in which reports were required they had been prepared in advance in 60% of those cases (ranging from 50% at Bristol to 80% at Lincoln). It is possible, of course, that in some cases involving more than one defendant the required number of reports were prepared in advance, but that these did not relate to the defendant in respect of whom the report was actually required. In these cases a further report had to be prepared. 27% of all cases were adjourned awaiting pre-sentence reports, but the proportion varied considerably between the five courts, ranging from less than 8% of cases disposed of at Lincoln to nearly 38% of cases disposed of at Bristol. This rate of adjournment appears to be related to the proportion of reports which had been prepared in advance at each court.

Of those cases which were adjourned awaiting a pre-sentence report almost 90% were only adjourned once. Most others were adjourned between 2 and 5 times. The overall average was 1.2 adjournments per case. The average length of an adjournment was 25 days. Nearly 30% of all defendants affected by an adjournment awaiting a pre-sentence report were remanded in custody for the period of the adjournment. Of these, nearly 54% were given custodial sentences which were *not* fully suspended sentences.

3. ADJOURNED HEARING

The average length of an adjourned hearing is 33 minutes. The same judge who presided at the initial hearing heard 53% of these adjourned hearings, whereas a different judge was involved in the other 47%. The judges involved in the adjourned hearings were in similar proportions to those involved in the initial hearings - around 64.4% were circuit judges, 33.6% were either recorders or assistant recorders and a very small number were high court or deputy high court judges or deputy circuit judges. Judges were recalled especially for the adjourned hearing in 11% of cases,

but the judge sat for a full day in less than 1 in 5 of those. Those who did not sit a full day were divided almost equally between circuit judges, recorders and assistant recorders. Only one was a high court judge.

4. REPRESENTATION AT THE ADJOURNED HEARING

Prosecuting counsel appeared at 75% of all adjourned hearings and was the same as at the original hearing in about 41% of those. Defence counsel appeared at all adjourned hearings, and was the same as previously in 63% of cases. A solicitor's representative appeared behind counsel in 93% of cases. The majority of all these representatives were juniors. Over 91% of prosecuting counsel and over 94% of defence counsel were juniors, around 8% of prosecuting and 5% of defence counsel were leading juniors and around 1% of both were QCs. Around 77% of solicitor's representatives were articled clerks (or fee-earners of equivalent experience), about 21% were solicitors (or legal executive of equivalent experience) and less than 2% were senior solicitors. The average travelling time and waiting time claimed by solicitor's representatives was 44 minutes and 59 minutes respectively.

COSTS

The total number of cases (both committals for trial and cases for sentence) heard at all Crown Court centres in England and Wales in 1990 was 108 661. According to Probation Service statistics, 60 860 social inquiry reports were provided over this period. From the survey, we would expect an extra 26 900 reports per annum and since in cases where a pre-sentence report was required, on average, 1.2 reports were required per case, pre-sentence reports would be required in an additional 22 400 cases. There would, therefore, be about 11 050 extra adjournments awaiting reports each year. If the expected number of adjournments is multiplied by the average length of an adjourned hearing, the total time taken up by adjournments is found to be 1 430 Crown Court days. The direct cost of these extra days to the Lord Chancellor's Department is around £2.7 m. To this figure must be added a further £1.2 m in Legal Aid costs for representation at the adjourned hearing.

1.JUDGE COSTS

From the proportions found in the survey results, it is estimated that 7 340 additional adjourned cases would be heard by either a high court judge or by a circuit judge (or their deputies) and about 3 710 would be heard by a recorder or assistant recorder. Of the former category, 5.7% of judges (about 420) would be recalled especially for the adjourned hearing, of which 20.7% (87) would sit for the full day. Of the second category, 21% of judges (780) would be recalled especially for the adjourned hearing, of which 18.5% (145) would sit for the full day.

In cases where the judge at the adjourned hearing *did* sit a full day or was not recalled especially for the adjourned hearing, the cost is assumed to be $^1/_8$th of the judge's daily fee (since the average length of an adjourned hearing is 33 minutes and the average number of hours sat by a judge each day is around 4 hours 15 minutes). A total extra judge cost of £700 000 is estimated.

2. LEGAL AID COSTS

If the proportions found in the survey are taken to be representative of all cases dealt with in the Crown Court, then it is estimated that prosecuting counsel would be present at around 8 300 adjournments per year. Of these, juniors would be involved in 7 560 cases, leading juniors in 660 cases and QCs in 80 cases. Defence counsel would be present at all 11 050 adjournments and would be juniors in 10 390 of these, leading juniors in 550 and QCs in 110. The extra costs in terms of representation by prosecuting and defence counsel are estimated to be around £600 000 and £800 000 respectively. However, since the costs of prosecuting counsel are borne by the Crown Prosecution Service, the cost to the Lord Chancellor's Department would be around £800 000.

A solicitor's representative would attend 10 300 adjournments. This would be an articled clerk in 7 930 cases, a solicitor in 2 170 cases and a senior solicitor in 200 cases. The initial results of the survey revealed that the average length of an adjourned hearing was 33 minutes. Assuming this to be true for all adjourned hearings, the extra cost in terms of solicitor's representation would be £130 000. Payments are also made to the solicitor's representatives for their travelling and waiting time. Taking the average travelling time to be 44 minutes and the average waiting time to be 59 minutes, estimated extra costs of £110 000 and £150 000 are arrived at, resulting in a total extra annual cost of £390 000 for solicitor's representation.

The total extra annual cost of representation at adjourned hearings is therefore estimated to be around £1.2 m.

4. ESTIMATED COURT COSTS

The direct costs for the 1 430 Crown Court days taken up by hearings adjourned awaiting a pre-sentence report is around £2.7 m. Since £0.7 m of this is made up by judge costs, a figure of £2 m provides a rough estimate for the cost of courtrooms, other court staff and miscellaneous expenses.

5. TOTAL COSTS

The additional annual cost of judges, legal representatives, listing officers and miscellaneous court costs which the provision of pre-sentence reports according to the terms of the Criminal Justice Act 1991 is likely to cause is estimated to be around £4 million. This will obviously rise in future years as costs rise and case load increases.

To summarise, the expected additional costs can be broken down into (see graph attached at Annex B)

Approx. £2.7 million **direct costs**, of which
- £0.7 m = judge costs
- £2.0 m = miscellaneous costs

Approx. £1.2 million **Legal Aid costs**, of which
- £0.8 m = defence counsel fees
- £0.13 m = solicitor's representative's fee for hearing
- £0.11 m = solicitor's representative's travelling time
- £0.15 m = solicitor's representative's waiting time

Approx. £3.9 million **total costs**

It was noted, in Part 2 of the General Results section (Pg.4), that the proportion of reports prepared in advance seemed to have a significant bearing on the rate of adjournment for each court. Since the pilot trial was conducted at only five Crown Court centres, it is possible that the average proportion of reports prepared in advance may not accurately represent actual practice when the Criminal Justice Act is brought into force. If it is assumed that all Probation Services act like those serving Bristol Crown Court, which prepared the fewest reports in advance, then the overall cost to the Lord Chancellor's Department would rise by around £750 000 to £4.65 m. If there is any significant reduction in the resources allocated to the Probation Service for the purpose of preparing the reports, the extra cost to the Lord Chancellor's Department would be even higher.

WAITING TIMES

Since the total time taken up by hearings which have been adjourned awaiting pre-sentence reports is expected to be 1 430 days, approximately 1 830 extra cases would remain outstanding each year at the current rate of disposal. This represents an implied waiting time of 15.5 weeks compared with the present implied waiting time of around 14.5 weeks.

Information Management Unit
Lord Chancellor's Department

31 January 1992

Pre-Sentence Reports' Survey

Crown Court

Court Code

CASE DETAILS

Case number

Date of committal

Number of defendants

Type of case

Committal for sentence

Either way

Indictable

If indictable, has any defendant previously served a custodial sentence ? yes no

If yes, how many ?

Type of judge

1 High court

2 Deputy high court

3 Circuit judge

4 Deputy circuit judge

5 Recorder

6 Assistant recorder

Was the case listed for trial or plea ?

Trial

Plea

Outcome

Number of guilty pleas

Number of not guilty pleas which led to acquittals

Number of not guilty pleas which led to convictions

PRE-SENTENCE REPORTS

Were PSRs prepared in advance ? yes no

If yes, how many

Were PSRs required ? yes no

If yes, how many ?

Was case adjourned awaiting PSRs ? yes no

If yes:
- how many PSRs
- number of times case was adjourned
- for how long in total ? (days)

ADJOURNED HEARINGS (IF APPLICABLE)

Length of adjourned hearing hrs mins

Number of defendants affected

Number of defendants remanded in custody awaiting adjournment

Of whom, number sentenced to custody whose sentence was not fully suspended

ADJOURNED HEARINGS (IF APPLICABLE) *continued*

Did the same judge hear the adjourned hearing ? yes no

If not, which type of judge did ?

1 High court

2 Deputy high court

3 Circuit judge

4 Deputy circuit judge

5 Recorder

6 Assistant recorder

Was the judge recalled especially for the adjourned hearing ? yes no

Did the judge sit a full day ? yes no

If not, how long did they sit ? hrs mins

REPRESENTATION AT THE ADJOURNED HEARING

Did prosecuting counsel appear at the adjourned hearing ? yes no

Was counsel the same as before ? yes no

Type of counsel

1 Q C 2 Leading Junior 3 Junior

Did defence counsel appear at the adjourned hearing ? yes no

Was counsel the same as before ? yes no

Type of counsel

1 Q C 2 Leading Junior 3 Junior

Was there a solicitor's representative behind counsel ? yes no

If yes, what grade of representative ?

A B C

Representatives travel time hrs mins

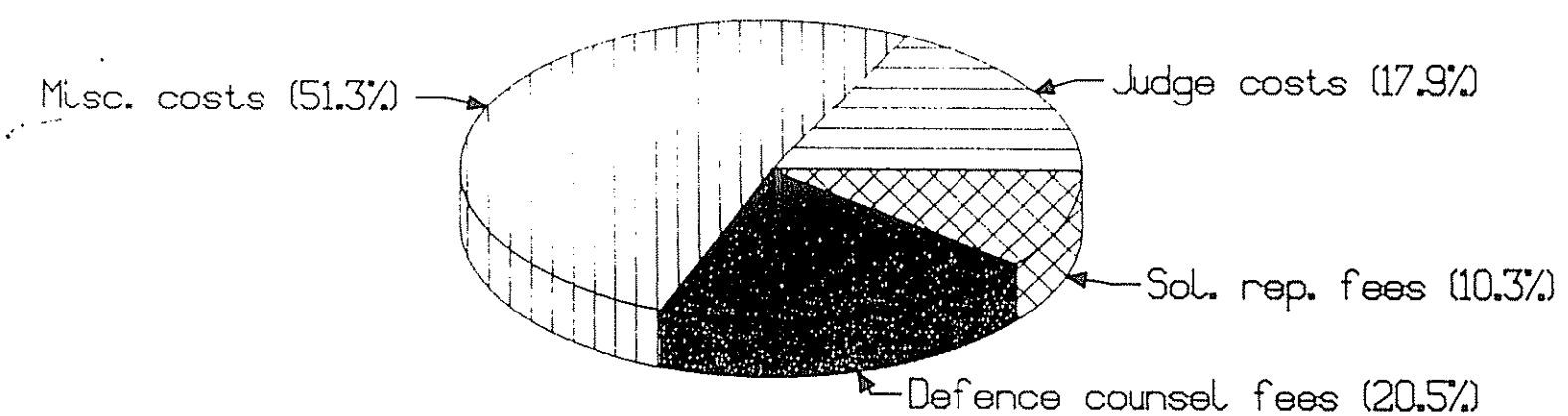
Representatives waiting time hrs mins

OTHER FACTORS

Estimated extra work done by listing officer due to PSRs/adjournments hrs mins

Please add here any particular problems/comments about this case

Expected additional costs



ANNEX B

CPS CONTRIBUTION TO VERA REPORT ON CROWN COURT PILOTS

The Crown Prosecution Service agreed to participate in pilot schemes for pre-sentence reports in December 1990. The CPS contribution was to supply information to the Probation Service about the offences of which the defendant was accused,after committal but before a plea was taken. CPS representatives also sat on the local steering groups established to oversee the pilots.

The establishment of a system for copying and supplying information for the probation service clearly entailed resource and operational costs for the CPS. It was considered that these could be justified on an experimental basis, in the interests of an opportunity to try out the effects of the Criminal Justice Act 1991 on the criminal justice process.

The system for supply of information appears to have worked well from an organisational point of view in all the pilot areas, apart from a few very minor problems at the beginning. Staff in the pilot areas have commented with enthusiasm on the incidental benefit of improved relations with the probation service which has resulted.

The increased number of adjournments for reports before sentence gives rise to greater concerns. These are not the result of the supply of information but usually of late entry of plea by the defendant. The adjournment for report and sentence means that prosecuting counsel and CPS law clerk have to attend an additional hearing. Counsel of course has to be paid for his or her attendance. The CPS is naturally keen that the number of such adjournments should be kept to the minimum, otherwise substantial additional costs will arise.

CPS is still at the stage of evaluating the outcome of the pilots and further careful consideration will need to be given if significant systems and resource costs are to be avoided.

However, the CPS is committed in principle to the supply of information to the Probation Service and welcomes a more open attitude to sharing information in the criminal justice process generally. It hopes that as part of this process, the Probation Service will appreciate the benefits of disclosing the reports it prepares to the CPS as a means of ensuring that they are of the highest possible accuracy.

Pre-Sentence Reports Pilot Schemes

Report of the Association of Chief Officers of Probation

1. The pilots were about collaboration

ACOP welcomed the establishment of the pilot schemes and particularly valued the work of the Home Office Steering Group and the range of professional interests represented. The membership and the proceedings of the steering group reflected the fact that this series of pilot schemes was not just about the work of probation officers or probation services. The schemes were about the working arrangements within and between each of the various professional groups, and were intended to establish how the provision of information for sentencing could be improved. The steering groups in each of the local pilot schemes and at national level were models of the co-operation and collaboration required both in court and behind the scenes, to enable justice to be done.

2. A natural extension of developing practice

The pilots were formally established during the final stages leading up to the publication of the Criminal Justice Act 1991, which carries important changes in arrangements for the provision of sentencing information. These changes have been welcomed by ACOP, and reflect developments in probation service practice and thinking from before the publication of the (then) definitive Home Office Circular 92/86 on social inquiry reports, which was an important landmark in the history of probation officers' work in the criminal courts. During the five years between 1986 and 1991 important progress was achieved, particularly in the Crown Courts: exchanges between probation services, the judiciary and other parties in the courts were developing a tone that was more co-operative than confrontational, and in several areas probation services were developing their capacity to provide reports in the Crown Courts at short notice in urgent cases where the normal period of adjournment would cause substantial problems and cost. It is thus a matter of note that when the pilot schemes were being established, more probation services wished to be involved than could be accommodated, and for many, including some of those selected, the establishment of the pilot scheme seemed a logical extension of work in progress.

3. 'PSR pilots' a misnomer

3.1 The work of the pilot schemes has been very important but their significance has some limitations. They were conducted under the legislative framework prevailing before the introduction of the Criminal Justice Act 1991, and this gives rise to two important notes of reservation. Firstly, the arrangements in the individual pilot schemes sought variously to mimic or model the arrangements under the (then) proposed legislation; however, to the extent that judges in the pilot areas failed to call for reports in categories of cases where reports will in future be required by law, the resource conclusions of the pilots

will be an underestimate of the real effect of the Act to be anticipated from October 1992 onwards. The Home Office Research and Planning Unit have sought to take this into account in their analysis of the figures, but the assessments of workload anticipated under the 1991 Act on this analysis have to be viewed as somewhat tentative.

3.2 Secondly, the reports prepared were 'social inquiry reports' (SIR), not 'pre-sentence reports'. At the time of writing, Home Office National Standards for PSRs are only in draft form, and the full implications for the preparation and writing of reports have yet to emerge. It seems reasonable to assume that the substantial attention paid in recent years to developing the service's professional expertise in SIR preparation will transfer to the requirements of writing PSRs. However, the preparation of PSRs will be different in ways that reflect the provisions and the philosophy of the 1991 Act. For example PSRs will need to relate to sentencing decisions that place a new emphasis on assessing seriousness, the relative restriction of liberty and the protection of the public from (serious) harm. While current modes of SIR writing may in appropriate circumstances address such issues, PSR writing will require to take them into account in new ways. Again, to the extent that report writing in the pilots failed to anticipate the style and content requirements of PSRs, the outcome of the pilots will fail adequately to reflect the workload and professional changes flowing from the 1991 Act in the Crown Courts.

4. Redefining the problem

4.1 As the work of the pilots proceeded, the thinking of the Home Office Steering Group underwent a subtle but important change. Initial discussions seemed to focus around the work of the probation service. The problem was identified in terms of the probation service's inability to produce reports at short notice when circumstances required. The question was how far and in what circumstances the probation service could develop the flexibility to reduce the required adjournment period from the 'standard' three or four weeks to some shorter period. The reason for the presence of the other members in the Steering Group was articulated at an early meeting by one member as 'to help the probation service with its problem'.

4.2 During the course of the pilots it emerged that the problems and the questions were far wider than had initially appeared, and the whole frame of reference for the pilots - and thus for the planning required in implementing the 1991 Act - was re-drawn. It was not just the probation service, but every one of the participants in local and national steering groups had aspects of their practice to attend to: the CPS in the provision of prosecution material: the legal profession in the early notification of anticipated plea: the remand prisons in ensuring quick access to remanded prisoners: the courts administrators in adopting a more flexible and responsive attitude to the scheduling of cases and the planning of

court business: and the judges in adopting a different approach to decisions about adjournment periods for reports.

4.3 The issue was thus re-framed in terms of the individual and corporate efforts required of a team of people working together to ensure that the courts received information and advice to the required standard to inform the sentencing decision, and with minimum delay. The probation service was simply one of the team - albeit a key player - all of whom were concerned to achieve the same improvements. An important result that needs to be retained in establishing arrangements in Crown Courts across the country under the 1991 Act is that probation officers in the pilots were in no sense viewed as 'servants' of the court, but were accorded full and peer professional status, alongside their working partners in the court room. Establishing and retaining this equal status in court proceedings was integral to the introduction of successful new modes of decision making. It is important to note that the active role of probation management in negotiating the new arrangements was critical to success in each pilot.

5. Future demand profile - problematic but substantial

5.1 The lessons emerging from the pilots about the resourcing of probation work in the Crown Courts are problematic. The data does not easily fit into a pattern that can simply be applied to local staffing and resourcing plans, and management teams will need to look carefully at the data that is available, alongside the material emerging directly from the pilots.

(a) ACOP's 1989 report 'A Serious Affront to Justice' surveyed the provision of SIRs in the Crown Courts under the Home Office Circular 92/86. The 'Serious Affront' to which the title of the report referred was that nearly 2 out of 3 of those in the survey, receiving custodial or suspended sentences, had no reports prepared on them before sentence. It is ACOP's estimation that to rectify this injustice completely would involve an increase in report provision of about 33% nationally.

(b) The new arrangements for PSR provision in the 1991 Act goes a long way towards rectifying this "injustice". The Home Office initially estimated that an additional 20,600 reports would be required as a result of the Act. ACOP suggested at the time that this figure was a serious underestimate of the effect of the Act (in Crown and Magistrates' Courts together). However, in 1990 about 61,000 reports were prepared nationally for the Crown Courts, and if one assumes that the vast majority of additional report work will arise in the Crown Courts, an additional 20,600 reports would tend to support ACOP's original estimate that a national increase in Crown Court reporting in the region of 33% should be expected.

(c) However, the material from the pilots is shown by the Home Office Research and Planning Unit (Appendix A) as an increase in SIR coverage in the Crown Court from 73%, estimated coverage in the pre-pilot phase, to about 87% coverage during the pilots. This level of increased coverage is projected to produce an annual national increase in Crown Court reports close to 20,000. When this is added to an estimated 8,000 more reports in the Magistrates' Courts, then original Home Office projections of an added 20,600 reports in total look like a significant underestimate.

(d) It remains ACOP's view that even these projections of Crown Court work may yet prove to be underestimates. The pre-pilot levels of Crown Court report coverage are based on estimated figures, so there is some doubt whether 73.3% is the right baseline. Similarly, there are doubts about the 87% figure to which report coverage rose during the pilots. It is noted at paragraph 3.2 above that the pilots are likely to have underestimated the workload effect of the changes in the law. Additionally, it seems likely that the full implementations of the provision of the Act should give rise to a level of report coverage in the Crown Court above 90%. These two factors together suggest that a projected increase in report work in the Crown Courts alone will prove to be in excess of 20,000 reports nationally, an increase of at least 33% over the current figure (61,000).

(e) However, there are wide variations in report coverage as between different Crown Courts and different Circuits, and the workload effect of the 1991 Act is likely to vary very widely above and below this 33% estimate between Probation Services covering different courts. Probation management teams will clearly need to look very carefully at existing patterns of report provision in the Crown Courts they cover in developing the resource plans required under the provisions of the 1991 Act.

6. <u>Existing pre-trial practice - an important anomaly</u>

6.1 The monitoring of report production in the pilot areas showed an unexpected problem in Probation Services' pre-trial work. The normal expectation in most Probation areas is that a notification of guilty plea up to 21 days before trial gives enough time to provide a pre-trial report. The flowchart in Appendix A from the Home Office Research and Planning Unit showed 264 cases (nearly 15%) in this category, which had to be adjourned for an SIR to be prepared. This figure was the biggest single category of cases adjourned for reports, bigger even than those adjourned after a very late change of plea, or those cases adjourned after entering a not guilty plea and being found guilty.

6.2 It is not clear why this anomaly arises, and there may be complicated logistical reasons for the Service's apparent

failure to fulfil its own expectations. A number of these cases may, for example, involve the non-cooperation of the defendant. However, given that the pilots indicate clearly that reports on adjournment in the Crown Court are a major growth area to be tackled under the 1991 Act, this evidence suggests that in some areas, the volume of new adjournment work could be reduced by as much as a third, if current practice in pre-trial preparation is tidied up first.

7. Organisation and support mechanisms

7.1 The messages emerging from the pilots about management and organisation have a relevance beyond their immediate setting. The messages can be summarised thus:-

(a) additional staff are required for the additional PSRs anticipated, and the size of Crown Court teams needs to be increased to reflect a more active presence in court and to include a new flexible capacity for court based report writing;

(b) adjustments in staff deployment are required to cater for a substantial increase in post-trial adjournment work in the Crown Courts;

(c) probation staff need adequate space earmarked in the court building for their use for conducting interviews and drafting reports (in one instance, lawyers were prepared to vacate a room in acknowledgement that the improvements produced under the pilot were in the interests of all concerned);

(d) the use of new technology and the use of word processed report formats were essential to the provision of good quality reports at short notice;

(e) court based staff required considerable flexibility of role, to meet the ebbs and flows of demand for their presence in court, and the relatively small demand for reports to be prepared at short notice;

(f) staff with substantial experience of court work were largely better equipped to meet the professional demands in the pilots: training and induction requirements are identified in the report of management division (Appendix B);

(g) management were required to establish the parameters of the new arrangements (easier under pilot conditions than otherwise). A protocol agreed between the CPO and the senior circuit judge was a pre-requisite for effective co-operation between all parties in the court room, and an essential support to the professional standing of probation officers in court;

(h) a local steering group was a vital feature of each of the pilot schemes, and local structures for an inter-disciplinary forum to support the new arrangements should be given high priority by management teams -

whether by adaptation of existing structures or by the establishment of new. The pilot experience would suggest that only with such structures working effectively to common purpose will the other parties involved recognise the extent to which improvements in justice depend on their being prepared to change, not just the probation service.

7.2 As models for managing change in practice, the pilot schemes offer important lessons about the role of management. It is clear that the changes in probation practice and the associated essential changes in the attitude and practice of others would not have been achieved without the active work of probation managers in promoting the schemes and establishing effective support structures.

7.3 It is also to be hoped that this message will be recognised by the central government departments with whose wholehearted support the pilots flourished. The effective implementation of this element of the 1991 Act requires active promotion by government down through each of the services and professions involved, not just through the probation service.

8. A 'can do' approach enhances professional authority

8.1 It was a source of both relief and insight that the courts in the pilots made very sparing use of the facility offered to write reports at very short notice. It had been feared by some that once the courts saw the service willing to be more flexible, they would take advantage of it whenever they could. Nevertheless, the figures suggest that in 6 cases in 100 a report was required on the same day, and in 18 in 100, within 7 days. Thus, under the pilot schemes, 1 report in 4 was required on an adjournment of 7 days or less. This signals a substantial adjustment of professional practice and organisation of work in the Crown Courts.

8.2 But there is a safeguard. The common view of the probation managers responsible for the pilots is that the establishment of a protocol or agreement with the senior circuit judge is the essential ingredient that sets the parameters within which discretion will be exercised about the period of adjournments. In most cases, such agreements stressed the importance of a short stand down to assess the work likely to be involved in preparing the report; and practice showed that where probation officers told the judge that the complicated nature of the case or the problems of putting together a sensible and positive community based sentencing proposal required 3 or 4 weeks, the court was almost always willing and able to comply. It is to be noted that Jim Bredar's main report recommends that in deciding on the period of adjournment, courts should always consult the probation officer. Nonetheless, it remains the case that the protocol rested on the service being prepared to sacrifice its standard defence mechanism - "reports take 4 weeks".

8.3 However, under the provisions of the 1991 Act, supported by the first draft of PSR National Standards, the court is now required to obtain a PSR in almost all serious cases before proceeding to sentence. Unless a written PSR is provided, the court would be unable to proceed in many circumstances where previously it could. It is the experience of the pilots that, given the support of an agreement and a steering group, the court will normally wish to take account of the probation officer's assessment of the enquiries that are necessary to meet the requirements of the law and those of justice.

9. Quality and speed

At an early stage in the work of the pilots and the National Steering Group, the Home Office made it clear that it would be unwilling to see report writing quality sacrificed for speed of production. ACOP was seriously concerned about the effect on the quality of reports if they were prepared at short notice and under extremely tight deadline pressure. It was, therefore, keenly interested in the way the independent researchers approached the task of assessing the quality of reports prepared in the pilots, and in the conclusions they reached. ACOP was invited to work closely with the researchers, and to scrutinise both the process and the outcomes. The results of the quality monitoring appear in another Appendix, and ACOP's representatives endorsed the conclusions reached. There is some reassurance in the findings. However, important small differences of quality emerged between those reports prepared after an adjournment (however long) and those prepared on the same day.

9.2 These quality problems with same day reports arose in two areas commonly held to be of crucial importance in good reports. The first is the extent to which the report deals adequately with exploring and understanding offending behaviour. The second is the extent to which the report recommends community based disposals involving consultations with other parties. Area management teams will need to ensure that the quality of reports is properly safeguarded in local arrangements for Services to be more responsive to the need for fast turnaround times. There are, however, some important notes of caution to be entered:

9.3 Additionally, a cautionary note should be entered. The researchers found a variation in the quality of reports, but this variation was not found to correlate with the length of adjournment, or any other identifiable feature of the pilots. Indeed, it was held that the variations in quality were very similar to those found in any sampling or quality control mechanism run by probation areas as a normal part of their management of reports. However, in at least one of the pilot areas, the view was expressed that the range of report quality found under such normal quality control mechanisms was not satisfactory. Thus, the researchers' finding that the quality range was not affected by speed or any other feature of the pilots should

not be taken as an indication that report writing quality is satisfactory. If anything, the work of the pilots gives rise to concerns about the quality of report writing generally.

9.4 At one level there is some reassurance in the findings emerging from the monitoring of the quality of reports produced in the pilots. But it remains ACOP's view that the establishment of sound quality control mechanisms at service level is a matter of vital importance. It may be the case that good quality reports can be produced against differing timescales, but with 1 in 4 reports produced in 7 days or less, and at a time of very significant change in the nature of the report writing task, it is of vital importance that services have in place adequate mechanisms to monitor the quality of reports produced, and to ensure that the management view of required standards is fed into the process by which decisions are made about adjournment times and procedures. It will not be sufficient simply to rely on the fact that judges and other court users will be pleased to have a more responsive probation service, and will get reports quite quickly on adjournment in selected cases. A "halo effect" is to be expected on the basis of the pilots, by which judges and others will generalise their sense of satisfaction with the probation service to an expression of satisfaction with the quality of reports. It will still be a crucial task for area management teams to satisfy themselves that the quality requirements of the 1991 Act and the National Standards document are being met.

10. A long lead-in time

10.1 This ACOP commentary has been positive in tone but has identified some of the limitations of the pilot work and some of the important lessons emerging for probation management teams.

10.2 It is important finally to note that those lessons add up to a very substantial preparatory task for service managers. The establishment of protocols and liaison machinery with the support and involvement of judges is clearly central. The adjustments required of related professions - exampled in paragraph 4.2 above - all take time to establish. For example, for the CPS to arrange the provision of prosecution material for probation officers at the time of a Crown Court appearance, they need to adjust their document copying procedures at the point of committal, often several months beforehand.

10.3 Many probation services will have anticipated this note, but for those that haven't it will be an unwelcome message that for the effective introduction of the arrangements in the Crown Courts in October 1992, for the provision of PSRs as required under the 1991 Act, the pilots suggest that the first management steps need to have been initiated at the time of the publication of the Act in September 1991.

FEBRUARY 1992..

REPORT BY THE BAR COUNCIL

Introduction

1. The Bar Council welcomed the opportunity of being represented both on the National Steering Committee and the local steering committees. The absence of judicial representation on these committees notwithstanding, invaluable assistance given by judges at local level contributed greatly to the smooth running of the pilot trials.

Limitations of the pilots

2. Due to a generally high degree of co-operation between those concerned, the pilot trials produced fewer problems for defendants and legal representatives than expected. However, there is anxiety that a six month pilot trial in only five Crown Court centres will not have provided sufficient indication of the probable national effect of the implementation of section 3(1) of the Criminal Justice Act 1991, both in terms of the resources needed to prepare the extra reports in time and the delays inevitably caused by additional adjournments.

Resource implications

3. There is widespread admiration for the probation service and the way in which it rose to the challenge of producing large numbers of extra reports, often within very short periods. Court

officials were generally helpful and understanding about listing. The Bar Council notes that an objective of the pilot trials was "to identify more accurately than has been possible so far the resource implications" of the implementation of the relevant provisions of the Act (see PSR(91)(9) at paragraph 4). The Bar believes that it is vital that these should not be underestimated if the probation service is to be able to cope adequately with the additional workload. It is worth remembering that the value of pre-sentence reports depends not on the time within which they are produced but on the care with which they have been compiled, their quality and objectivity.

Delays

4. The Bar Council supports the broad philosophy behind Part I of the Criminal Justice Act 1991, and the restrictions on imposing custodial sentences in particular. Barristers have a long experience of the vital role played by probation reports in the sentencing process and the principle behind section 3(1) is in the Bar Council's view manifestly sound. However, there is universal concern that, notwithstanding the increased efforts of the probation service, the large numbers of cases in which sentence has to be adjourned already for the preparation of reports will increase unacceptably when section 3(1) is implemented nationally, causing added inconvenience and expense for defendants, legal representatives, members of the part-time judiciary and others. Secondly, and critically, the knock-on effect of the additional adjournments brought about by the new provision is bound to introduce extra unwanted delays into the

disposal of all Crown Court business to the extent that barristers and part-time judiciary have to interrupt or postpone other business while attending adjourned hearings.

5. The Bar Council believes that the significance of this factor cannot be evaluated within the inevitably limited scope of the pilot trials. Yet its significance is crucial. The Bar would view with grave concern any substantial increase in delays in Crown Court business attributable to this or any other penal reform: the criminal justice system is in our view in no shape for any further delays in trials to be tolerated for whatever reason.

Availability of counsel on adjourned hearing

6. A critical factor in the assessment of additional delays caused by the implementation of section 3(1) is the extent to which a barrister or other legal representative who has appeared for a defendant at his trial can, or should properly, be excused from conducting the mitigation for his client on the adjourned hearing. This in turn depends on three other factors: (1) the likely length of the adjournment period itself and the day or time fixed for the adjourned hearing; (2) whether the judge is prepared to release him if he is or may become unavailable; (3) the extent to which a barrister can fulfil his duty to his client if he does not appear on the adjourned hearing to make the plea in mitigation on his client's behalf and another barrister appears in his place.

7. A short period of adjournment obviously poses the least difficulties for barristers. A very short adjournment - for a "stand-down" report available on the same day for example - is obviously ideal, but it is recognised that this cannot always be achieved. In the case of a trial lasting (say) five days or more a barrister's diary will often be able to accommodate an adjournment to a day or two after the verdict. This is because the actual length of the trial will not have been known or precisely calculated in advance and other work may not follow on immediately. However, adjournments for periods longer than a very few days from the end of a trial pose obvious problems for barristers, given the way in which the courts operate and barristers' work is organised.

Barristers' professional duties

8. The way in which a barrister earns a living is sometimes likened to that of the licensed taxi driver on the cab rank. In general terms a barrister has a professional duty to accept all work of the kind he holds himself out as being able to do, providing he is available. But the sheer volume of business in today's Crown Courts and the complexity of listing arrangements means that a barrister's other professional commitments often count for little when cases are fixed or warned for hearing. A barrister is paid for the work he does, not the work he accepts but which (if he becomes unavailable) may have to be passed to someone else, and he cannot survive in practice if he refuses new trial work in order to hold himself available for adjourned sentence hearings.

9. On the other hand, a barrister's duty to his client means that he must not leave a case, save for a very good reason, until it has concluded: once he takes it on, he must see it through to the end. Nowhere is this more important than in a criminal case, when the defendant's reputation or liberty is at stake, and when a barrister's plea in mitigation may depend for its effectiveness on his acquaintance with the defendant and the relationship of trust and confidence that has been built between barrister and client during the trial.

10. These two fundamental duties of a barrister are brought into conflict with each other by section 3(1) of the Criminal Justice Act 1991. This is because, as the pilots have shown, the extra adjourned hearings caused by the need for a report after a contested trial in all but indictable cases will be such that barristers will be unable to appear on adjourned hearings in every case if the period of the adjournment is not short. Moreover, in heavy cases, or where the degree of responsibility on counsel's shoulders is high, it will ordinarily not be possible for a barrister to carry out his duty to his client if he does not appear at the adjourned hearing.

11. The Bar Council could not sanction any erosion of these duties. They exist in the interests of the defendants whom barristers are asked to represent and in the wider interests of justice. They do not exist for the convenience of barristers, as those reading this report will appreciate. This has the obvious consequence that, if defendants are not to be deprived of their

right to continuous representation, section 3(1) adjournments for periods which are not short (see paragraph 7 above) are capable of causing severe disruption to barristers' practices and hardship to barristers themselves.

Possible solutions

12. The way out of these difficulties lies, in the Bar Council's view, in the taking of a combination of steps in advance of, and in readiness for, implementation of section 3(1). The following would have our support:

(1) Making the provision of "stand-down" reports a resource priority in all cases where a section 3(1) adjournment is indicated;

(2) Ensuring that section 3(1) adjournments after contested trials are for as short a period as possible, ie no more than one or two days, and that reports are available within that period;

(3) Giving consideration to the preparation of reports (or the major parts of reports) on defendants even if they have intimated Not Guilty pleas;

(4) Assigning dedicated court times and/or days for section 3(1) adjourned hearings such as:

(a) hearings at 10.00am (these already take place for adjourned sentences at many court centres and so are an obvious candidate). Hearings at 9.30am would create travel difficulties for Circuit practitioners.

(b) hearings on Fridays, or Friday mornings or afternoons.

The advantage of this practice, if widely adopted, would be the greater degree of certainty injected into the planning of all Crown Court business, as well as the setting of clear targets for the preparation of reports.

(5) Encouraging, where necessary, clearer judicial perception of the burdens imposed on barristers in complying with their professional duties to defendants, and enlisting the support of the judiciary in communicating this to all concerned in the running of the courts. At the least this would extend to releasing counsel from attending adjourned hearings in certain cases; it might also extend

to the laying down of local guidelines or practice directions by resident judges. Judges may have to be more flexible about allowing counsel to leave trials for short periods in order to attend adjourned hearings in other courts. Listing officers will need to give higher priority to the commitments of counsel where these include section 3(1) adjourned hearings.

(6) Ensuring that legal representatives are properly paid for attending adjourned hearings. They are not at present.

13. The Bar Council, in conjunction with the Circuit Leaders and the Criminal Bar Association, is anxious to discuss these and any other ways in which the potentially disruptive effect of the implementation of section 3(1) can be reduced. It will, however, set its face firmly against any lowering of the quality of representation afforded to defendants or any further delays in the administration of justice as a result of this measure.

P.B.

PETER BIRTS QC

Bar Council Representative on the National Steering Committee

9 January 1992

PRE-SENTENCE REPORTS AND THE PART-TIME JUDICIARY

1. The National Co-ordinator wished to have the views of a Recorder on the difficulties likely to face the part-time judiciary as a result of section 3(1) of the Criminal Justice Act 1991. As I was already on the National Steering Committee he sought mine, but I should say that, although I have consulted others, the views which follow are my own.

2. The part-time judiciary will be particularly affected by the problem of additional adjournments, for two reasons. First, the part-time judiciary as a whole try a greater proportion of cases triable summarily or "either way" than Circuit Judges. Second, because they are in active legal practice, they are necessarily susceptible to the difficulties of making themselves available for adjourned hearings taking place after the end of their sitting periods. However, since (save in wholly exceptional circumstances) a recorder or assistant recorder who has presided over a criminal trial must be the judge who passes sentence, the problem is in essence a logistical one.

3. The adoption of steps along the lines recommended by the Bar Council (see paragraph 12(1) - (3) of the Bar Council's Report) would ease the plight of the part-time judiciary as it would that of legal representatives. Recorders and assistant recorders are expected to sit for periods of a minimum of two weeks whenever possible, and many listing officers already tend to re-list adjourned sentences arising during the first week for the end of

the second week, providing the probation officer concerned can prepare a report in time. This helpful practice should be encouraged and extended.

4. Where, however, a sentence has to be adjourned beyond the end of a recorder's sitting period, his or her return to the trial centre (or associated court) can cause considerable personal inconvenience whenever the adjourned hearing takes place, something that can only increase when section 3(1) takes effect. There is no simple solution to the problem. But, as well as being helped by measures along the lines recommended by the Bar Council, the part-time judiciary would be assisted by the designation of a sentencing day, some 10 or 14 days after the end of the main sitting period: see the suggestion in PSR (91)9 at paragraph 10(c). Such a day could be fixed, providing it was convenient to the recorder, at the same time as the sitting period itself is fixed, thereby easing the planning of the recorder's practice commitments.

5. Many of the problems associated with adjourned hearings are really only problems of communication and understanding between bench, listing officers, legal representatives and probation officers. And while in some trial centres probation officers are brought in to the discussion of listing arrangements and allowed to voice their own difficulties in the preparation of reports, this appears not to be universal practice. Perhaps it should be.

PETER BIRTS QC

9 January 1992

20 November 1991

The Royal Commission on Criminal Justice
Whittington House
19 Alfred Place
LONDON WC1E 7LU

Subject: Moving Up the Day of Reckoning: Strategies for Attacking the "Cracked Trials" Problem

To the Members of the Royal Commission:

I am an American criminal lawyer employed by the Vera Institute of Justice, an organization based in New York that works in partnership with government to design and pilot reforms in criminal justice. Pursuant to a contract executed between Vera and the Home Office in March, 1991, I was retained to come to the U.K. and serve for nine months as the national coordinator of a multi-agency exercise known as the Pre-Sentence Report Pilot Trials in the Crown Courts. Before this assignment I practised criminal law in America for eight years, as both a prosecutor and as defense counsel. My C.V. is attached.

I address you in my individual capacity and as a representative of the Vera Institute. I do not speak as a government representative and no department of Her Majesty's government necessarily agree with or endorse my submission.

The Problem of "Cracked" Trials

I write to you because in my work relating to implementation of the pre-sentence report provisions of the Criminal Justice Act 1991, I have continually encountered a broader problem afflicting the pre-trial phase of the criminal justice process here. In the vocabulary of practitioners, the topic I wish to address is "cracked trials." The term "cracked trial" refers to the following phenomenon: In a criminal case referred to the Crown Court, a defendant may indicate at committal stage or shortly thereafter that he is pleading "not guilty." He may persist in this plea until the day scheduled for trial when, suddenly, he changes his mind and pleads guilty. I am certain that the Lord Chancellor's Department and others have already catalogued for you the many difficulties that this practice causes for the criminal justice system. Below I set out some ideas as to how this problem might be attacked and to some extent solved.

Allow me to describe how it is that I have collided with this problem in my work relating to the new pre-sentence reports, as this will provide some context for my proposals. The Criminal Justice Act 1991, to be implemented in October, 1992, provides that courts must call for and review written "pre-sentence reports" before imposing sentence in all "summary" and "either way" cases in which they are considering imposition of a custodial sentence or a significant community-based penalty. In pilot trials in five Crown Courts (Birmingham, Bristol, Lincoln, Newcastle-upon-Tyne, and Southwark), judges, recorders and all other participants in the criminal court process (the Bar, Solicitors, the Lord Chancellor's Department, the Crown Prosecution Service, the Probation Service, the Police and the Prison Service) are operating as though the new mandatory provisions on pre-sentence reports are already in effect. Judges and recorders are calling for reports in every such instance as will be required from October, 1992. The purpose of the pilots is to assess the organizational and resource implications of the new provisions on pre-sentence reports. The pilots have been successful in uncovering problem areas and in serving as laboratories for innovations and experimental procedures. My final report will discuss our experiences and findings in more detail.

The central complaint heard during the pilot trials, mainly from the judiciary and the Bar, has been that the new provisions making preparation of pre-sentence reports mandatory in such a wide range of cases has lead to a significant increase in the number of adjournments for sentencing, particularly in cases where the defendant changes his plea to guilty late in the process or on the actual day of trial (i.e. when the case has "cracked"). The adjournments, of course, are necessary to allow the probation service to prepare pre-sentence reports in those cases where they were unable to do so on a pre-trial basis because the defendant, pre-trial, was contending that he was not guilty and therefore

not of a mind to consider tackling underlying issues. It is significant to note that in the past (and currently, outside of the pilot courts), sentencers most often dispensed with a report altogether when a case "cracked" on the day of trial, or when a defendant was convicted after a contested trial, and sentencing proceedings were not frequently adjourned to allow preparation of a report. The new law generally does not permit courts to dispense with a report, even if adjournment is consequently necessary, reflecting a legislative objective that sentencers be consistently well-informed about offenders and the circumstances of offenses, in all cases and not only in those where it is convenient to have a pre-sentence report prepared.

Early in my work with the new law I realized that in order to reduce the number of cases in which an adjournment for preparation of a report was necessary, the system would need to find a means of persuading those defendants who were ultimately going to plead guilty to do so well before the day of trial. If it was known even seven or ten days before trial that the defendant was going to change his plea to guilty, then there would be sufficient time in most cases for the probation service to prepare a good pre-sentence report before the court date, and thus both plea and sentencing could occur in one proceeding. Outside of the narrow pre-sentence report context, the benefits to the wider criminal justice process of such a change in practice by "late pleading" defendants would be enormous, as I am certain you are aware (e.g.: great reduction in wasted court resources which now must be expended in preparation for trials that never occur).

Having thus come face to face with this larger problem of "cracked trials" which is generally bedeviling the pre-trial process here, I have reflected on how the larger problem might be solved. I begin with this axiom: Undecided (and sometimes agonizing) defendants considering what plea to enter in their cases <u>all</u>, eventually, come to the final "day of reckoning" on which they <u>must</u> make up their minds. To solve or reduce the "cracked trials" problem, one must find a means of moving up that final day of reckoning from the day of trial to a point at least seven or ten days before trial.

<u>Advancing the Final Day of Reckoning</u>

Several barristers have told me that, under current rules and procedures, it is impossible to move up the final day of reckoning -- that many defendants simply will not decide how to plead until the trial day. It is said that some defendants refuse to make the decision until then because they want to see if the witnesses against them will actually show, or because they want to know which judge will preside in their case, or simply because they refuse to focus on the difficult questions facing them until they are absolutely forced to do so, and they do not feel "forced to do so" until they see that jurors have been assembled, that a judge is on the bench, and

that the show is truly ready to begin. This, of course, happens only on the day of trial, and not before. Barristers tell me that then, and only then, will many clients face reality and make an appropriate decision about whether to go forward to a contested trial, or to plead guilty. It is also said that many defendants wait until the last minute to decide how they will plead because under current procedures there is no good reason to make the decision any earlier. They reason: "Things can only get better -- I'll wait until the morning I go to court to decide."

In order to successfully and appropriately affect the timing of changes of plea, with the intention of moving up the final day of reckoning, one must first study the process by which cases "crack." I have now spent much time with barristers, solicitors and their clients, watching the process by which defendants take the decision to plead guilty at the last minute, on the day scheduled for trial. This is a drama that usually unfolds in the corridors outside of court, in the barristers' robing rooms, and in the court cells. What generally happens is that prosecuting and defending counsel compare views on the strengths and weaknesses of their respective cases, and, in an indirect way, discuss what it would take from each side to get the case to "crack." Counsel come to a unified view about what would be an appropriate settlement of the matter, and generally that involves dismissal of one or more charges outstanding against the defendant, and guilty pleas to all of the remaining charges, or to amended charges. Prosecuting counsel then communicates this view to a CPS law clerk or lawyer, cautiously advising in favour of the proposal. Defending counsel discusses the option with his client and instructing solicitors, with an eye toward gaining acceptance. CPS law clerks, often in consultation with CPS lawyers over the telephone, seem to be the critical decision-makers: i.e. once they "bless" the arrangement, the trial quickly "cracks."

If what is set out above is a mostly correct model of the typical "cracking" process, and to the extent that what is described is considered an acceptable practice, then the challenge is to develop procedural mechanisms by which the above discussions are forced to occur earlier in the life of a case, at least seven or ten days prior to the scheduled trial date.

I shall describe two related but distinct strategies, either of which if adopted would have the desired effect of moving up the "day of reckoning" in a good percentage of cases. During the ten days before trial the proposed measures would prevent the parties from making the sorts of concessions to each other that cause cases to "crack", thus forcing the negotiation and settlement to occur earlier.

(1) Adopt a rule whereby charges pending against a defendant may not be altered within ten days of trial. No proposed amendments and no requests for

dismissal of counts will be heard by criminal courts after the date falling ten days before the date scheduled for trial. If counsel do not request that the case be listed for plea ten days before the scheduled trial date, then without exception the case shall proceed to trial ten days hence, on the precise charges of record ten days before trial. Even if the defendant elects to plead guilty to all of the charges on the day of trial, he should be denied the sentencing discount normally afforded to those who plead guilty;

or,

(2) Adopt a national Crown Prosecution Service policy or rule whereby CPS lawyers and law clerks are not permitted, within ten days of the scheduled trial date, to participate in the sort of discussion and negotiation described above, and certainly are not permitted, within ten days of the trial date, to agree to altered charges, altered charging language, or the dismissal of charges. Again, there should be an accompanying court rule forbidding the award of sentence discounts to defendants pleading guilty to all charges on the day of trial.

Together with adoption of one of these approaches, a national policy whereby all cases are set for a plea review conference, ten days before the scheduled trial date, should be adopted. This conference should occur at court or by conference telephone call, with a court clerk and not a judge or recorder convening and overseeing the meeting. This should be a narrowly focused proceeding where the objective is to sort out the defendant's plea, finally and irrevocably. At the same time that the case is listed for the plea review conference, it should be listed for a definite trial date ten days hence, to demonstrate to the parties that the plea deadline is a real one and that, absent notification of a guilty plea at the plea review conference, the case genuinely is going to proceed to trial on a date certain in the immediate future. This listing procedure must have credibility over time and in many cases before it should be expected to have the desired impact on decision-making by the parties.

Practical Considerations

I am aware that many courts currently do conduct some sort of plea review proceeding in advance of trial. But court clerks tell me that these are seldom meaningful or helpful proceedings, as counsel who appear have not really studied their respective briefs, and because the other pressures which cause cases to "crack" on the day of trial are, now, absent at plea review. Announcement of an intention to plead "not guilty" at the conclusion of current plea review proceedings

does not preclude submission to the court on the day of trial of some disposition wherein the defendant pleads guilty to altered charges. If my proposed rules were made effective, it would be a poor tactic indeed to wait until the day of trial to offer to plead guilty, as the defendant's only option then would be to plead guilty to all charges, without amendment or alteration, and without the possibility of receiving a sentence discount. Consequently counsel would advise their clients that the decision had to be taken before the ten-day deadline to gain any possible benefit. To the extent courts consistently enforced the new rules, defendants would come to understand that deferring decision on plea until the day of trial did them no good, and that they maximized their chances for a better result by deciding their plea ten days before trial.

My proposals for moving up the "final day of reckoning" raise their own set of controversial issues. Some say that counsel will never thoroughly prepare for plea review proceedings such that these proceedings will achieve the stated objectives, and that it is thus a mistake to try to breathe more life into the plea review hearings. Many barristers tell me that it is not worth it for them to thoroughly prepare for plea review proceedings, because:

(1) The Bar are not paid a sufficient fee for plea review proceedings. Counsel are far better compensated under the legal aid scheme if the case "cracks" on the day of trial, which generally results in their receiving a trial fee. This is not to say that counsel have told me that they actively prevent cases from "cracking" at the plea review proceeding, but they have indicated that their attention naturally is more focused on their cases which are at the trial (and thus more remunerative) stage, knowing that their cases which are at the earlier, plea review stage will ripen with time.

(2) Counsel handling a matter at the plea review stage will likely pass the case to another barrister before the day of trial, because of how the profession generally operates. Knowing that he will probably not be the advocate with the defendant "on the day," most counsel do not plan to give strong advice on plea at such an early stage, and thus do not substantially prepare for plea review proceedings. (Some say that ethical principles restrict counsel from entering into negotiations on behalf of defendants for whom they will not later appear in court.) Significantly, barristers also note that the plea may be changed to guilty <u>later</u> if trial counsel so advise, so nothing is lost under current procedures by failing to settle the matter at the plea review stage.

(3) Clients pleading "not guilty" are not ready to decide to change their minds several days or weeks before trial:

(a) because they want to see if the witnesses against them will really show up to trial, and/or,

(b) because they refuse to deal with the situation when the trial is not immediately before them, and/or,

(c) because they want to know who the sentencing judge will be before committing themselves, and/or,

(d) because the client simply does not show up for the plea review conference or proceeding.

I submit that many of these factors currently undercutting the practical usefulness of plea review proceedings will disappear upon the adoption of one of the two strategies outlined above, which end the possibility of benefitting from guilty pleas as of ten days before trial, coupled with an increase in fees to be paid counsel for attendance at such proceedings. Maybe trial fees should be reduced slightly to offset this increase and to reflect the system's interest in achieving an early "change of plea" if indeed the plea is going to change. Altering the fee structure is delicate business, not least because one would not want to create economic incentive for counsel to dissuade their clients from selecting the contested trial option when that option is otherwise appropriate. But the problem now may be that the fee structure provides economic incentive for counsel to delay even the consideration of a change of plea to guilty until the last possible moment, and this imposes large financial and planning burdens on others in the court process.

There remains the question of impact on defendants. On two grounds it might be argued that forcing the "day of reckoning" to occur ten days before trial truly would be adverse to defendants' interests:

(1) As noted above, some defendants, with and without the advice of counsel, delay taking a decision on plea until the day of trial so that they might first learn the identity of the judge or recorder who will preside in their case. They will then take their decision on whether to plead guilty or proceed to trial only after having first determined whether they are before, by reputation, a lenient or harsh sentencer. I am told by barristers that if it is the former, the defendant is more likely to then plead guilty, and that if it is the latter, they are more likely to take their chances and contest the trial. (Also, when in the latter situation, they

sometimes think that if they stay with their "not guilty" plea right up to and on the day of trial, their case may be delayed until another day when possibly a different, more lenient judge will be assigned to their case.) Proposals like mine which would move up the "day of reckoning" would push defendants to make their decision on plea early and irrevocably, and while deprived of the knowledge of which judge would sentence them.

(2) Defendants in a dilemma about how to plead will be forced to decide ten days before trial without knowing or seeing for themselves whether the witnesses against them will really appear. Thus, it can be argued that defendants as a group are not well served by the procedure as it pressures them to finally decide their plea before they can know all of the facts relevant to the question of whether the Crown can really obtain their conviction.

These are very real factors in defendant decision-making. With respect to the first issue, if defendants and their lawyers could know with certainty ten days before trial the identity of the sentencer in the case, more pleas could be established with certainty at that point. To clear up the present uncertainty on this issue, and in parallel with the adoption of one of the "day of reckoning" advancement strategies outlined above, a rule could issue requiring irrevocable assignment of particular cases to particular judges ten days before trial. Listing officers would not be permitted to switch cases among judges after that point. Critics will say that this will play havoc with listing, and that it is wrong to acknowledge the reality that no two judges will see a case in exactly the same way. They say that to function, the system must indulge the fiction that judges are fungible, and that the "identity of the sentencer" is not a factor in defendant decision-making that should be officially recognized. But those who take this view must accept that depriving defendants and their advisers of this information substantially inhibits the early plea determination process. Moreover, if fewer cases "crack" because of these reforms, listing officers will have less need to shift cases among judges at the last minute. Listing generally should be easier and more predictable.

The latter issue also has force. In the pre-trial, "discussion" phase of a case defendants need to be protected against overly optimistic CPS and police predictions about the availability of evidence and consequent probability of conviction. There will need to be a requirement that at the plea review proceeding the CPS, (and not the less credible police) demonstrate the probability of key witnesses appearing to give testimony on the day of trial. For the requirement to achieve its intended effect of informing the participants as to what is truly going to happen at trial, there will need to be an enforcement provision mandating dismissal of affected

counts if, on the day of trial, witnesses certified available ten days prior do not in fact appear to give the key testimony. Without this last bit, there is the danger that at the proceeding ten days before trial the CPS will consciously or subconsciously inflate and overstate what they can actually deliver at trial in order to compel guilty pleas to more charges, or more serious charges. The enforcement provision will force the CPS to be conservative and realistic in the pretrial portrayal of their case.

The Quality of Justice

The above proposals would enhance the quality of British justice because they would advance in time the process by which plea decisions are taken, making that process more efficient and less burdensome for the courts and the public. Witnesses and jurors would benefit in that they would not be called to court needlessly, to attend trials that never occur. Police officers would spend more time patrolling the streets and less time idly sitting at court. Defendants would benefit in that their cases would proceed through the system on a much more certain timescale. Currently defendants do not know with precision when and in which courtroom their case will be heard, because there is much last-minute lurching about as listing officers juggle cases to fill courtrooms suddenly available due to other cases having "cracked". Finally, the public would benefit as the system would require less resources to operate, there being greater utilization of court and police time and less need to pay unneeded witnesses and jurors.

I shall be in the United Kingdom completing my work on the pre-sentence report project until approximately 20 February 1992. Until then I am available to discuss these matters further.

Very truly yours,

James K. Bredar
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Pre-Sentence Report Pilot Trials
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The Quality of Reports Prepared in the Pilot Studies

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PART I

THE QUALITY OF THE REPORTS PRODUCED IN THE PILOT STUDIES

1. Introduction

A central feature of the pilot studies was that the participating probation services needed to find acceptable ways of meeting the Courts' need for additional reports in cases where, but for the 1991 Criminal Justice Act's requirements, no report would have been prepared. Because of the Courts' concern about delays and sentencers' expectation that sentencing should be carried out by the same judge or recorder who presided at the earlier hearing, this in practice meant making provision for some reports to be prepared more quickly than the standard practice. Concern was expressed by the National Association of Probation Officers at this departure from their preferred norm of four weeks to prepare a report for a defendant on bail, and three weeks for a custodial remand; they expected faster reports to be of lower quality and, in effect, a second-class service, to the disadvantage of some defendants (NAPO 1991). Other parties shared their concern about whether quality could be maintained in non-standard arrangements, and a sample study of the quality of reports prepared in the pilots was commissioned. This involved quality appraisal of a representative sample of reports drawn from all five pilot areas (referred to here as the 'appraisal sample') and interviews with sentencers about selected reports. The sentencers' views are discussed in the second part of this report. This first part deals with the quality of the

appraisal sample, and explains the appraisal process and data analysis which led to these conclusions.

2. Summary of main findings

2.1 This study provides no general support for the view that faster reports are necessarily of lower quality than reports for which longer completion times are allowed.

2.2 Regardless of completion time there are major variations in quality which require attention through quality assurance and training.

2.3 The only area in which fast-completion reports scored significantly lower than reports with longer completion times was in the discussion of offending behaviour, where they were less likely to give a clear account of the offence, an explanation of the offence or an evaluation of response to past sentences. This is not unimportant, as assessment of offending seems likely to be a major function of pre-sentence reports.

2.4 Fast reports were also less likely to suggest community options which required consultation with a third party before presenting the report, and less likely generally to have a wide range of sources for the information they contained. Whilst it might be argued that selection of

cases for fast reports aimed to exclude those where this type of option might be appropriate, it is difficult to understand how this could be done reliably without using information which could not normally be obtained prior to a report. Such information would include, for example, the suitability and willingness of the offender.

2.5 Fast reports were less likely to propose a probation order with additional requirements.

2.6 There were no significant differences between reports prepared over different periods of time in the rate of concordance between suggested outcome and eventual sentence. In other words, sentencers were about as likely to agree with a fast report as with a slow one.

2.7 Reports on women were of slightly poorer quality than reports on men, mainly because of poorer discussion of offending.

2.8 Women were more likely than men to be recommended for probation and less likely to be recommended for community service (compare Dominelli 1984; Gelsthorpe 1991).

3. The appraisal process

The study required a standardized appraisal instrument which could be applied 'blind' to the appraisal sample without knowing what preparation time had been available for each report. Following an initial meeting between the researchers and the Home Office officials it was clear that the appraisal could not be designed around guidelines for pre-sentence reports under the 1991 Criminal Justice Act, as no such guidelines had yet been prepared; instead, it needed to reflect official guidance and professional thinking about good practice in social inquiry reports, while remaining mindful of the impending change to PSRs. (This had clearly been a confusing issue for some of the pilot areas also, but only one appeared to have instructed staff to try to produce anticipatory pre-sentence reports.) The research team was able to draw on substantial experience of research and practice in this field, and a self-coding quality appraisal questionnaire was designed by Peter Raynor drawing on ideas from official guidance (e.g. HOC 92/1986) and a variety of other sources, including quality checklists used in in-service peer appraisal exercises (e.g. Raynor 1987). Following discussion and modification in the research team, the version eventually adopted required coding of forty-two variables, including five quality ratings each ranging from 1 (poor) to 4 (good), adding up to an overall quality score ranging from 5 (worst) to 20 (best). For most purposes this is re-scaled by subtracting 4, giving scores of 1-16.

Among the other influences on the design of the instrument were the recent Inner London social inquiry report inspection (Inner London Probation Service 1991); the content analysis recently carried out by Loraine Gelsthorpe for the Home Office (Gelsthorpe 1991); concerns about prejudicial and stereotyping language (Whitehouse 1983, Gelsthorpe 1991; Eaton 1986); about the relevance of background material (Tutt and Giller 1984); and about the expectations created by the way the subject is portrayed (Millichamp et al 1985). Whilst the questionnaire was designed to be applied to any report, it reflects the widespread current view that reports should tend to concentrate on matters relevant to understanding the offending behaviour and considering constructive responses to it (Raynor 1980; Bottoms and Stelman 1988). For example, it includes an assessment of the proportion of each report devoted to circumstances and background, to offending behaviour, and to current sentencing considerations and options. The five main summative quality variables relate respectively to background coverage; to presentation of the subject; to coverage of offending; to the 'recommendation' or suggested outcome; and to the overall style and presentation. Given the tight time-scale of the project, the instrument also had to be usable in less than one hour per report.

Application of this instrument to 171 reports in the appraisal sample was carried out by the two principal researchers with the assistance of Dr. William McWilliams during the autumn of 1991, following an initial exercise in

which all three appraisers applied the instrument to the same reports (not part of the appraisal sample) and discussed the results in detail to ensure a compatible approach and a reasonable degree of inter-rater reliability. Similar exercises were repeated at weekly intervals during the period when the appraisals were being carried out, and levels of agreement were consistently close (within one point on the overall quality rating scale). The completed questionnaires were then sent to the Home Office for analysis. A number of reports were withdrawn from the sample at this stage, having been identified by participating probation services as prepared before the pilot study and falling within the initial sample only by virtue of delayed hearing dates. This left 151 for analysis, of which 142 had preparation times recorded.

4. The data analysis

The coded results of the appraisal process were analysed in the Research and Planning Unit using SPSSX, generating output according to a list of required breakdowns, crosstabulations and controlled crosstabulations specified by the researchers. In addition to the forty-two variables from the appraisal questionnaire, another eleven variables drawn from the Home Office's own monitoring of the pilots were included - for example, prior custody; previous convictions; the major offence charged; whether the defendant was remanded in custody; the plea at the time the report was requested;

and various other details intended primarily for checking comparability, i.e. ascertaining whether defendants who had different kinds of reports prepared on them also differed in other significant ways which could help to account for any quality differences. Some monitoring variables (including, unfortunately, ethnicity) were very incompletely recorded, so that they could not meaningfully be used in the analysis. The other important variable contributed by the Home Office monitoring was, of course, completion time, i.e. the interval between referral to the reporting officer and completion of the report. As this was expressed in numbers of days from 0 (same day) upwards, four differently grouped forms of this variable were used in the analysis in order to guard against the possibility of hidden quality differences being overlooked. Analysis concentrated on comparisons of the various quality variables and other characteristics for different completion times; on gender differences; and on controlled cross-tabulations in case apparent differences between reports with different completion times could be attributed instead to the influence of other variables such as differences in criminal record. The results covered a total of 372 sheets of computer printout containing almost as many tables, and the remainder of this report concentrates on the more significant findings from this considerable mass of material.

5. Characteristics of the appraisal sample

The eventual appraisal sample included 39 reports from Birmingham; 38 from Bristol; 20 from Lincoln; 30 from Newcastle; and 24 from Southwark. The Bristol group included five transcripts of oral reports, which were appraised in exactly the same way as full written reports. For nine of the reports (including four oral report transcripts) completion times had not been recorded and they are therefore omitted from most of the analysis. A number of background characteristics of offenders subject to reports in different completion times were analysed, and Table 1 summarizes a number of characteristics which showed no significant difference between the different completion time groups.

TABLE 1

Completion Times and Characteristics of the Sample

	Reports completed in:			
	Same day	1-7 days	8-21 days	22 or more
Mean age in years (N=142)	27.9	29.4	25.7	24.9
% female	9.5	11.4	19.0	7.1
% male	90.5	88.6	81.0	92.9
% already on supervision	19.0	20.0	19.0	21.4
% having previous custodial sentence (where known)	33.3	48.3	43.0	57.7
Mean number of previous convictions (N=125)	3.6	6.5	7.2	6.2
Number of reports in each category	21	35	58	28

It will be evident that, on the whole, the groups subject to different completion times were fairly similar in other respects. There was some evidence that the same-day group contained more first offenders but the difference was not statistically significant. An attempt was made to collect information on ethnicity, but the monitoring failed to record ethnicity in nearly half the sample and only nine reports actually mentioned it. As a result, the data yield no information about over-representation of any ethnic group in any completion-time category.

The different types of offence appeared to be fairly

evenly distributed between the four completion-time groups, except that offenders subject to same-day reports were more likely to have committed violent crimes (45% of same-day reports involved assault or other personal violence, compared with 24% of the remainder, where property offences predominated). An analysis of information about the intended plea available at the point of referral for a report shows, not surprisingly, a higher proportion of not-guilty pleas among the same-day reports (see Table 2). This difference was, however, not statistically significant. It presumably reflects reports which were required quickly after conviction or last-minute change of plea because a policy of not reporting on not-guilty cases prevented earlier preparation.

TABLE 2

Completion Times and Pleas (N=138)

Plea	Same day	1-7 days	8-21 days	22 or more
Guilty	6	11	18	12
Part Guilty	1	5	9	4
Not Guilty	10	10	14	6
Not Known	3	8	16	5

6. **How the reports compared on quality and content**

6.1 Length. The length of reports in the sample varied from just over one page to nine pages. Average lengths were 1.8 pages for same-day reports, 2.4 pages for 1-7 day

reports, 2.3 pages for 8-21 day reports and 2.0 pages for 22+ day reports. These differences show no consistent influence of preparation time on length, but there is a slight tendency for same-day reports to be shorter.

6.2 Balance of content. All reports were assigned scores based on the proportions devoted to background and circumstances (or social history), to offending behaviour and to sentencing considerations or community options. Again, the range within each completion-time group is much wider than any differences between them, which were mostly minor and insignificant. The exception was in discussion of offending (which included both current and, if any, past offending): same-day reports tended to devote less space to this, with some indication that this was offset by more space for social history. The difference in space allocated to offending approached statistical significance, and the question of how offending was dealt with in the short completion-time reports will be raised at several points in this report. It was also interesting to see social history persisting as, on average, the largest component in all completion time groups despite arguments in favour of offending-centred reports. Table 3 summarizes the means and ranges for the three main content classifications.

Table 3

Completion Times and Balance of Content

% allocated to		Same day	1-7 days	8-21 days	22+
Social history:	Mean	59	48	46	50
	Range	30-80	10-70	10-80	10-80
Offending :	Mean	20	30	31	30
	Range	10-30	10-60	0-60	10-60
Options :	Mean	21	22	22	19
	Range	10-40	0-50	10-40	10-40

6.3 Overall quality scores. The overall quality index was constructed as described in section 3, and provides a comprehensive appraisal of overall quality which is used to compare reports prepared in different amounts of time. In its raw form the minimum score possible is 5, so for this analysis scores have been re-scaled by subtracting 4 in all cases. This gives us a quality score potentially ranging from 1 (worst) to 16 (best). Table 4 summarizes the overall quality scores.

Table 4

Overall Quality Scores

Completion times	Mean	Range	Standard Deviation
Same day	8.5	4-13	2.64
1-7 days	8.8	4.13	2.31
8-21 days	9.7	5-16	2.21
22+ days	9.1	6-12	1.81

It will be clear from Table 4 that while there is a wide range of quality scores within each completion time group, the differences between groups are very small. These were not statistically significant; nor did significant differences in overall quality appear when different groupings of the completion time data were used (e.g. 0-14 days, 15-28 days, 29 or more; 0-7, 8 or more; same day reports compared to all others) or different contractions of the overall quality scale. In other words, these figures provide no support for the view that a faster service is necessarily a lower quality service overall, though the next section discusses some differences which emerged in some components of the quality score. (It should also be noted that a number of individual reports were of excellent quality.)

The most evident area of concern about quality is not differences between completion times but the range from

poor to good reports which is evident within each completion time band, and is typically about eight times greater than the largest difference between completion time bands. This lends support to the view that the time available to complete a report is not the major determinant of its quality, and suggests that a service of somewhat inconsistent quality is being provided to our highest criminal courts. This will have implications for quality-assurance procedures such as gatekeeping and internal monitoring and inspection. Unfortunately it was not possible to ascertain how far the pilot reports had been subject to gatekeeping or other quality controls. We formed the impression that this had not usually been possible with same-day reports, but the range of scores suggests that there is not much evidence of more consistent quality control when longer completion times are allowed.

6.4 Components of overall quality scores. As outlined in section 3, a number of sub-scores were available for analysis. These were background coverage; presentation of the subject; offending behaviour (including current and, where applicable, past offending); presentation of 'recommendation' or suggested outcome; and overall style and presentation of the document. The offending behaviour component presented some interesting features and is discussed in the next section; this section

summarizes findings on the other four components. On all these four, the overall range was again wide but there were no significant differences between the completion time groups.

'Background coverage' was an additive appraisal derived from presence or absence of twelve typical background topics such as employment, finances etc., with a higher weighting if their relevance to offending and/or sentencing considerations was made clear. 'Presentation of the subject' invited consideration of such issues as belittling, stereotyping and distancing, and also looked for evidence of overtly sexist or racist language or assumptions but found virtually none. Assessment of recommendation and suggested outcome used a checklist concentrating on clarity, reasoning and adequate detail. Style and presentation of the document considered such issues as jargon, conciseness, comprehensibility, grammar and spelling. (This could not be approached in a purist manner, as the majority of reports contained errors of typography, punctuation, grammar or spelling, and sometimes all four.) Table 5 summarizes the data on those four out of five components of the quality assessment which showed little or no difference between completion time groups. All these components were measured on 4-point scales (1=worst, 4=best). For comparison purposes, the table also shows

mean scores on the 'offending behaviour' component of the questionnaire which is discussed in the next section.

TABLE 5

Completion Times and Scores on Five Quality Components

Mean scores on	Same day	1-7 days	8-21 days	22+
Coverage of background	2.4	2.6	2.7	2.5
Presentation of subject	2.9	2.8	3.0	2.7
Recommendation/ suggested outcome	2.5	2.5	2.6	2.6
Style and presentation of document	3.4	3.4	3.5	3.5
Discussion of offending	2.2	2.5	3.0	2.8

It will be evident from the table that differences in completion time were again not associated with noticeable quality differences, except in the coverage of offending.

One other difference worth mentioning is in the range of sources used for the preparation of a report. Most report writers indicated where their information came from, and a count was kept of the number of reports which included information from third parties, i.e. which used sources beyond the defendant, probation

service records and the court proceedings themselves. 'Third parties' defined in this way include, for example, parents, spouses, employers, psychiatrists, community service organisers. Reports with lower completion times were less likely to have used such information (see Table 6) but the difference fell short of statistical significance.

TABLE 6

Completion Times and Third-Party Information

	Same day	1-7 days	8-12 days	22+
Proportion (%) not using third-party information	62	60	50	39

7. Offending, options and outcomes

7.1 The presentation of offending behaviour. This component of the quality score was assessed by the presence or absence of six elements: an account of the offence; attitude of the subject to the offence; the report writer's explanation of why the offence occurred; discussion of past offending or non-offending; evaluation (where relevant) of the subject's response to previous sentences; and discussion of the risk of future offending. Covering five or six of these earned a maximum rating; none, one or two a minimum rating. The differences in ratings show most clearly when

completion times are divided into two categories, 0-7 days and 8 or more days (see Table 7, where the difference is statistically significant).

TABLE 7

Completion Times and Ratings on Offending Behaviour (N=142)

Offending behaviour		0-7 days	8 or more days
Ratings (% in bracket):	1 (poor)	13(23)	7(8)
	2	18(32)	18(21)
	3	16(29)	37(43)
	4 (good)	9(16)	24(28)
		56(100)	86(100)

$X^2=11.07$ df=3 p=0.011

Reports with shorter completion times were less likely to give an account of the offence, to say why it had occurred or to discuss response to previous sentences, and it was these components of the discussion of offending which accounted for the overall difference. These differences were statistically significant (at the 5% level) only in the case of the account of the offence, though response to past sentences is significantly less likely to be discussed in same-day reports. Table 8 summarizes the differences.

TABLE 8

Completion Times and Components of Offending Behaviour Score

	0-7 days	8+ days	Significant at 5% level
Proportions (%) having			
No account of the offence	38%	21%	Yes
No explanation of the offence	56%	47%	No
No discussion of past response	65%	49%	No

7.2 Pleas and discussion of offence. Further analysis showed a slight association, falling well short of statistical significance, between not guilty pleas and absence of an account of the offence in the case of short completion reports, but not reports with longer completion times (see Table 9). This could indicate the difficulty of discussing offending objectively with a defendant who has very recently been convicted, or very recently changed plea on an offence which up to that point was denied. A few reports clearly indicated continued denial.

TABLE 9

Pleas, Completion Times and Discussion of Current Offences (N=106)

	Number of reports containing account of offence			
Plea	0-7 days: Yes	No	8+ days: Yes	No
Guilty	12	5	23	7
Part Guilty	4	2	10	3
Not guilty	9	11	13	7

7.3 Recommendations and community options. Appraisal of the presentation of sentencing options is covered in section 6. This section considers what the options presented actually were. Table 10 summarizes the data. Further analyses controlling for previous convictions, previous custodial sentences and current offence gravity did not reveal anything of interest, but the simple comparison between different preparation times is interesting.

TABLE 10

Completion Time and Suggested Sentencing Options (N=142)

Proposal	Same day	1-7 days	8-21 days	21+
Discharge	5	1	3	1
Fine or compensation	1	2	3	3
Attendance centre				1
Probation without additions	3	8	5	4
Probation with 4A requirement		1	2	
Probation with 4B requirement		3	7	1
Probation with residential req.		1	1	
Probation with other requirement			1	
Community Service	4	5	19	7
Probation and CS together			3	
Suspended Sentence	2	5	3	3
Suspended Sentence w. Supervision	1	2	1	
Immediate imprisonment			1	1
Unable to recommend community option			1	1
Unclear		1	1	
Mixed	3		3	3
No recommendation	2	6	4	1
Other				2

The most striking feature of these figures is that same-day reports are relatively unlikely to suggest probation and particularly unlikely to propose it with additional requirements. The popularity of community service in all completion time groups is also noticeable. The appraisal questionnaire included a count of how many reports made sentencing suggestions which had required consultation with a third party (e.g. hostel warden, day centre supervisor) before presenting the report. It is not surprising to find that this happened significantly less in reports with shorter completion times. Table 11 summarizes the data.

TABLE 11

Completion Times and Recommendations Requiring Consultation (N=136)

	0-7 days	8 or more days
Consultation with third party	12	39
No consultation with third party	42	43

$X^2=8.9$ df=1 p=0.003

7.4 Concordance of suggestions and outcomes. As this is not a study of sentencing, no detailed breakdown of sentences is provided here. However, an analysis of suggested outcomes and actual sentences was undertaken for all four completion time groups. Concordance rates (i.e. proportions of outcomes which coincided with suggestions) were 29% for same-day reports; 23% for 1-7 day reports; 24% for 8-21 day reports; and 29% for reports prepared over more than 21 days. This does not suggest that sentencers are any less likely to agree with suggestions contained in reports prepared over a short period of time. However, it is noticeable that no probation orders were made following same-day reports, whereas all the proposals for Community Service in same-day reports led to CS orders being made. Perhaps the absence of additional requirements in the probation orders offered by same-day reports rendered them less attractive.

8. Differences between reports on men and women

Nearly 13% of the appraisal sample (19 out of 151) were reports on women, and this allows some comparisons to be made. A higher proportion of women were involved in property crime as opposed to violent crime; nearly half the women were charged with theft or handling, compared to less than one in five of the men. Women were less likely to have previous custodial experience (28% of women compared to 49% of men) and tended to have fewer previous convictions, though these differences were not statistically significant. Table 12 provides a breakdown by gender of the main quality and balance variables.

TABLE 12

Gender, Quality and Balance

Mean ratings on	Female	Male
% social history	49.5	49.2
% offending behaviour	25.3	29.6
% sentencing options	24.7	21.0
Background coverage	2.4	2.6
Presentation of subject	2.8	2.9
Recommendation/suggested outcome	2.5	2.6
Style and presentation of document	3.3	3.5
Discussion of offending	2.1	2.8
Overall quality rating	8.1	9.4

Here again the largest differences arise in respect of the coverage of offending behaviour, and the tendency towards lower scores on discussion of offending in reports on women was statistically significant (X^2=10.09, df=3, p=0.017). This

contributed half the difference in favour of male offenders in the overall quality rating. Women were also more than twice as likely to be recommended for probation (26% compared to 11% of men), and rather less likely than men to be recommended for community service (16% compared to 26%).

Although there was no obvious evidence of sexist language or assumptions noted in the reports on women, the persistence of differences in the discussion of offending is interesting (compare Gelsthorpe 1991). Perhaps when women offend, reports tend to concentrate on background problems rather than the offending itself, or perhaps some report writers find offending by women harder to understand than offending by men and so write more hesitantly about it. Women also of course figured as background characters in reports on men, usually in one of two roles: either a former partner in a relationship which had broken down, thereby helping to explain the offence, or a current or future supportive figure (mother or partner) who will help to ensure that there is no offending in future. (Young children also figured regularly as insurance against future offending.) Two reports cited decisions by offenders' partners to terminate a pregnancy as triggers for bouts of drink-related offending by offenders described as Catholic; in another, one woman was presented as responsible for provoking the offending and another for controlling it. It is interesting to speculate whether or not this type of explanation, if carried over into the supervision process,

helps men to take responsibility for controlling their own offending behaviour.

9. Implications for the change to pre-sentence reports

This study suggests that it is feasible to provide a reporting service to Crown Courts which includes facilities for some rapid reports without reducing the quality of reports significantly below prevailing levels. General quality is, however, quite variable, suggesting a need for continued attention to quality assurance and training. Obviously a fast service must have opportunity costs in terms either of agency reorganisation or loss of officers' flexibility to perform other duties, but this study provides no grounds for believing that unacceptable reductions in quality must result. (It is interesting that the most radical innovation, the oral reports in Bristol, achieved an average quality score of 9.8 when the transcripts were analysed as if they had been written reports).

However, it is clear from existing guidance that a major function of PSRs will be to comment on offending and on why it occurs, and here the findings are a little less reassuring; the faster reports tended to do this less well, and often simply summarized a defendant's account without comment. Other areas of relative weakness were using information from third parties and setting up complex supervision packages, which are encouraged by the 1991 Criminal Justice Act. Specific training

for PSRs may help here, but it is also clear that for some offenders, a realistic discussion of offending or of demanding supervision options requires an element of challenge or encouragaement, possibly followed by a pause for reflection and a second interview. This is harder to do when preparing a same-day report. When procedures for fast reporting are being devised, it would be wise to build in the opportunity for officers to obtain, with reasons, a longer adjournment when a defendant referred for a fast report turns out to require this more extended type of investigation. It is difficult to predict the proportion to which this might apply, but a very rough estimate based on this study would be 10%-15% of defendants subject to same-day reports and 5%-10% of defendants subject to 1-7 day reports.

PART II

10. Introduction

This part of the report is based on interviews with the Judges and five Recorders in the five areas designated as Pilot areas for the Pre-Sentence Report study (that is, two Judges and one Recorder in each area). The selection of interviewees was made by the Resident Judge in each area to reflect different experiences of reports. Throughout this part of the report, Judges and Recorders are referred to only as 'Sentencers' or 'a Judge or Recorder', they are not identified by name or area. No disrespect is intended in this.

The first part of this report presents an analysis of social inquiry reports as 'a finished product', that is, a 'product' which has been analysed without major reference to the social context in which it has been prepared or, indeed, the social context in which it was interpreted. This needs to be set alongside a study of reports-in-progress. For example, it is important to consider constraints on probation officers in the preparation of reports and to recognise the relevance of such factors as the appearance and demeanour of the defendant and the way in which other actors in the court room (Crown Prosecutors, Defence Solicitors, Clerks and so on) present information about the defendant, for these influences will play a part in the interpretation of any information contained in a report. Similarly, report writers may shape their reports according to clues picked up in the courtroom and in the way in

which the initial request for a report was phrased.

Ideally, an evaluative study of this kind would include periods of observation in the courtroom and in probation offices to examine why reports are requested and precisely how they come to take the form that they take as they are presented to sentencers. Research possibilities in this study were necessarily constrained, however, not least by the urgency to produce some evaluative comments on reports which could be taken into account in the drafting of national standards. This part of the report then, although designed to add weight to the 'paper evaluation' of reports described in the first part of the report by drawing from interviews with a small number of Judges and Recorders, is itself limited. (Although designed for a different purpose, an earlier report submitted to the Home Office includes interviews with probation officers as report writers and magistrates as interpreters of reports in two probation service areas in England and Wales. Indeed, that report specifically draws attention to the need to look at various aspects of the social context in which reports are prepared and read; Gelsthorpe 1991). But the limitations of this part of the evaluation do not detract from its overall value. It is clearly very important to consider the views of various members of the judiciary in any moves to change the use and focus of reports. Social inquiry reports have often been described as very influential in the English and Welsh courts (Thorpe and Pease 1976) and sentencers' comments in the interviews carried out for this study provide testament to this

point.

The interviews were designed to elicit both general comments and specific comments in relation to three reports used in the sentencing process. Each of the three reports presented to each Judge or Recorder had been seen by them previously in court. Using an adapted version of a semi-structured interview schedule designed for an earlier study (Gelsthorpe 1991) sentencers were asked for their perceptions of strengths and weaknesses in reports. They were also asked to comment on whether or not, in their view, reports give sufficient or too much background information about offenders, and whether or not reports generally provide appropriate recognition of the seriousness of the offence. Further questions revolved around: the coverage of factors underlying the commission of the offences and offenders' ability and willingness to tackle these factors; descriptions of community-based sentences in reports (and whether or not these are convincing); descriptions of the degree of supervision and control entailed in any one community-based sentencing option; the appropriateness of sentencing suggestions given offence seriousness (and whether or not report writers reached a logical conclusion with regard to sentence in relation to the three reports sentencers were specifically asked to examine) and the identification of sources and types of information in reports.

There were also questions designed to elicit views on whether or not the three reports presented to sentencers had

been helpful to them in coming to a final decision about sentence and questions regarding other information sentencers would have liked to have seen in reports. Finally, the Judges and Recorders were asked what other factors they felt they had to take into account in the sentencing process which it was not the reporting officer's function to address.

This part of the report also reflects Judges' and Recorders' responses to a survey questionnaire, designed, in part, to elicit their ideal conception of reports. Each sentencer was asked to complete a specially designed questionnaire for each of the three reports they had been given and to evaluate those reports. The questionnaire was also used to focus discussion in some of the interviews, though in one or two cases this was not possible and the completed questionnaires were returned to the interviewer after the interview. All in all, sentencers completed 39 out of a possible 45 questionnaires. One report proved to be an inappropriate selection, one questionnaire contained insufficient detail for it to be used in analysis, and a further three questionnaires failed to materialize. In one case a sentencer was shown an oral report and this has been excluded from this part of the analysis.

11. Summary of main findings.

11.1 The interviews with 15 Judges and Recorders drawn from

the Pilot Areas underline the importance of a court report as a valuable tool in the sentencing process.

11.2 Such reports appear to be of greatest value in 'borderline' cases where defendants are very close to or just beyond the threshold of custody.

11.3 There was very little difference between the researchers' appraisals and sentencers' assessments of a sample of 39 reports used in interviews.

11.4 Generally speaking, a sentencer views a good report as being one which identifies sources of information, is reasonably concise, calendar-dated, well set out, logical and consistent. Such a report contains background information on the defendant where this is relevant to an understanding of the offence and discusses the offence beyond a mere rehearsal of facts already known to the sentencer and beyond the defendant's version of a particular incident. Discussion here would typically touch on underlying reasons for the offence, motivation and the defendant's attitude to the offence. A good report is also one which manages to convey to the sentencer something about the defendant as a person.

11.5 Concerns about reports include imbalances of information between social history, current offending and suggested sentences. Whilst background information was important sentencers did not want it to swamp reports. Sentencers also express concern about unrealistic recommendations. However, an unusually lenient recommendation would not be dismissed out of hand if presented by an experienced and known Probation Officer, justified in detail and acknowledged as unusual. Another concern relates to the report as a statement of mitigation. Some sentencers believe that reports are sometimes presented as general pleas for leniency and are perhaps biased towards the defendant without an adequate acknowledgement of the seriousness of the offence and without persuasive argument to support the plea for a community sentence.

11.6 Information on community sentences appears either to help persuade sentencers that a community sentence is more appropriate than a custodial sentence or to inform them of what is available when they already have a community sentence in mind. Sentencers appear to hold rather different views on the amount of information required to describe community sentences adequately. Most would opt for maximum information, however, in case the defendant was sentenced by a Recorder not familiar with local provision.

11.7 Sentencers wish report-writers to take greater account of the seriousness of offences, though they acknowledge that probation officers are not always equipped to do this; and they feel that a definitive judgement on seriousness is something which properly falls to the sentencer.

11.8 Sentencers are concerned about procedural and practical issues which emerge from the production of reports under new arrangements. In particular, they are concerned over the potential for increased delay in sentencing. They are also concerned over the possibility that probation officers will be pressed to produce what they are unable to produce because of a lack of resources.

12. The use of reports in sentencing.

Out of a total of 44 reports upon which sentencers commented during interviews only six reports were judged to have been of no use at all. In one of these cases the co-defendant had already been dealt with by way of a community service order and the sentencer felt that it stood to reason that the defendant would have been given the same sentence. As a consequence, he felt that a 'stand-down' report to ascertain whether or not community service was available and whether or not the defendant would consent to it would have sufficed. In another case the defendant had pleaded Not Guilty but had been found Guilty and the probation officer who had written the report argued that it was difficult to make reference to

possible sentences when the defendant was adamant that no offence had been committed. (Indeed, he reported that she was intending to appeal against the conviction). Here the sentencer felt that the report was a waste of time. There were, of course, other reports which sentencers viewed rather negatively, but criticisms in those cases appertained to the style and content of the reports not to their existence.

Importantly, there were three cases where sentencers specifically mentioned that they would not normally have requested the reports which had been, so to speak, foisted upon them under the new arrangements, but that they had nevertheless been helpful. In two of these cases sentencers related that their decisions were really a matter of 'how long in custody?' not whether or not a custodial sentence would be imposed; the reports had helped them in this respect by providing background comments on family responsibilities and in one case, in particular, where the probation officer had described a defendant's attempts to wean himself off drugs the sentencer gave a much shorter sentence than he had first anticipated in the hope that he would feel that his efforts had been noticed despite the imposition of a custodial sentence.

At a more general level, sentencers spoke in terms of the value of reports being greatest in respect of borderline cases, that is, cases which were at the threshold of custody. Also, they were helpful in respect of those who might reasonable be given a community-based sentence to stem offending behaviour. One sentencer said that the probation

officer was the person best able to predict or guess at the effect of a particular sentence on the individual offender. One sentencer in particular indicated that he especially valued reports when he was dealing with inexperienced offenders - including those committing very serious first offences (for example, domestic homicides). Another commented that reports were very useful for persistent young offenders when appropriate options could be hard to find.

For those defendants at the threshold of custody sentencers generally liked reports to provide information on the possible effects of a custodial sentence on others in the family and especially on children. Indeed, a number of sentencers commented that children were often a stabilising factor in people's lives; they neither wanted to punish the children nor ruin any chances of the defendant settling down and stopping his or her involvement in crime.

Several sentencers revealed their reluctance to use prison except for public protection, as an expression of revulsion or to exclude the offender from the community because of the gravity of the offence. Thus they felt that report writers were in a relatively powerful position to persuade them that a community sentence, properly worked out, might just work to stop the offending. Interestingly, one sentencer commented that a remand in custody would not preclude a non-custodial sentence from being given if the probation officer put forward the view that the man was sorry, had learnt his lesson and would now respond to probation or something similar.

The main point to abstract from this is perhaps that sentencers are open to suggestions from probation officers at all stages of the sentencing process and open to persuasion of the merits of a community sentence if a strong enough case is made for it. But further comments suggest that it is not general persuasion which is effective, but specific persuasion in relation to particular offenders. This point is amplified later in this part of the report.

As we have indicated, where sentencers already had in mind the possibility of a community sentence they appeared to want reports to offer a view on what form of community penalty would be suitable in the case of an individual offender. Thus where they were thinking of probation they wanted report-writers to comment on the defendant's attitude so that they could make some assessment of the degree to which an offender might co-operate or benefit. They also wanted to see details of programmes and suggestions as to a length of order (even though they might pass a longer one but point out to the defendant the chance of an early, 'good progress' discharge).

Where sentencers were thinking of Community Service they wished to see comment on the defendant's suitability - in terms of lifestyle, employment and other commitments as well as on his attitude. (Most references to offenders assumed that they were male.) Sentencers also wanted to know whether or not work was available (not necessarily what kind of work was available, just whether or not it <u>was</u> available).

Where the sentencers were considering imposing a fine

they would use the reports as a source of information on a defendant's available income, unpaid fines (and efforts to pay these), and the effect of a fine on the family.

In sum, sentencers appeared to view reports either as a potential influence on whether or not custody should be imposed and exceptionally, to help determine the length of a sentence, or they used reports as a source of information on particular community options where they already had these in mind. Some sentencers more than others, however, appear to rely on report writers to guide them to an appropriate or effective community sentence.

Despite the overwhelmingly positive views on the potential use of reports, it is important to record here sentencers' concerns regarding pre-sentence reports under the 1991 Criminal Justice Act. A number of sentencers (albeit a minority) drew our attention to the fact that they would be asked to look at reports which seemingly, in their view, had no potential value at all. Both cases of very serious offending and less serious offending were cited as examples where reports would be superfluous to the task in hand. Notwithstanding the fact that this sample of 44 reports produced at least 3 cases where a potential prison term had been reduced in length or changed to a community sentence, some sentencers felt that reports would be a waste of time for serious offenders who would inevitably be sent to prison. (Though views were split on the issue of whether or not 'stand down' reports would suffice in such cases. A small number of sentencers argued

that they would always want a full report even if someone was going to prison.) Others indicated that reports were similarly wasteful of time where neither custody, nor community service nor probation was realistically on the agenda and other lesser penalties would normally be imposed.

13. Some comments on quality and content.

In Part 1 of this report we indicated that this study provides no general support for the view that faster reports are necessarily of lower quality than reports for which longer completion times are allowed, but that the fast-completion reports scored significantly lower than others in the discussion of offending behaviour. Indeed, we reported that such reports were less likely to provide a clear account of the offence, an explanation for the offence or any evaluation of responses to past sentences. We also highlighted a number of other differences between reports prepared quickly or over a longer period.

In this section of the report we aim to offer sentencers' reflections on what they perceive to be good or bad reports irrespective of the time taken to produce them. First though, we provide an outline of sentencers' assessments of the reports they were asked to look at for the purposes of the study and compare these with our own appraisal of the reports. Interestingly, Tables 13 and 14 below reveal relatively little difference in our respective assessments of these reports.

Table 13

An Outline Comparison of Sentencers' Assessments and Researchers' Appraisals of 39 Reports.*
(derived from questionnaires)

	Sentencers' Report	Researchers' Appraisal	Different Assessment
Report	A1 Adequate	7	*
	A2 Inadequate	9	
	A3 Inadequate	9	
	B1 Adequate	11	
	B2 Adequate	11	
	B3 Adequate	11	
	D2 Adequate	11	
	D3 Adequate	11	
	E1 Inadequate	9	
	E2 Adequate	12	
	E3 Adequate	10	*
	F1 Inadequate	7	
	F2 Inadequate	6	
	G1 Inadequate	5	
	G2 Adequate	12	
	G3 Adequate	15	
	H1 Adequate	13	
	H2 Adequate	10	*
	H3 Inadequate	5	
	I1 Adequate	12	
	I2 Inadequate	9	
	I3 Adequate	10	*
	J1 Adequate	14	
	J2 Adequate	12	
	J3 Inadequate	10	
	K1 Adequate	14	
	K2 Adequate	11	
	K3 Inadequate	10	
	L1 Inadequate	11	*
	L2 Inadequate	11	*
	L3 Adequate	10	*
	M1 Adequate	12	
	M3 Inadequate	9	
	N1 Inadequate	7	
	N2 Inadequate	9	
	N3 Adequate	13	
	O1 Inadequate	9	
	O2 Adequate	15	
	O3 Adequate	11	

Table 14

Sentencers' Assessments v. Researchers' Appraisals of 39 Reports: Summary.

		Appraisers' Scores		
		<11	11+	Total
Sentencers' Assessments	Inadequate	14	2	16
	Adequate or Better	5	18	23
	Total	19	20	39

(x^2 = 16.3, df = 1, p< 0.001)

* Analysis of sentencers' assessments of reports was completed after our own appraisal of these reports. The assessment of 'Adequate' or 'Inadequate' was derived from the completed questionnaires using ratings given in response to a range of questions and sentencers' written comments.

It will be clear from these tables that a rating of 11 or above was compared with all assessments of 'adequate' and below 11 compared with 'inadequate' assessments. This is, of course, a crude comparison involving some simplification of sentencers' comments, but it is nevertheless interesting to find so little difference in overall judgements. (The score of 11 represents the median (also the mode) whilst the arithmetical mean is 10.6.) There were differences in assessments in only 7 cases. In 5 cases Judges and Recorders assessed reports as adequate where appraisers have given a score of under 11. In 2 cases Judges and Recorders assessed reports as inadequate where appraisers gave scores of 11 and above. In 6 out of the 7 cases the discrepancy appears to be slight given that the appraisers' scores are within 1 point of another assessment. (Indeed, the association demonstrated between sentencers' assessments and high or low scores in our appraisal is highly significant. We agree with sentencers on 82% of reports; agree or differ by only one point on 97%.) A re-examination of the report assessed to be adequate yet given a score of only 7 by the appraisers revealed a mixture of positive ratings and critical comments, including the point that the report gave no clue as to the reasons for the offending. Positive ratings were mainly given for presentation and format and for the way in which the report-writer had described the effect on the defendant of a remand in custody.

It is also of interest to note that one of the reports with the highest appraisal score (15) was described as

excellent by the sentencer. One of the reports with the lowest appraisal score (5) was described as poorer than an oral report.

What then does 'adequate' or 'inadequate' mean to sentencers themselves? For the most part, a report which is judged to be adequate or better will be one which is well set out (not necessarily in numbered paragraphs), dated, short (i.e., a maximum of 2-3 pages), clearly written (avoiding jargon and words like 'siblings') and with a definite conclusion. Further, such a report will contain background information on the offender where this is relevant to an understanding of the offence. The report would also contain a discussion of the offence. This point is perhaps more contentious than some of the other points, but close questioning of sentencers on this issue revealed that <u>discussion</u> really meant comment on the offender's attitude to the offence and <u>explanation</u> as to why it came about, what lay behind it, rather than a mere rehearsal of factual details to which sentencers already had ready access.

A good report is clearly one which tells sentencers what they need to know. This will obviously vary from case to case, but one recurring theme in the discussions with sentencers concerned the need for reports to convey 'something about the offender as a person'. One sentencer argued that he wanted a report to fill out a picture of the defendant as a real person; another said that he wanted to know what made the offender tick, his family background, employment, associates, what he

did in his spare time, what motivated him and what motivated him to commit an offence. The concern to find something about the defendant as a person in each report is obviously important in a context where the use of pro-formas has been mentioned to expedite the need for more reports. There is no indication that Government is moving in this direction, but sentencers' comments serve to endorse the widely held view that reports must take the narrative form. Only one sentencer in this sample felt that the whole report could be reduced to a 'tick-box' pro-forma.

A good report is also one which indicates the sources of information upon which it is based. Significantly, most of the reports shown to sentencers in this study indicated that they resulted from an office interview, examination of previous probation records and so on. There were very few exceptions in this. But some sentencers conveyed the impression that they understood home visits to be made as part of the process of preparing a report and they wondered why these had not beent mentioned in the body of the reports.

It is important to record that sentencers freely identified strengths in the reports they were asked to look at. Some reports were described as comprehensive, others as coherent, logical, well set out, and providing in-depth discussion of what lay behind the offence. But sentencers expressed some concerns too, not just about some of the reports they had been asked to look at, but concerns reflecting their general experience of reading reports.

Amongst these were concerns about an imbalance of information between social history, current offending and suggested sentences. Sentencers reported that some reports provide a great deal of information on background (upbringing, education, early employment history and so on) without necessarily explaining how this is relevant to the defendant's situation now. So, upbringing is perhaps only worth discussing beyond a single sentence if, for example, the defendant had a rather unsettled existence during childhood which has continued into adulthood, or if the defendant's uneasy (perhaps violent) relationship with parents is now being repeated in his own family. Sentencers also cited examples of reports missing out points which they thought might be significant. One example provided concerned a nineteen year old who had been brought up by his grandparents. The report had provided no explanation for this.

The issue of balance in reports, however, is not one that can easily be reduced to a set formula: for example, to indicate that only 30% of each report should be devoted to social history. Sentencers conveyed the view that it is more a matter of report-writers being able finely to discern what would be appropriate in each case.

Sentencers also expressed concerns about reports appearing to be on the side of the defendant and presented as mitigatory statements rather than as professional opinion on why the offence has been committed and what the probation service could offer to help. There were, of course, some

further concerns about poorly presented (sometimes contradictory) reports. Perhaps the most pressing concern to be mentioned was that of 'unrealistic recommendations', but this is discussed at 15 on 'Recommendations'.

14 Community-based sentences

It is clear from sentencers' comments that information on community sentences is used in two main ways. Firstly, as part of an argument to persuade sentencers that someone destined for prison could more usefully benefit from a community sentence of probation or community service, and secondly, to inform sentencers of what is available where they already have a community sentence in mind. In the first case sentencers appear to be looking for convincing reasons as to why a community sentence might be appropriate. They cited as examples the provision of help with a particular problem such as drink or drugs, and cases where the defendant has just got married, has a child and might, with supervision, settle down. A further example offered involved a young man who had not committed an offence for 3 years but who suddenly got involved with a number of fights resulting in serious injury. The sentencer explained that it was a case where custody was likely, but because of the time lapse since his last offence he wanted the probation officer to give a reason for not sending the offender to prison. He especially wanted to know what was happening in the offender's life to suddenly cause all the

violence, and wanted the report to say what could be done from the probation perspective. The sentencer further commented the he had found some of these things in the report , but not all of them. The time lapse was not touched on at all, for example.

Other sentencers indicated that community options were not really viable when dealing with professional criminals and that probation officers occasionally wasted persuasive argument in trying to convince them that they should consider probation or whatever. In their view, community options were for offenders who had for some particular reason committed offences beyond sheer greed or malevolence (for example, unsettled background, unemployment, marital disharmony, depression, drink problems, drug problems). This was not to suggest that prison would never be used for these offenders, but that probation officers could probably do more valuable work with this group.

A crude distinction between different groups of offenders would, of course, be the 'deserving' and 'undeserving', but discussion at 16 indicates that the sentencing task is much more sophisticated than this.

Sentencers appeared to hold rather different views on the amount of information required to describe community sentences adequately. With regard to community service, for example, some sentencers wished only to know whether or not work was available, whilst others wished to know what sort of work would be available, how closely it would be supervised and so on. With regard to probation, however, sentencers seemed

fairly unanimous on the need to know how a Probation Order would address the offending. One sentencer commented that they needed to know what would be done, how it would address the problems and what it would mean in terms of what the offender had to do. Another sentencer said that he wanted the probation officer to tell him why help was needed, what form it could take and how it might have some effect on the defendant. Two sentencers indicated that this was especially important where juveniles were concerned.

The issue of how much detail is to be included in reports, however, is complicated, not least by the fact that different sentencers have different degrees of knowledge about particular probation order conditions and other community options. The experienced Judge, for example, who has participated in liaison meetings, has an established relationship with the Probation Liaison Officer and who has perhaps even visited the local 4B Day Centre, will require fewer details of community options than the part-time Recorder or newly appointed Judge. Importantly, whilst a number of sentencers drew our attention to this point most agreed that the report-writer should provide as many details as possible (if necessary, in a separate appendix to the report) as if he or she did not know who might be sentencing a particular defendant. To underline this point - of providing persuasive argument and details of programmes, we note that one or two sentencers indicated that they were not very clear about the programmes run in Probation Day Centres, even though they were

well-informed about community service (possibly because of the punishment element).

(Interestingly, a number of our interviewees stated that they would like more feedback on the effectiveness of community sentences, either national statistics or feedback on the effectiveness of local schemes.)

15. 'Recommendations'

One of the first points to note here is that the terminology used to describe recommendation or suggestions as to sentence was not particularly important to the majority of those sentencers interviewed. What appears to be important is the way in which such recommendations or suggestions are framed. Four sentencers, in particular, emphasised that they did not like being told what to do as in the formula that 'in this instance the court should impose a Probation Order for a year'. It would be better to frame the suggestion in terms of 'having reviewed this defendant's history very carefully, and his current involvement in offending, I would suggest that due consideration be given to a Probation Order which might be used to address the following difficulties...'

It is obviously difficult to convey the preferred tone of recommendations in a discussion of this kind, but it is indisputable that sentencers wish to find reasoned argument as to why one option might be appropriate and not another.

As we indicated earlier, one of the most pressing

concerns about reports relates to 'unrealistic recommendations'. Sentencers did proffer the view that there seemed to be fewer and fewer unrealistic recommendations, but that a report which glossed over the whole issue of proportionality would be a very weak report indeed. The unrealistic recommendation was thus one which arises from the probation officer having limited information - from the offender only perhaps - and failing to reflect the seriousness of the offence. On this latter point some sentencers felt that probation officers had insufficient awareness of the gravity of particular offences (for example, drug smuggling or domestic burglaries), and, for example, they did not seem to be aware when there had been a spate of similar offences which might lead the sentencer to adopt of a fairly tough approach. (For instance, in the case of 'joyriding'.) In terms of attempts to take into account the seriousness of the offence a minority of sentencers referred to the use of 'risk of custody scales' within the Probation Service, but felt that these were based too much on previous offending behaviour and previous sentences. Importantly, however, they also added that their knowledge of such scales and how they were used was perhaps fairly limited.

Other sentencers argued that probation officers were not really equipped to judge gravity, as they often lack essential information on the offence when this is a most important determinant of gravity. (Three sentencers referred to the emphasis given to assessments of seriousness under the 1991

Criminal Justice Act at this stage.) Such information might be drawn from witness statements to which probation officers had no access.

If sentencers were a little uncertain over the issue of how report-writers might increase their awareness of the gravity of particular offences, they were unequivocal on the point that report-writers should take greater account of the seriousness of the offence. They wanted some indication that the Probation Officer appreciated the seriousness of the offence.

But the unusually lenient recommendation is not without its place. A number of sentencers commented that a low-tariff recommendation for a serious offence would be much more acceptable from experienced probation officers whom they knew (the Probation Liaison Officer was frequently cited in this context) than from someone unknown or perceived to be young and inexperienced. Indeed, they argued that an unusual recommendation from an experienced officer would be worth taking note of, particularly when the officer attended court to explain it.

We should add here that if reports prepared by some officers carry greater weight or greater persuasive value than those prepared by others then there are clear implications for report-writing arrangements in each area. Comments here underline the importance of the role of the Liaison Officer and serve to reinforce points made elsewhere (Gelsthorpe 1991) about the positive value in having a court-based probation team

or always having a probation presence in court. (Incidentally, sentencers frequently drew attention to the importance of the Probation Liaison Officer, their role has much wider significance then points referred to here. In many cases, the P.L.O. was the Probation Service personified - a point of contact, a source of information, a bridge to probation services in the community.)

16. The task of the sentencer v. the role of the report-writer

In addition to questions about the style and content of reports sentencers were also asked to comment on factors which they had to take into account but which were not the reporting officer's function to address. Questions were asked to see how sentencers perceived the difference between the task of the sentencer and the role of the report-writer. Responses were generally very similar and included reference to sentencers making judgements about seriousness, the need for public protection in certain cases, the need to balance the offender's perspective against that of the victim and of the police, the public interest, the prevalence of a particular offence at any one time, and legal issues which the report-writer would not necesarily know about.

The report-writer's role, on the other hand, was generally perceived to be one of focusing on the defendant, providing background information on the offender, indicating a

suitable community option, describing community sentences that would, from their point of view, address the defendant's problems and offending, conveying a sense of the defendant as a person and describing the potential impact of a custodial sentence on a man or woman's family so that this could be taken into account in determining the length of a sentence.

Needless to say, a good social inquiry report was one which distinguished between these tasks and which tacitly acknowledged that the report was merely a contribution (albeit a significant one) to the sentencing process.

17. Procedural and practical issues regarding the preparation of reports

The comments below very directly relate to the new arrangements for preparing reports under the 1991 Criminal Justice Act. Two main issues emerged from discussion with sentencers. Firstly, the fact that under the Act sentencers lose some of their discretion in deciding whether or not to request a report. A minority of sentencers appeared to view this more negatively and felt it very keenly. Some sentencers expressed concern over the prospect of increasing delays in the production of reports. They indicated that the greater demand for reports would further slow down the machinery of justice and that it was not necessary to produce a full report on every offender who was destined for prison. This was not to suggest that a report was totally unnecessary, rather, a 'stand down'

report might usefully indicate all that needed to be known for the purposes of sentencing.

Secondly, sentencers pointed out that the new arrangements carry enormous resource implications for Probation Services. A number of sentencers were keen for us to record that they on the whole receive an excellent service from probation officers and that they were concerned about the increasing pressure being put on them.

It was apparent from our discussions that practical solutions were not inconceivable, and sentencers appeared generally to favour the idea of a clear expectation that reports, when needed quickly, would be produced within an agreed short period - possibly a week, if not a stand-down report; however, they would be responsive to requests for further adjournments if necessary to produce a fuller report or to explore in more depth something which initially appeared to be uncomplicated. (There were, of course, variations on the suggestion of a week but this was mentioned most frequently.) Most sentencers who were asked felt that the request for a further adjournment would have to take place in open court, but a minority would be prepared to deal with such applications by the Liaison Probation Officer in Chambers.

18. Policy, practice and research considerations arising from discussion in Parts 1 and 2 of this report

18.1 It is suggested that when fast reports are required,

administrative arrangements and guidelines should incorporate exceptional procedures for extending the time available for a small minority (estimated very approximately at 10%-15% of same-day reports and 5%-10% of 1-7 day reports) which require longer investigation to produce a more useful report. This could ensure application for a further adjournment.

18.2 We also suggest that continued attention is given to the issue of quality assurance. In some areas, of course, gate-keeping mechanisms have been established. We are not aware of how gate-keeping mechanisms (where they were used) were applied to the reports which form the basis of this study, but it is obviously important to examine their role and effectiveness in quality assurance.

18.3 Further, findings in this report underline the importance of training in report-writing techniques. It is clear from sentencers' comments that the production of a report is a highly skilled task not reducible to a mechanical listing of facts . The emphasis they place on content, on individualization, on attitudes and on motivation corresponds closely with similar themes in the training and professional culture of social work, and suggests a continuing

relevance for social work skills in probation officers' work.

18.4 Our findings also add weight to the significant role of the Probation Liaison Officer in establishing effective links with sentencers.

18.5 With regard to administrative arrangements for producing reports it would seem important for each local service to produce explicit guidelines regarding cases suitable for 'fast-stream' reports and how requests for further adjournments might be made where it appears that particular issues need further exploration or where it is anticipated that a defendant will require greater intervention than first thought.

18.6 We would also suggest that consideration be given to the issue of reflecting the seriousness of offences in reports. National guidelines drawing on Court of Appeal cases might be useful here alongside a consideration of Probation Services' own attempts to take account of seriousness. The use of 'Risk of Custody' scales thus requires some review. Scores were available for roughly half our sample of reports but it proved inexpedient to use them since at the time of the research we were not aware how they had

been constructed or used as an operational tool in report writing.

18.7 We have already indicated that it is perhaps important to consider the role and effectiveness of gate-keeping mechanisms in the areas from which our sample of reports was drawn. It would also be interesting to know something of the experiences of the report-writers. Were reports shaped in a particular way because of requests made in the courtroom, for example? Did the report-writers prepare reports for particular sentencers? Did they 'know' the Court or sentencer? What training had they received in report-writing? Were there any particular constraints on their report-writing which influenced the final shape and direction of the report?
Responses to such questions and analysis of probation officers' experiences in producing reports might, of course, help to explain some of the findings contained in this report.

18.8 On this same point it will be important to place our findings in their wider context and to look at the degree to which additional resources were made available to the different areas which took part in the Pilot Study, and at the opportunity-cost or effect on other work of new arrangments for report provision.

18.9 Finally, we would suggest that there is a strong case for evaluative research to be carried out on pre-sentence reports as they become the norm. If national standards are to guide policy and procedures for producing these it will be important to assess conformity to these standards, the effect of new procedures on the quality of reports and, for example, the way in which offending (including the seriousness of offences) is handled in reports from the earliest opportunity.