

# Digest 4

## Chapter 4 - Pre-court and court action

The data contained in some of the charts in this chapter, are accessible by clicking below. You will need Excel 4.0 or later installed on your computer to be able to view the spreadsheets.

Attrition through the criminal justice system

Crimes cleared up: numbers and as a percentage of recorded crime

Clear-ups by offence group 1997

Persons found guilty at all courts or cautioned(1) for indictable offences and number per 100,000 population in the age group by sex and age

Defendants proceeded against at magistrates' courts

Average time taken for indictable cases in magistrates' courts by stage of proceedings

Persons proceeded at magistrates' courts by type of offence and how dealt with

Outcome of cases at magistrates' courts involving the Crown Prosecution Service (CPS)

Persons aged 18 and over proceeded against and committed for trial at the Crown Court

Defendants appearing at the Crown Court for trial or for sentencing after a magistrates' court conviction

Outcome of trials(1) at the Crown Court 1998



## Introduction

Following a crime and the detection of the alleged offender, the police can either take no further action, issue an informal warning, issue a formal caution or start a prosecution.

No further action may be used when the offender is below the age of criminal responsibility or there is insufficient evidence to warrant a prosecution or there are other public interest factors which suggest that formal action is inappropriate. An informal warning may be given where formal action is thought to be inappropriate. A formal caution by a senior police officer should only follow an admission of guilt and informed consent by the offender (or, in the case of a juvenile, his or her parents or guardian).

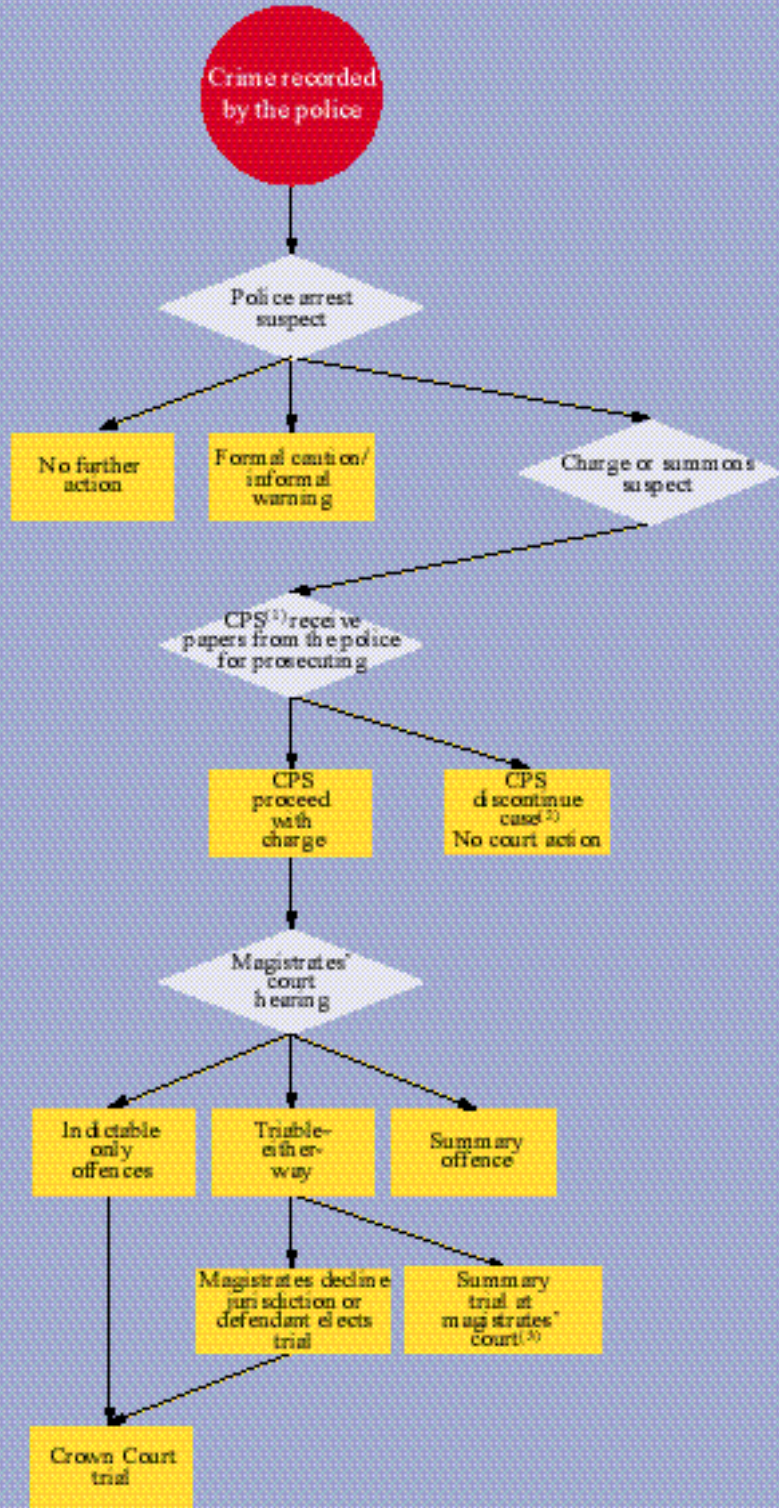
The majority of criminal proceedings instigated by the police in England and Wales are referred to the Crown Prosecution Service (CPS). Each case is reviewed by a CPS lawyer in accordance with the tests set out in the Code for Crown Prosecutors. The first test is whether there is sufficient reliable and admissible evidence to provide a 'realistic prospect of conviction' against each defendant on each charge. If there is not sufficient evidence the case cannot proceed, irrespective of the seriousness of the offence. The second test is whether prosecution is in the public interest. In serious cases, prosecution will usually take place since it is unlikely that public interest will outweigh the case for prosecution.

For triable-either-way cases (see Glossary for definition), the magistrates may either deal with the case themselves or decide that the case should be committed to the Crown Court or the defendant may elect for a Crown Court trial. Since 1 October 1997, defendants in either-way proceedings enter a plea in the magistrates' courts. If the plea is guilty, the magistrates may commit the defendant to the Crown Court for sentence if their powers are felt to be insufficient.

## Summary

- ④ The best estimates suggest that for crimes against individuals and their property about 3 in 100 offences result in an offender being convicted or cautioned for that offence.
- ④ Clear-up rates were much higher for recorded violent crime (68% in 1997) than property crimes (24%). The clear-up rate for homicide was 91%.
- ④ 61% of offenders aged under 18 were cautioned for indictable offences in 1997 of those who were either cautioned or found guilty.
- ④ 1.86 million defendants were prosecuted in the courts in 1997, mainly for summary offences.
- ④ In 1998 the average time from the offence to completion for defendants in indictable cases in magistrates' courts was 127 days.
- ④ The average time between the date of committal at magistrates' courts and the start of the hearing at the Crown Court was 13.2 weeks in 1998 compared with 16.7 weeks in 1994.

## The Prosecution Process



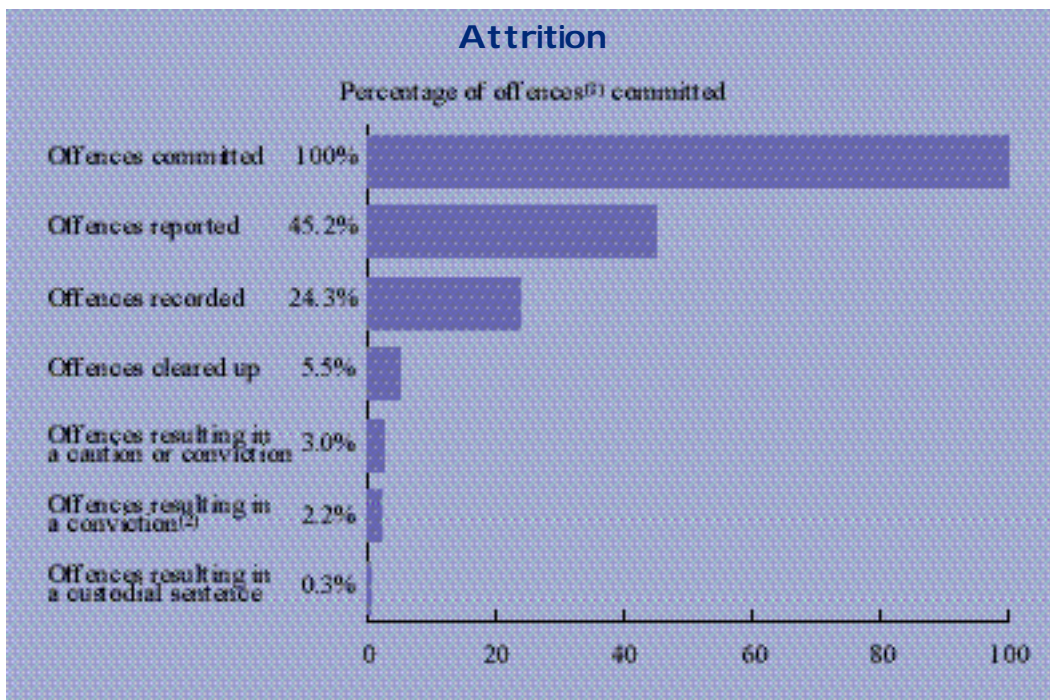
- (1) Although the majority of prosecutions are handled by the Crown Prosecution Service, certain offences are still prosecuted by the police, whilst some are prosecuted by private organisations or Government agencies such as the Inland Revenue.
- (2) A case will be under continual review, and may be discontinued at any stage before the hearing at the magistrates' court or the prosecution may offer no evidence. In addition, the charge may be altered up to the final decision of the court.
- (3) Magistrate may commit to Crown Court for sentence.

## Attrition within the Criminal Justice System

Estimates given below show the number of offences committed as measured by the British Crime Survey compared with the number of criminal convictions/police cautions measured in official statistics. No adjustment has been made for co-offending (i.e. more than one offender convicted for the same offence), since no reliable estimates are available for the effect of this.

It is important to appreciate that the graph below does not mean that only 2% of offenders are ever convicted. Offenders can commit a number of offences before they are caught and these offences are subject to attrition for all the reasons identified in the graph – they may not be reported, or linked unambiguously to a particular offender, or the offender may have been cautioned for them and so not prosecuted. The proportion of offenders who are convicted will therefore tend to be higher (possibly much higher) than the proportion of offences which result in a conviction.

- For crimes against individuals and their property, 3 in 100 offences committed in 1997 resulted in a criminal conviction or a police caution; 1 in 300 resulted in a custodial sentence. The likelihood of both a conviction, caution and a custodial sentence rose between 1995 and 1997, having fallen in the early 1990s.



- Variations occur between offences such as wounding where 16% resulted in a caution or conviction compared with 8% for thefts of vehicles, 3% for vandalism offences and 2% for domestic burglaries.
- As a proportion of offences committed, 1.6% of woundings ultimately led to a custodial sentence, compared with 0.6% of burglaries and 1.2% of vehicle thefts.

(1) Criminal damage; theft of a motor vehicle; theft from a motor vehicle (including attempt); bicycle theft; domestic burglary; wounding; robbery/theft from the person.

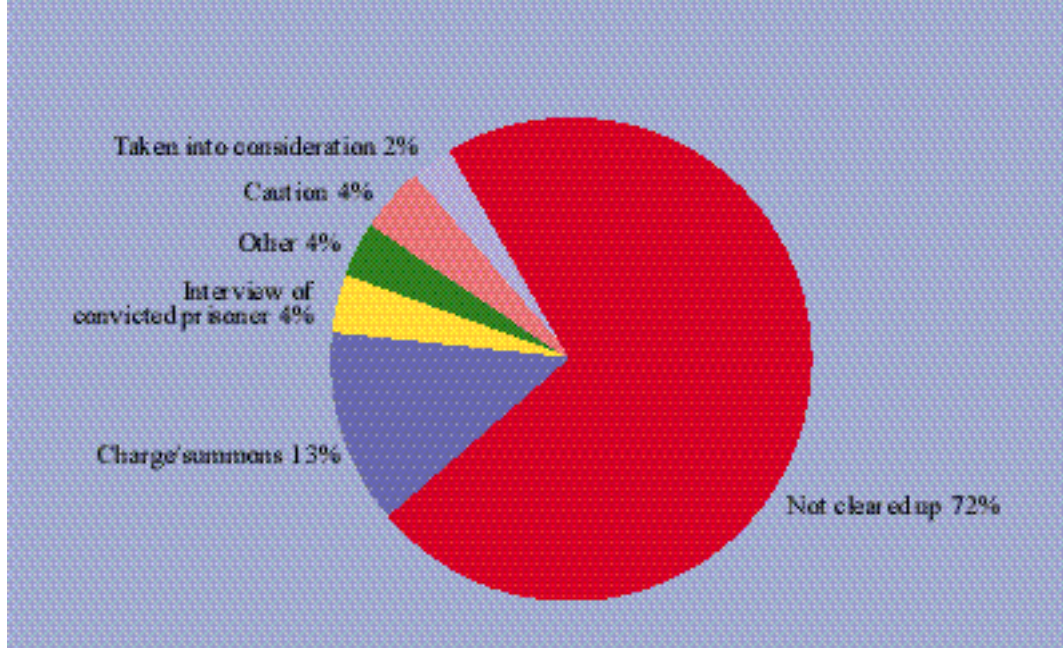
(2) Estimates include offences included as additional findings of guilt at any court appearance but not offences taken into consideration.

Source: *Criminal statistics, England and Wales (The Stationery Office) and the 1998 British Crime Survey (Home Office Statistical Bulletin 21/98).*

## Crimes recorded by the police: clear-up rates

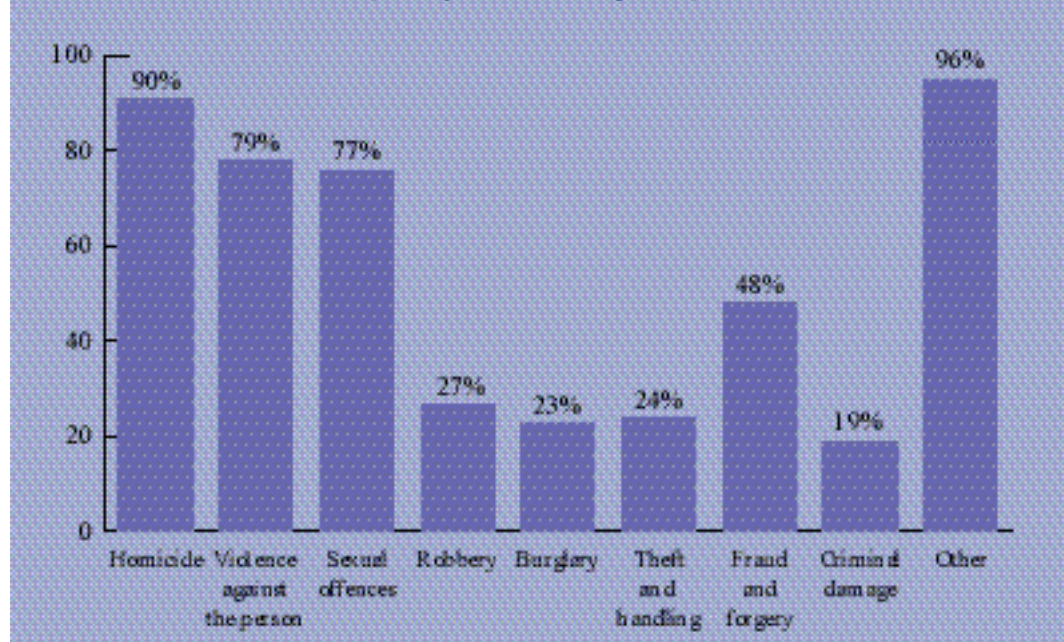
- ④ In 1997 24% of recorded offences were cleared up by primary means e.g. charge, summons, caution, offences previously recorded and taken into consideration or by other means, and 5% by secondary means, mainly interviews of convicted prisoners.
- ④ The proportion of offences that resulted in a charge/summons fell from 18% in 1989 to 12% in 1992 but has since remained at about this level (13% in 1997).

### Crimes cleared up as a percentage of recorded crime 1997



- ④ Clear-up rates were highest in 1997 for homicide (90%), violence against the person and sexual offences (both about 75%). This contrasts with low clear-up rates for robbery (27%) and criminal damage (19%).

### Clear-ups by offence group 1997

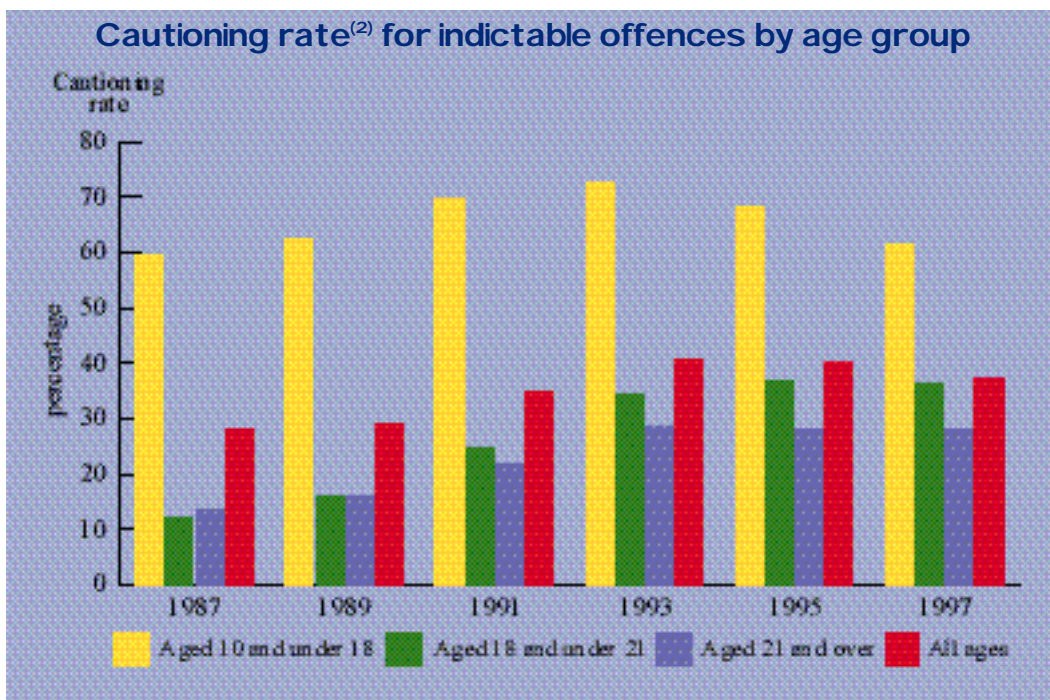


- ④ A study in 1993/94 showed that for persons arrested by the police, 52% of suspects were charged, 20% had no further action taken, 17% were cautioned and the remaining 13% were dealt with in various other ways.

Source: *Criminal statistics, England and Wales, 1997 (The Stationery Office)* and *Entry into the Criminal Justice System: a survey of police arrests and their outcomes (Home Office Research Study No. 185)*.

## Cautioning

- ⌚ About 4% of recorded offences were cleared-up by a caution in 1997.
- ⌚ The number of persons cautioned for indictable offences rose from 150,000 in 1987 to 216,000 in 1992 before falling to 189,000 in 1997.
- ⌚ 61% of known offenders<sup>(1)</sup> under 18 years were cautioned for indictable offences in 1997, 36% of young adult offenders (18–20) and 28% of adult offenders (21 and over) were also cautioned. 52% of females were cautioned for indictable offences as compared with 34% of males.
- ⌚ The use of cautioning for indictable offences in 1997 varied from 23% of known offenders in South Yorkshire and 24% in Dorset to 48% in Gloucestershire, Northumbria and Surrey.



- ⌚ 93,000 persons were cautioned for summary offences (excluding motoring) in 1997, compared with 87,000 in 1987. The cautioning rates for summary offences remained at about 18% during 1987–97. Lower cautioning rates are expected for summary offences because this group includes many revenue offences (e.g. TV licence evasion) not handled by the police and for which a caution is therefore not possible.

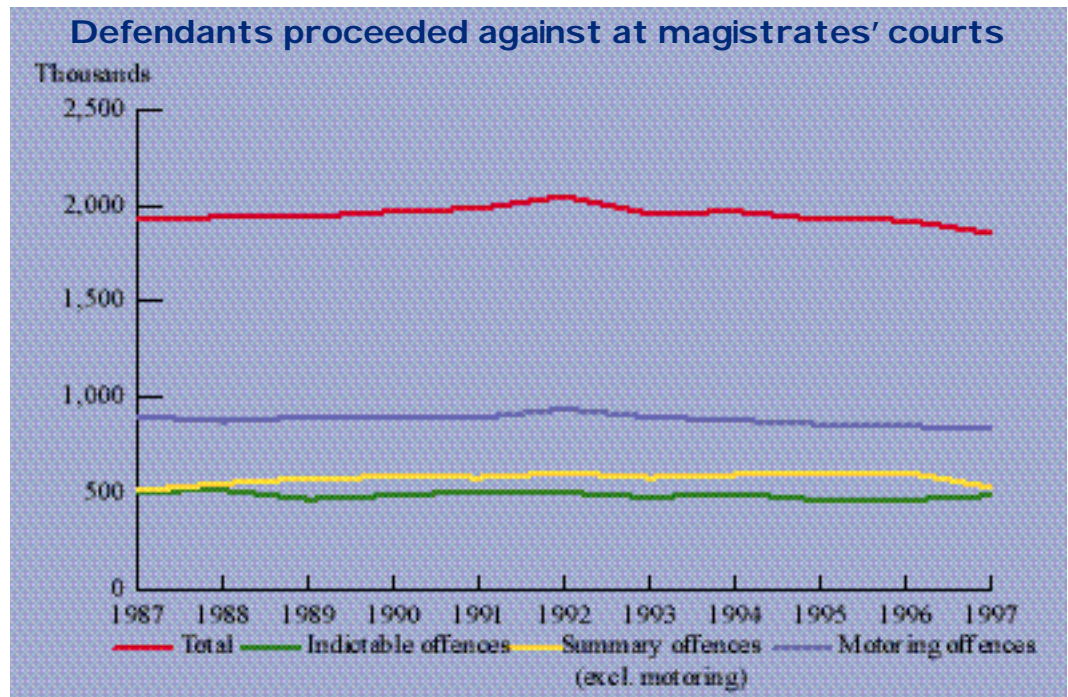
(1) Persons found guilty or cautioned for indictable offences.  
 (2) Percentage cautioned of offenders found guilty or cautioned.  
 Source: *Criminal statistics, England and Wales 1997 (The Stationery Office)*.

## Prosecutions: all offences

- ④ The number of defendants prosecuted in the courts rose from 1.92 million in 1987 to 2.05 million in 1992, falling back again to 1.86 million in 1997.
- ④ Of the 1.86 million in 1997, 487,000 defendants were prosecuted for indictable offences, 531,000 for summary non-motoring offences and 838,000 for summary motoring offences.
- ④ Since 1987 the proportion of total prosecutions which were for summary motoring offences has remained at about 45% and for summary non-motoring offences at about 30%.
- ④ Summary non-motoring offences fell by 13% in 1997. This fall reflects a drop in the number of prosecutions under the Wireless Telegraphy Act (e.g. TV licence evasion).
- ④ The age distribution of prosecuted defendants in the courts has changed little between 1987 and 1997 with about 7% being aged 10 and under 18, and about 12% being aged 18 and under 21.
- ④ 3.4 million motoring offences in 1997 were dealt with by fixed penalty notices issued by the police (including traffic wardens). In addition 3.8 million penalty charge notices were issued by local authority parking attendants.

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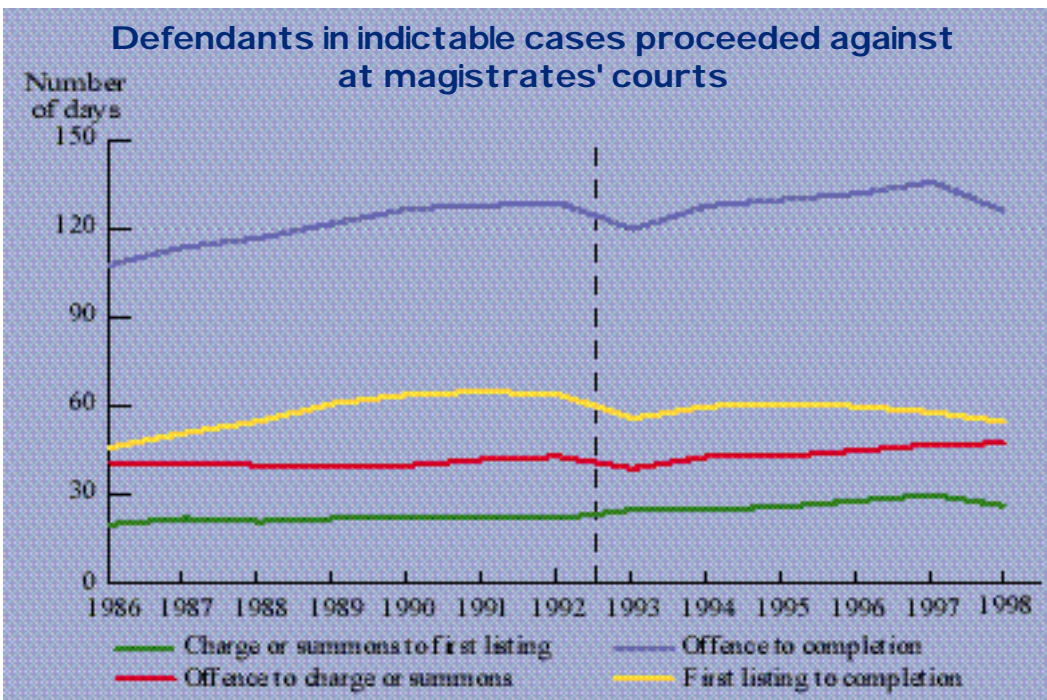
Pre-court & court action



Source *Criminal statistics, England and Wales, 1997 (The Stationery Office)* and *Motoring Offences, England and Wales 1997 (Home Office Statistical Bulletin 12/99)*.

## Prosecutions: time intervals

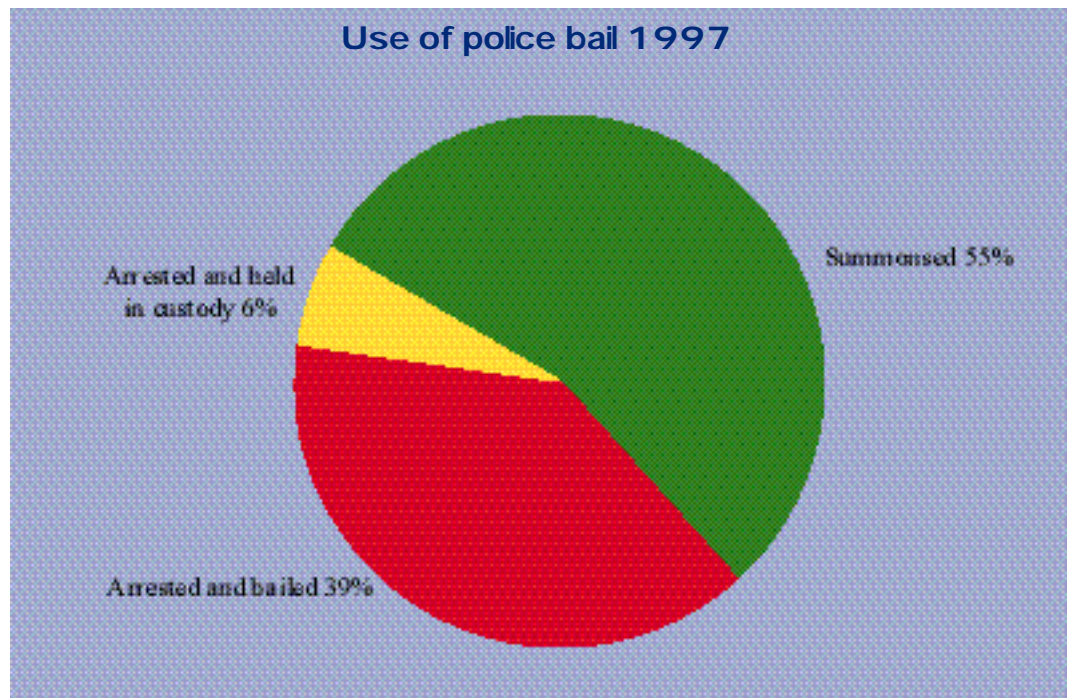
- ④ The average time taken from offence to completion for defendants in indictable cases in magistrates' courts was 127 days in 1998, a decrease from 135 days in 1997 but similar to the 128 days recorded in 1994. The vertical separation line in the charge signifies the change in recording procedures at the end of 1992 and 1993.



- ④ For Youth Courts, the average time from offence to completion for defendants in indictable cases was 121 days in 1998, a decrease from 134 days in 1997. In 1994 the average time was 132 days.
- ④ A persistent young offender is defined as a young person aged 10 to 17 who has been sentenced by any criminal court in the UK on three or more separate occasions for one or more recordable offence and who, within three years of the last sentencing occasion, is subsequently arrested or has information laid against them for a further recordable offence. In 1996, the average time between arrest (or laying of information) and sentence was 142 days for persistent young offenders. The annual figure for 1997 as a whole shows a reduction to 141 days, while the average between 1 May 1997 and the end of that year was 138 days.

## Prosecutions: use of bail

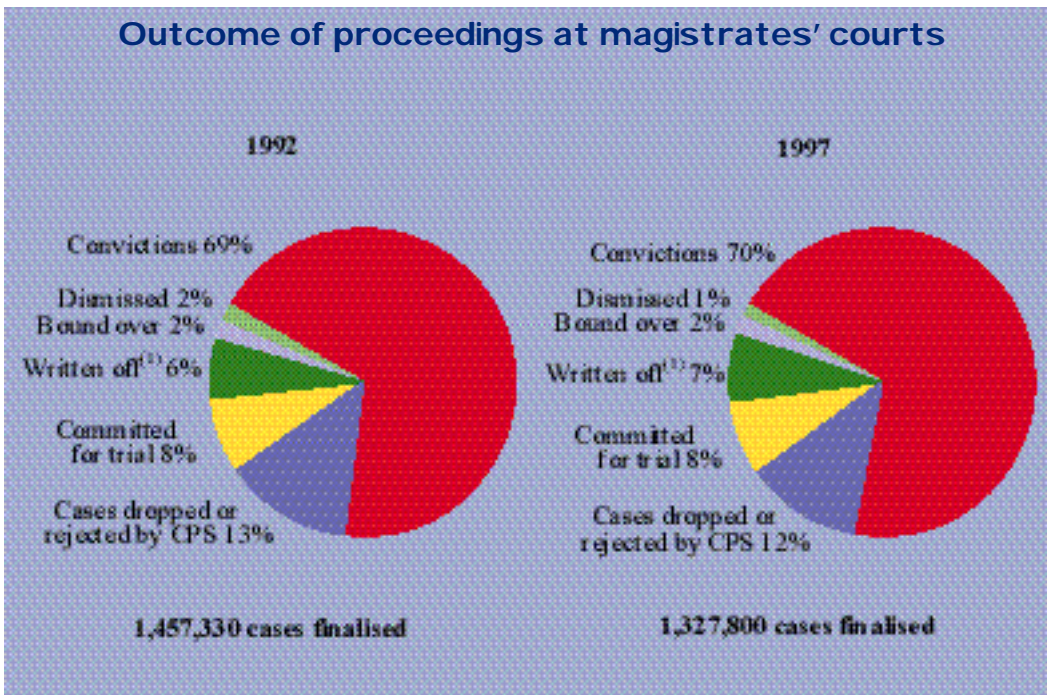
- 39% of those prosecuted in 1997 were arrested and bailed by the police before their first appearance in court, 6% were arrested and held in custody and the remainder (55%) summonsed. For indictable offences, 77% were arrested and bailed, 15% held in custody and the remainder (8%) summonsed.



- 25% of those prosecuted in 1997 were bailed by magistrates, and 4% were remanded in custody. A person who is summonsed before a magistrates' court will have the case adjourned and will not be subject to bail.
- An estimated 11% of those bailed at magistrates' courts or the Crown Court failed to appear at court, 44,000 offenders were found guilty at magistrates' courts for failing to surrender to bail in 1997 (an increase on earlier years) and 4,000 bench warrants were issued at the Crown Court for failure to appear.
- A recent study showed that 24% of those given bail committed one or more offences while on bail; the highest rates were among those bailed for vehicle crime (44%) and shoplifting (40%). Juveniles were more than twice as likely as adults to offend on bail and they offended more persistently.

## Prosecutions: magistrates' court

- ⌚ The Crown Prosecution Service (CPS) may discontinue cases where they consider there is insufficient evidence to offer a realistic prospect of conviction, or if the public interest does not require proceedings to take place. Statistics on cases handled by the CPS indicate that the proportion of cases discontinued of all cases finalised was lower in 1997 (12.2%) than in 1992 (13.3%).

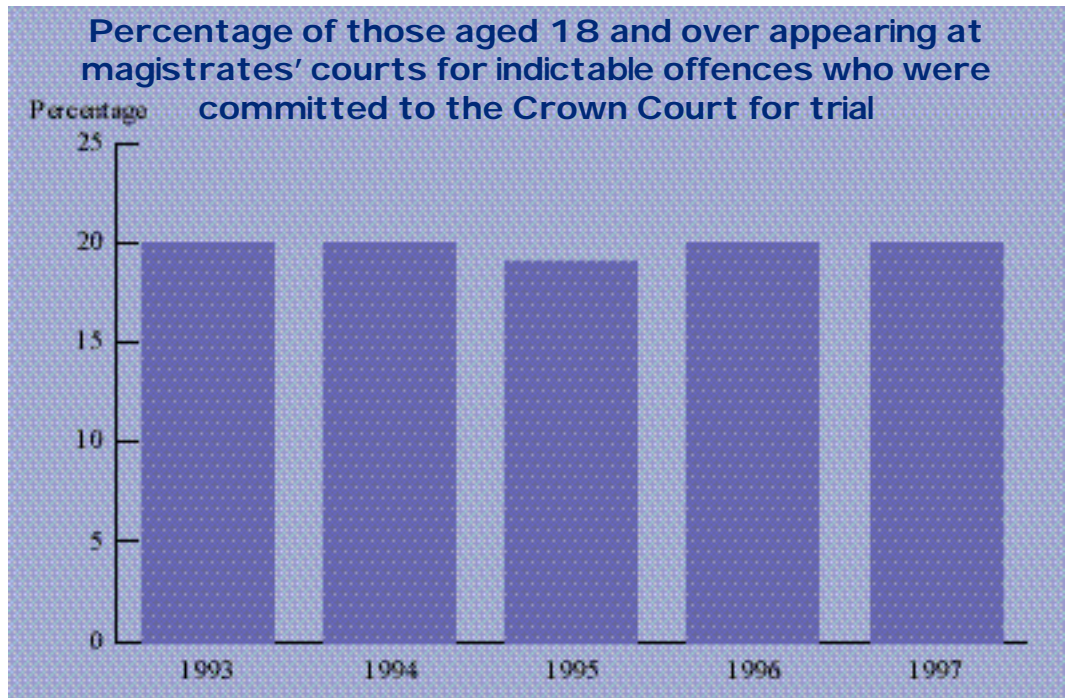


- ⌚ For cases dealt with at magistrates' courts by the Crown Prosecution Service in 1997, 81% pleaded guilty, 7% not guilty and a further 12% of the cases were decided in the absence of the defendant. In 1992 10% pleaded not guilty and 7% were dealt with in their absence.
- ⌚ For those pleading guilty in 1997, the figure of 81% included 5% who entered their plea less than 7 days before the date fixed for the trial, while 7% who pleaded not guilty included 1% who entered a mixed guilty/not guilty plea.

(1) A write off is an administrative procedure to remove dormant cases from current records where the defendant cannot be traced, has died, is found unfit to plea or where proceedings have been adjourned sine die. If a missing defendant is subsequently arrested, the case may proceed.

## Prosecutions: mode of trial

- ④ The proportion of defendants aged 18 or over prosecuted for indictable offences who were committed for trial at the Crown Court was 20% in 1993 and 1997.



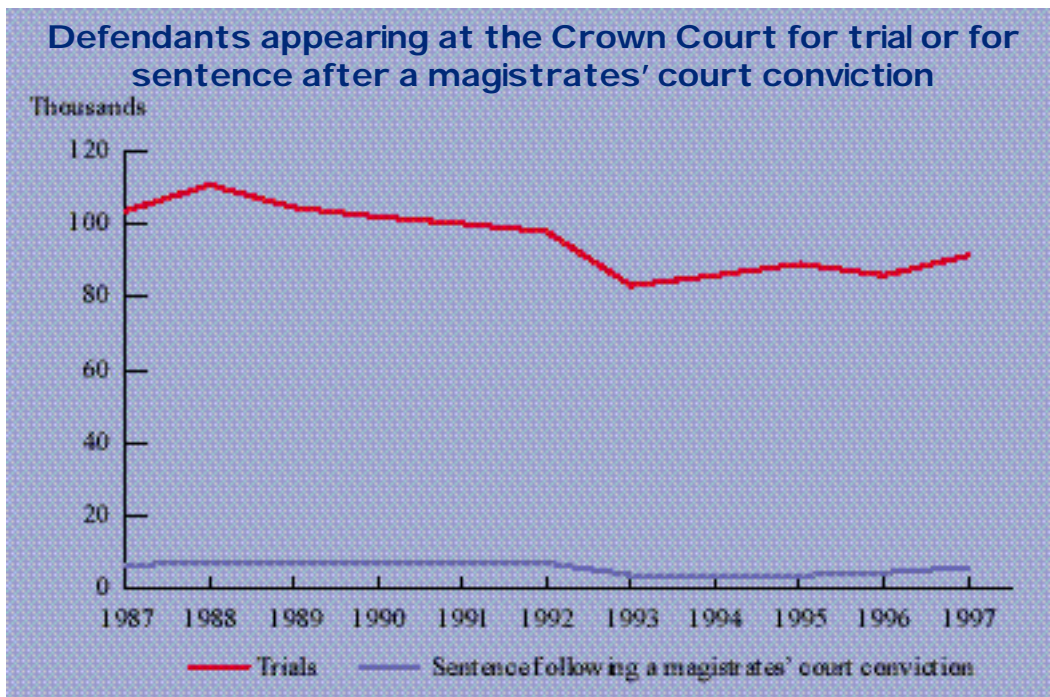
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Pre-court & court action

- ④ For burglary offences the proportion committed for trial rose from 32% in 1993 to 38% in 1997. Standards were introduced in 1994 to advise as to whether assault/wounding offences should be charged as common assault (a summary offence), actual bodily harm or grievous bodily harm (both triable-either-way offences). This contributed in part to a rise in the proportion of offences of violence against the person committed for trial at the Crown Court from 23% to 30% over this period.
- ④ In 1997, 28% of triable-either-way cases committed to the Crown Court resulted from the election of the defendant compared with 37% in 1992. Earlier information collected on a slightly different basis showed a fall from 53% in 1987 to 36% in 1991.
- ④ Where magistrates directed that a case should be tried at the Crown Court, well over half the defendants received sentences that could have been imposed by magistrates.

## Prosecutions: Crown Court

- 91,000 defendants were tried at the Crown Court in 1997, well below the number recorded in 1987 (104,000). It is important to note:
  - the reclassification of some either way offences as summary with effect from October 1988,
  - the Plea Before Venue procedure, implemented on 1 October 1997, which led to more either way proceedings being completed in magistrates' courts.
- The number of offenders appearing at the Crown Court for sentence fell from 7,400 in 1991 to 4,000 in 1995. The introduction of plea before venue has resulted in a large increase in such committals in the last quarter of 1997 with 6,200 recorded for 1997.



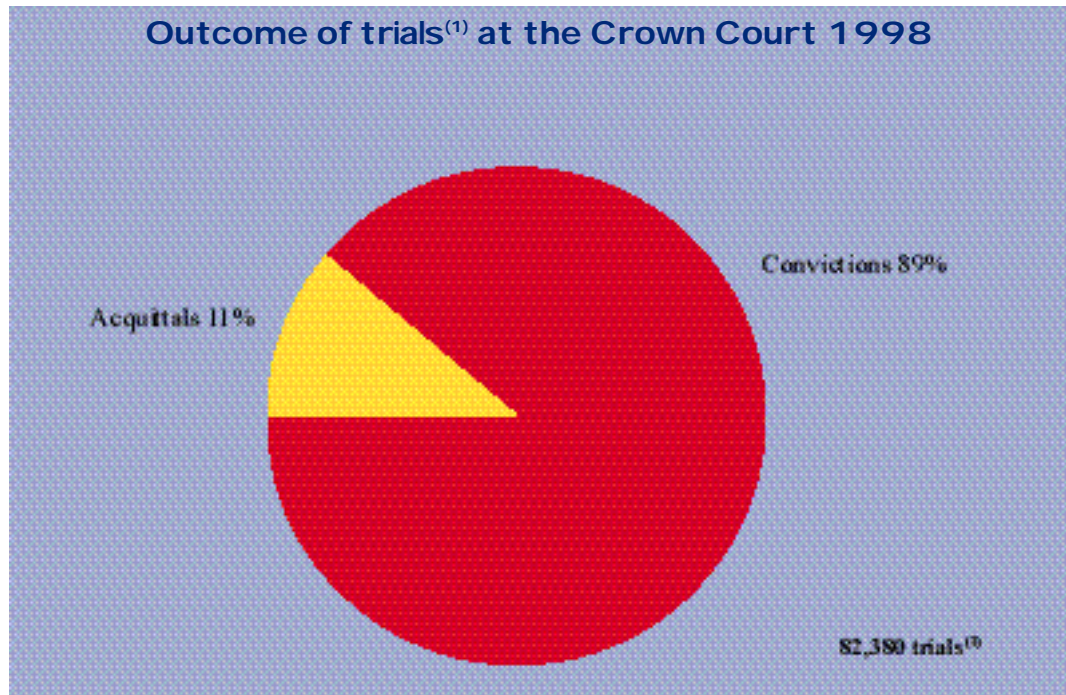
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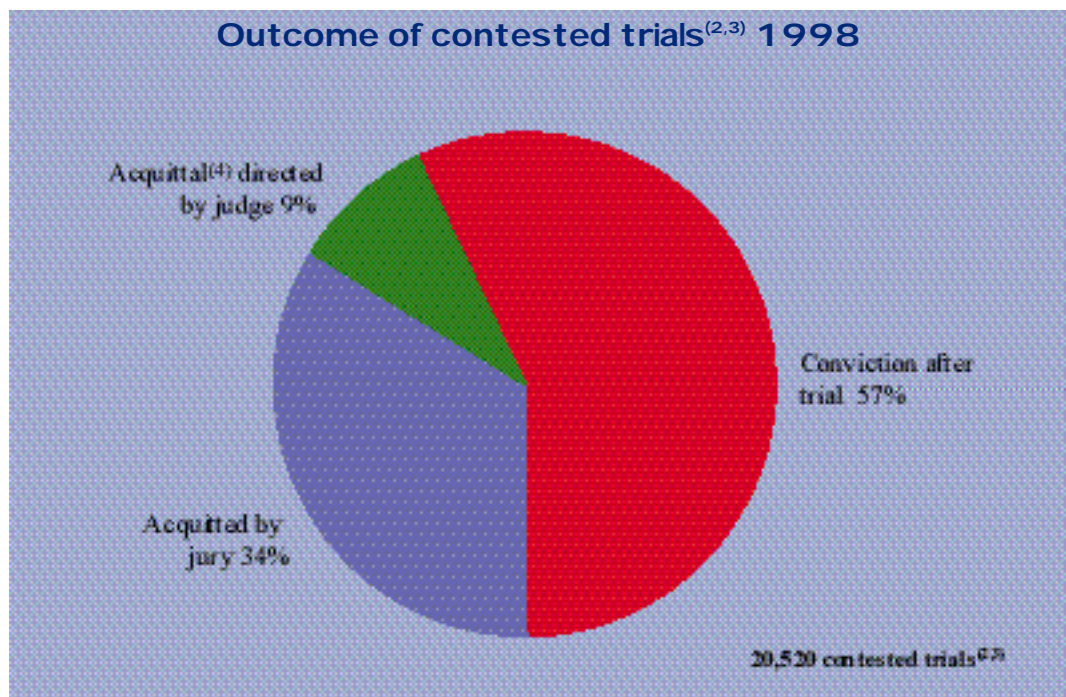
- 27% of those committed for trial were remanded in custody to await trial at the Crown Court, the same proportion as in 1987.
- About 4,000 bench warrants were issued in 1997 for persons failing to appear at the Crown Court, equal to 6% of defendants on bail.

## Prosecutions: Crown Court

- ④ In 1998, the average time between the date of committal to the Crown Court at magistrates' courts and the start of the hearing at the Crown Court was 9.9 weeks for defendants who pleaded not guilty and 18.4 weeks for those who pleaded guilty. The average time for custody cases was 9.4 weeks and 14.4 weeks for bail cases. There were 23,850 trials outstanding in the Crown Court at the end of 1998.
- ④ 76% of cases committed for trial in the Crown Court resulted in convictions in 1998.



- ④ 35% of contested trials resulted in a conviction in 1997.



- (1) All trials including those where a guilty plea was offered but excluding prosecutions dropped, bindovers and cases where the court could not proceed.
- (2) Trials where no guilty plea was offered.
- (3) 'Acquittal after trial' comprise acquittals following contested hearings where no guilty plea was offered.
- (4) At any point during a trial, the judge may direct the jury to enter a verdict of not guilty.

Source: *Judicial Statistics (The Stationery Office) and Crown Prosecution Service.*