

# **JUSTICE POSTPONED**

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**REDUCING THE VAST  
NUMBER OF DROPPED  
TRIALS**



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# INTRODUCTION

2012 saw a total of 106,859 cracked<sup>1</sup> (dropped) and ineffective<sup>2</sup> (delayed) court cases in Crown and Magistrates Courts across England and Wales – costing the taxpayer an estimated £17.4 million in staff, legal adviser and judicial costs<sup>3</sup>.

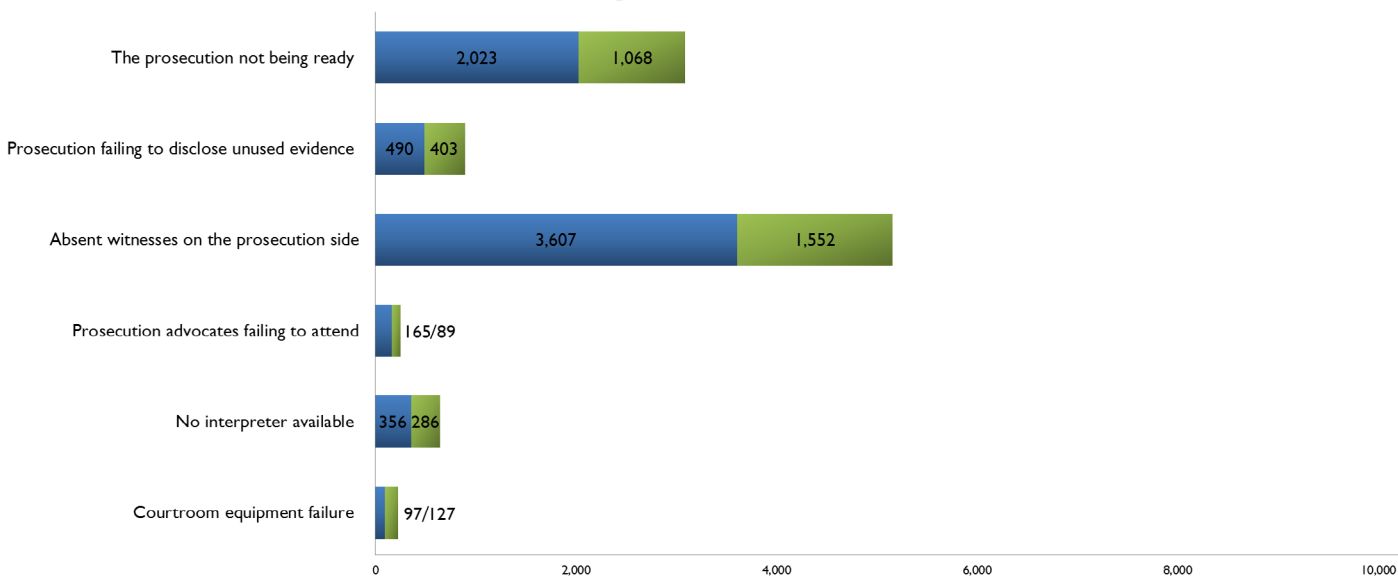
These figures mask the even greater emotional cost to victims and witnesses, who may be so disillusioned with the courts that they may decide not to engage with the criminal justice service or worse, not even bother to report crime.

Justice Minister Damian Green’s recent announcement giving victims of crime the right to challenge police officers who let criminals off with out-of-court penalties is a nice idea, but you simply cannot tinker around the edges of the court system until you have the basics properly in place and working. Indeed, it is shocking that even police officers do not trust the Crown Prosecution Service (CPS) and would rather caution crooks if they can.

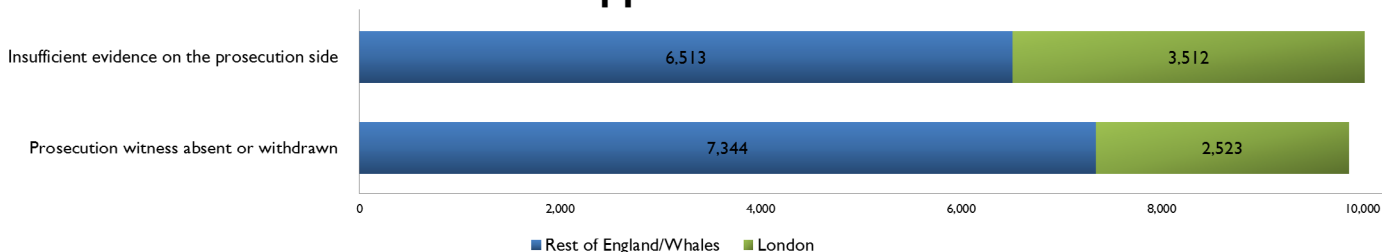
**“If I was burgled, I would be happy with a caution because if it went to court, it would probably get dropped and the criminal would get away with it.”**  
 – Anonymous serving Met police officer

Failings by the prosecution and court system were to blame for 30,155<sup>4</sup> of those cases thrown out and delayed, working out at 600 every week. Reasons included the prosecution not being ready, the absence of prosecution witnesses and advocates, and court administration failings.

## Delayed Cases



## Dropped Cases



## LONDON FOCUS

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23,777 cases in London's Crown and Magistrates courts were dropped or delayed in 2012.<sup>5</sup>

Failings by the prosecution and court system were to blame for four in ten (9,560) thrown out or delayed cases, working out at 184 every week.<sup>6</sup>

London was the worst performing region for delayed cases (16% at Crown Courts and 20% at Magistrates Court level classed as 'ineffective').<sup>5</sup> The North East had the highest number of cases being thrown out (53% at Crown Court level and 44% at Magistrates Courts classed as 'cracked').<sup>5</sup>

## ABSENCE OF PROSECUTION WITNESSES AND ADVOCATES

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The 2011 riots showed us that the CPS can be speedy and well-coordinated when it wants to be. Criminals were swiftly and properly punished. Burglars, looters and thieves were rounded up and convicted within 24 hours. However, the reality is a far cry from the swift justice we saw during the mass disturbances.

In general, the court system is chaotic and even the basics are not in place which often means cases cannot go ahead. Trials fall apart because witnesses are not told when to turn up, the CPS fails to receive police evidence, or barristers fail to call witnesses who are waiting in court into the witness box. Witnesses and victims can often be vulnerable, chaotic and disorganised. Often, they don't want to attend court and just want to get on with their lives. Yet the court system does more to discourage these people from coming forward rather than encouraging them at present.

Speaking on condition of anonymity, a Met police officer told of her frustrations; ***“The police, knowing the culprits are dangerous, are often the ones pushing for the suspect to be charged. But the courts can't assume they can just write to victims and witnesses a few months in advance, tell them a date, and hope they will remember to attend on the day or be able to find the transport”***. We desperately need a better service for *all* witnesses, not just vulnerable ones.

### **CASE STUDY: DOMESTIC VIOLENCE VICTIM ABSENT FROM TRIAL**

An illiterate person from abroad had been a victim of domestic violence and was moved to a safer area outside London. The CPS was informed of their move at an early stage by police. After the point of charge, the CPS is responsible for the case, including funding the victim's attendance if necessary. The police officer repeatedly contacted the CPS to remind them that the victim in this case would need to be brought to the court, and even offered to pick up the victim themselves despite the considerable distance involved. However, no response was received from the CPS. No funding for the victim's travel or accommodation was authorised so Witness Care were unable to make any arrangements. The only notification the victim had about the trial through the official Witness Care channel was a text, which they did not understand as they were illiterate. The victim therefore did not make it to court and the prosecution barrister blamed the charity housing the victim for the lack of attendance. The case was discontinued.

### **CASE STUDY: ATTACK WITNESS FORCED TO SIT IN WINDOWLESS ROOM ALL DAY**

A man, deemed a danger to women, attacked a girl with learning difficulties. The police officer assigned to the case phoned the prosecution witness (X) on the morning of the court trial, only to find out X was on the other side of London from where the trial was being held. The officer had to arrange for a police car to drive X to court as X could not afford the travel fare. The trial ended up being postponed due to overbooked cases and the witness was forced to wait in a windowless room all day before being thanked for attending and asked to return. The police officer had to pay for X's travel out of their own pocket as X had no money to get home and the police had no spare cars to help.

## **CHAOS BETWEEN THE POLICE AND CPS**

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Witness and victim care will only improve with better communication between the police and CPS. At present, the system is chaotic. The police often have to rely on a generic email address to relay urgent information to the CPS. Many of their emails do not get through on time and end up being ignored.

### **CASE STUDY: INNOCENT MAN STUCK IN CUSTODY**

A man in police custody was wrongly accused of committing a violent crime. In desperation, the police wrote to the CPS trying to halt the proceedings once the facts of the case were established. However, the urgent messages were ignored resulting in an innocent man stuck in custody for a lengthy period of time.

## **UNPREPARED PROSECUTION BARRISTERS**

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Prosecution barristers often turn up to court assigned to the case in question on that very morning, and having had literally minutes to prepare. Consequently, they need time out during the trial to read notes and brief themselves while Magistrates are left with no other option but to sit around and wait, only then to find that pieces of evidence are missing and the case needs to be postponed.

## **RECOMMENDATIONS**

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Only by getting the basics right will the CPS reduce the number of dropped and delayed trials.

### **I. Witnesses and victims need to know where and when to turn up**

The CPS should not rely on the police as a taxi service for witnesses as it is not the police's job and is costly. The court system needs to ensure witnesses and victims know exactly the time, day and place to attend. A Witness Care service should provide regular contact and reminders for victims and witnesses

## 2. All witnesses should be offered a pre-visit before the trial

Court can be intimidating and confusing and witnesses would benefit from an advance explanation at all courts, before the hearing, about how the day will work and what is expected from them.

## 3. Police and CPS need direct communication with each other

Police officers should be given names and contact details of the relevant CPS staff, and the CPS need to have protocols in place to respond.

An effective online system which collects all the right data for the case in question is urgently needed. At the moment police cannot send evidence directly to the CPS, but have to use Met civilian 'case builders', meaning much of the evidence never reaches court. This results in officers having to go against protocol by storing the evidence and bringing it to court themselves.

There should be a telephone call between the CPS, the prosecution barrister and the police to confirm that the trial is ready to go ahead.

## 4. Prosecution barristers need sufficient time to prepare for cases

CPS barristers should be able to see case papers beforehand, not at 9am for a 10am start. Because barristers have no idea about the case or who the witnesses are, police often feel obliged to attend, at great cost to the public purse, to make sure the case goes ahead smoothly.

***“Court is by far the worst part of my job. Witnesses and victims are treated so badly, it is incredibly stressful, and we hardly ever win. Almost every stage of the process is inefficient and painful.”***

– Anonymous serving Met police officer

## Notes

- All case studies and quotes contained within this report are real and have been provided by a serving police officer speaking on the condition of anonymity
- Tony Arbour is Conservative London Assembly Member for Richmond, Kingston and Hounslow and sits on the Police and Crime Committee

## References

1. Cracked Trial - On the trial date, the defendant offers acceptable pleas or the prosecution offers no evidence. The case is closed and not relisted but as a consequence the time allocated has been wasted, and witnesses have been unnecessarily inconvenienced thus impacting confidence in the system. [http://www.judiciary.gov.uk/Resources/JCO/Documents/Protocols/cit\\_guidance\\_v3\\_1007.pdf](http://www.judiciary.gov.uk/Resources/JCO/Documents/Protocols/cit_guidance_v3_1007.pdf)
2. Ineffective Trial - On the trial date, the trial does not go ahead due to action or inaction by one or more of the prosecution, the defence or the court. The case does not begin on time and is rescheduled for a later date. [http://www.judiciary.gov.uk/Resources/JCO/Documents/Protocols/cit\\_guidance\\_v3\\_1007.pdf](http://www.judiciary.gov.uk/Resources/JCO/Documents/Protocols/cit_guidance_v3_1007.pdf)
3. Figures obtained for 2012 via the Magistrates' Association
4. [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/198247/csq-q4-2012-tables.xls](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/198247/csq-q4-2012-tables.xls) (Tables 3.4 and 3.6)
5. 2012 figures obtained from the MOJ: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/207806/court-stats-q1-main-tables.xls](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207806/court-stats-q1-main-tables.xls) (Table 3.17 + 3.18)
6. 2012 figures obtained from the MOJ: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/207927/Criminal.zip](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207927/Criminal.zip) (Criminal\_courts\_csq\_2013\_q1.csv)



## FEEDBACK

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