



CROWN PROSECUTION SERVICE



CODE FOR CROWN PROSECUTORS

CROWN PROSECUTION SERVICE



- The Crown Prosecution Service is a Government Department.
- Created under the Prosecution of Offences Act 1985
- The CPS has 13 Areas across England and Wales, each headed by a Chief Crown Prosecutor (CCP).
- CPS West Midlands consists of West Midlands, Staffordshire, Warwickshire and West Mercia police force areas
- The CPS is the largest “law firm” in the UK, dealing exclusively with criminal cases. We employ over 5,000 members of staff

CPS: MAIN FUNCTIONS



- Advise the police on cases for possible prosecution (although independent from the police)
- Decide whether to charge the defendant in the more serious and complex cases
- Prepare cases for court
- Advocacy at court
- Service to victims and witnesses

CODE FOR CROWN PROSECUTORS



- The two stages in the Code for Crown Prosecutors (issued under section 10 Prosecution of Offences Act 1985) are used to decide whether a person is prosecuted
- Evidential stage: realistic prospect of conviction- is it more likely than not that the court will convict.
- Public interest stage- is a prosecution required in the public interest?
- Threshold test: custody cases can be charged before all evidence is available

EVIDENTIAL STAGE



- Realistic prospect of conviction is based on the prosecutor's objective assessment of the evidence and any information about the defence case
- Is the court more likely than not to convict the defendant of the charge alleged
- Even serious cases cannot go ahead if they do not meet the evidential stage
- In applying the test, prosecutors must bear in mind that a court may only convict if it is sure that the defendant is guilty (beyond reasonable doubt)

PUBLIC INTEREST STAGE (1)



- In every case where there is sufficient evidence to justify a prosecution, prosecutors must go on to consider whether a prosecution is required in the public interest
- It has never been the rule that a prosecution will automatically take place once the evidential stage is met.

PUBLIC INTEREST STAGE (2)



- A prosecution will usually take place unless the prosecutor is satisfied that there are public interest factors tending against prosecution which outweigh those in favour (unless an out of court disposal is appropriate)
- Prosecutors to consider the questions at paragraph 4.12 Code to identify factors tending in favour and against prosecution. Prosecutors will also consider any relevant CPS Policy sitting outside the Code
- Not a case of weighing up factors on each side and seeing which side has the greater number

EXAMPLE FACTORS TENDING IN FAVOUR OF PROSECUTION



- Seriousness of the offence (4.12(a))
- Offence is pre-meditated (4.12(b))
- Defendant has previous convictions (4.12(b))
- Offence was committed against a person serving the public (e.g. a health professional) (4.12(c))
- Motivated by any form of discrimination (4.12(c))
- Impact on victim (4.12(c))
- Impact on community (4.12(e))

EXAMPLE FACTORS TENDING AGAINST PROSECUTION (1)



- The suspect is, or was at the time of the offence, suffering from significant mental or physical ill health (4.12(b)). However, prosecutors will also need to consider how serious the offence was, whether it is likely to be repeated and the need to safeguard the public or those providing care for such persons.
- A prosecution is likely to have an adverse effect on the victim's physical or mental health (4.12(c))

EXAMPLE FACTORS TENDING AGAINST PROSECUTION (2)



- The younger the suspect, the less likely it is that a prosecution will be required (4.12(d)). The criminal justice system treats children and young people differently from adults and significant weight must be attached to the age of the suspect if they are a child or young person under 18.
- A prosecution would be disproportionate to likely outcome (4.12(f))(e.g. prosecuting a prisoner serving life for murder for possessing cannabis in prison)



POLICY SUPPLEMENTING CODE

How did CPS deal with these cases?



- Additional prosecutors to cover night and weekend courts
- Additional Pre-Charge Decision lawyers
- Appointment of a Manger to coordinate work with other Criminal Justice agencies
- Movement of staff to deal specifically with disturbance cases
- Paper work sent to other areas for preparation
- Liaison with WMP Operational senior management to feed work into the system once the early rush was over.
- Providing general guidance to WMP on recognition from CCTV evidential issues.

TOO LENIENT OR TOO HARSH?



- On 18 October 2011 guideline judgement of the Court of Appeal in R v Blackshaw and others [2011]
- Prosecutors reminded sentencing judges of the guidelines when passing sentence to gain a consistent approach.
- Principles emerging from the guidelines:
 - imposition of severe sentences, was intended to provide both punishment and deterrence and public protection.
 - the context hugely aggravated the seriousness of each individual offence and therefore could not be treated in isolation.
 - an aggravating feature was by committing any offence during this period was seen as expressly or implicitly encouraging others to participate.
 - Hence it was inevitable for sentences to be beyond the range in the conventional guidelines

EVIDENTIAL PROBLEMS



- Predominately the evidence was off CCTV images.
- A pragmatic approach was agreed between the police and CPS with assessing the investigation of poor quality images from CCTV.
- Focus was therefore on cases with good quality imagery, so they could be shown at interview stage, in court hence leading to more efficient and successful prosecutions.

LESSONS LEARNT



- Early contact necessary between all Criminal Justice agencies



ANY QUESTIONS