

Review of the period October 2004 to September 2005

Introduction

I am delighted to be introducing this, the ninth formal review of the work of the Court of Appeal (Criminal Division), but my first as Lord Chief Justice. The results this year show that the Court has built on the achievements of last year and I particularly welcome the progress made in respect of the disposal of old cases and the reduction in the backlog of work.

The Court has had to contend with a raft of new legislation this year, often with little warning. The Criminal Justice Act 2003 has had a significant impact on the Court's work, for example as new provisions concerning the introduction of 'bad character' and hearsay evidence have come into effect. In respect of offences committed after 4th April 2005 a whole new sentencing regime has been introduced and appeals against such sentences are now a feature of the Court's work.

As usual we have attached annexes showing the performance of the Court against the level and type of work received. This year, in addition, we have introduced more practical information about the work of the Court to try and give a real flavour of what CACD does.

I would like to pay tribute to my predecessor Lord Woolf, who has made a remarkable impact on the criminal justice system, as on so many areas of the law. His imagination in promoting and skill in chairing the Criminal Procedure Rule Committee and the Sentencing Guidelines Council will result in more efficient and effective trials and assistance for judges in the difficult role of sentencing.

It is with sadness that I report that this will be the final CACD review to which the Vice President, Lord Justice Rose will contribute. His immense contribution to the development of the criminal law and the work of the CACD throughout his period as Vice President, and indeed before, has been of the greatest value to our criminal justice system. His enormous expertise will be sorely missed.

Tragically the Queen's Bench Division lost another criminal expert, Mr Justice Wakerley, who died suddenly after only a short time on the High Court Bench. He was valued both as a Member of the Criminal Procedure Rule Committee and as an outstanding judge.

Looking to the future, I am very pleased that Lord Justice Moses, Lord Justice Richards and Lady Justice Hallett have recently joined our Court. There is much work to do and we are fortunate to have a strong team to do it.

My final word goes to Master Venne and his indefatigable team of lawyers and support staff. Without them the immense improvements we have seen in the processing of cases would not have been possible. The CACD owes them a debt of gratitude.

Lord Phillips
Lord Chief Justice of England and Wales

I Summary for the period October 2004 to September 2005

- I.1 For the first time in three years there has been a slight increase in the number of conviction applications received, although it is too early to say whether this is a reversal of the downwards trend which has been apparent in recent years. The number of sentence applications decreased this year, which led to a 3% reduction in the overall number of applications received during the period.
- I.2 The number of cases received is just one of the factors which affects the performance of the Court. The complexity and type of case, actions taken by the parties to progress the case and the rate of renewal of those applications which have been refused are other factors which affect performance, as are the judicial and other resources available to us.
- I.3 There continues to be evidence of cases becoming more complex.
- There were 258 directions hearings this year, compared to 186 last year
 - More cases take up at least 3 days of court time
 - Receipts of complex bills of costs (claims over £4,000) continue to increase (by 7.5% for the period compared to 2003/04)
 - The average length of a summing-up has continued to increase (228 folios as compared to 205 for 2003/04).
- I.4 References from the Criminal Cases Review Commission have again increased, by almost 50% this year (50 received in 2004/05, 34 for 2003/04, 26 for 2002/03). Although the number of applications is still relatively small, these tend to be amongst the most complex and weighty cases coming before the Court and can involve a great deal of preparatory work.
- I.5 The number of references from the Attorney-General under section 36 of the Criminal Justice Act 1988 (unduly lenient sentences) decreased slightly this year (139 applications received, as against 157 in 2003/04 and 107 in 2002/03). There was another significant increase in interlocutory appeals under section 9 of the Criminal Justice Act 1987 and section 35 of the Criminal Procedure and Investigations Act 1996 (from 14 in 2002/03, to 29 in 2003/04 and 39 this period). Interlocutory appeals are particularly demanding on resources and are invariably heard within a matter of weeks or even days of receipt in the Office, as the Crown Court proceedings are delayed pending the outcome of the case here.
- I.6 The figures appear to reflect a wider trend, notably the increasing number of applications which are made under some other jurisdiction than the Criminal Appeal Act 1968. During the period of this review, in addition to those set out above, 28 applications were brought under other jurisdictions, including the Proceeds of Crime Act 2002. They also included the first application for leave to appeal under the provisions of paragraph 14 of Schedule 22 to the Criminal Justice Act 2003 (appeal against minimum term for mandatory life sentence set by a High Court Judge in accordance with Schedule 22), many more of which are anticipated.

- 1.7 **Annex A** shows the pattern of receipts and cases outstanding over the past five years. The slight rise in the number of conviction receipts was offset by the decrease in the number of sentence applications received, leading to a decrease in receipts overall, in keeping with the recent overall trend. The number of cases outstanding has fallen this year, which is particularly pleasing in view of the increases seen over recent years and is a reflection of the hard work put in by judges and staff. An increase in the number of summaries written for the Court, and greater use of judges during the long vacation have contributed to this reduction.
- 1.8 Average waiting times, while still too long, have again fallen in respect of conviction cases disposed of by the full Court, this year from 14.7 to 14.1 months. This is very encouraging, particularly in view of the huge fall in the number of old cases (i.e. those outstanding for more than eight months), as very old cases can have a disproportionate effect on the average waiting time when their disposal is finally recorded. For example, a particularly complex case which has taken three years to proceed to a final determination by the Court, will tend to increase the average waiting time for that month as against those cases which have been dealt with within the target of eight months. The long term benefits of the concerted effort to progress old cases is beginning to be seen in this year's figures and the average waiting time will gradually decrease as there are fewer old cases in the system. **Annex B** shows the average waiting times for conviction and sentence cases disposed of by the full Court.
- 1.9 The increase in waiting times for sentence cases is disappointing but the average is still well below that of two years ago. The dramatic fall in old cases (outstanding for more than five months) from the high point at the beginning of 2005 (**Annex H**) will have a knock-on effect on the average waiting time figures, as explained above. The operation of the sentence casework group has been subject to review and it is anticipated that improvements will be seen once the new procedures settle in.
- 1.10 About 40% of all applications lodged with the Court are finally determined before ever reaching the full Court. This may be because the single Judge has refused leave to appeal and the application is not renewed, or because the applicant chooses to abandon the application. Since December 2004, the Office targets have included all cases, not just those which reach the full Court, thereby providing a fuller picture of the work done by the Court. The target is for 70% of applications to be dealt with (from receipt to final disposal) within the target period. Applications for leave to appeal against conviction are now designated 'red', 'amber' or 'green' according to complexity and a separate target is set for each. For September 2005, 70% of conviction and 73% of sentence cases met the performance target, as compared to 42% and 71% respectively in May 2005. When figures have been collated for a whole year a fuller picture will emerge, but early signs are positive.
- 1.11 **Annex C** shows the number of applications for leave to appeal which were determined by a single Judge. The numbers increased by 305 (for conviction) and 561 (sentence) respectively compared with last year, which is at least in part due to the arrangements made to increase the number of Judges available to deal with applications over the vacation period. It should also be viewed in light of the increased number of cases which were not considered by a single Judge (either because, rarely, leave was not required because of the nature of the case, or because the case was referred directly to the full Court by the Registrar; 384 in 2003/04 to 489 in 2004/05). We welcome this constructive use of the Registrar's powers.

- I.12 The number of conviction and sentence appeals heard by the full Court is shown in **Annex D**. The number of appeals heard in any given period represents approximately a third of the Court's total workload. In this period the number of appeals heard fell slightly but the total number of conviction and sentence applications/appeals heard increased (from 4,210 in 2003/04 to 4,288 in 2004/05). The Court also now spends an increasing amount of time hearing applications which are ancillary to the case (for example directions hearings) and applications other than those for leave to appeal against conviction and sentence.
- I.13 **Annex E** shows the proportion of all work which was heard by the full Court during the period. As in previous years we note the consistency of the Court's decision making in terms of the rates at which leave to appeal is granted and the final results. This is further demonstrated in **Annex F** which shows the number of successful appeals against conviction and sentence as against the total number of such applications received.
- I.14 The number of renewed applications has fallen this period in respect of both conviction and sentence, but in both cases the number of applications either granted leave or which were referred to the full Court has increased. In total the proportion of conviction and sentence applications which require preparation for a hearing by the full Court, has increased on the previous year. The figures can be seen in **Annex G**.
- I.15 **Annex H** shows the numbers of cases outstanding for more than eight or five months (conviction and sentence respectively). In both cases there has been a significant fall and in the case of conviction represents a huge 40% drop. This has been the result of a concerted effort to reduce numbers and when seen against the falls in the previous year is extremely encouraging as a trend, particularly when combined with the pleasing results on average waiting times.
- I.16 The number of outstanding summaries in conviction cases has fallen from 229 in 2003/04 to 157 in 2004/05. For sentence cases the numbers have remained fairly constant at 29 and 34 respectively. Particularly with conviction cases, the backlog of cases awaiting a summary can have a significant effect on average waiting times and much of the work of the lawyers in the Office is devoted to summary writing. The reduction is very good news and a reflection of the fact that staffing levels have improved and that many lawyers recruited in recent years are now fully trained.

2 The work done by the Court of Appeal Criminal Division

- 2.1 As can be seen from the summary above, most of the Court's work involves the determination of applications and appeals against conviction and sentence from the Crown Court. CACD will be the court of final appeal for the vast majority of defendants convicted in the Crown Court and has a vital role both protecting the rights of individual defendants and providing guidance to the lower courts on the interpretation of the law. The appellate process, through the provision of high quality review of convictions and other decisions in the Crown Court thus helps to maintain and promote public confidence in the criminal justice system.
- 2.2 The Court usually sits with a Lord Justice presiding and two Justices of the High Court. Sometimes only two judges sit, although the type of case a two judge court may hear is restricted, both by statute and by practice. Designated Circuit Judges also regularly sit as a member of the Court and make a significant contribution to its work.
- 2.3 The number of cases heard by a Court in a typical day will vary considerably, depending on the nature of the cases listed, but a constitution may hear one to two straightforward appeals against conviction together with four to six sentence appeals in one day. If the Court is only hearing sentence appeals, as many as sixteen may be listed in one day. The longest case during the period of this review, involving four separate appellants, took up 12 days of the Court's time (*Faulder and others*, see 3.10 below).
- 2.4 If it considers that an appeal raises a point of law of general public importance, the Court may certify a question for consideration by the House of Lords. It is only if the Court certifies a question that an appeal lies to the House of Lords. Each year about thirty points are certified in conviction or sentence appeals. In just a handful of those cases leave to appeal is granted, either by this Court or the House of Lords and leads to a full hearing in the House of Lords.
- 2.5 The following table shows the number of court sitting days, reflecting the different types of constitution:

Year	Lord Justice		High Court Judge		Circuit Judge	
	CT	RD	CT	RD	CT	RD
2001-2002	676	266	1098	402	270	89
2002-2003	768	280	1295	496	229	88
2003-2004	798	339	1300	540	256	93
2004-2005	765	301	1317	496	194	94

(CT = Court sittings, RD = reading days, including judgment writing)

The number of sitting days for Lord Justices has decreased slightly, reflecting their more onerous extra-judicial duties, as certain responsibilities previously undertaken by the Lord Chancellor are increasingly conducted by the judiciary. Sitting days for High Court judges rise to 1455 if those retired judges who return to assist the Court are included, compared to 1407 for 2003/04. The increase also reflects the greater use of two judge courts (invariably composed of two High Court judges).

2.6 This year more Courts sat during the long summer vacation and more judges were able to assist with work, including applications for leave to appeal, during the vacation, thus helping to further reduce backlogs. Regular determination of paper applications for leave to appeal is carried out in addition to the judges' sitting times and reading days.

Progress of a case

To give some idea of how an application progresses from initial receipt in the Office to hearing by the Court, imagine Mr 'X' is convicted of robbery in the Crown Court and sentenced to 8 years' imprisonment on the same day.

Counsel advises Mr X that he has good grounds to appeal against the conviction, but she considers that the sentence is not open to challenge on the facts as proved. There is only one ground of appeal, namely that conviction is 'unsafe'. In this case counsel advises that the conviction is unsafe because the judge wrongly directed the jury as to the legal elements of the offence.

The application for leave to appeal is lodged at the Crown Court within 28 days of conviction. The Crown Court sends a copy of the application to the Criminal Appeal Office where it is given a unique reference number and allocated to a casework group. A file is opened and the relevant details are logged onto the computer system. Some of the case documents are now scanned onto the system to make it easier to verify details without necessarily seeing the file. The case officer checks that the application has been lodged within the time limits and contains effective grounds of appeal, then orders transcript of the relevant parts of the proceedings and decides which other documents are necessary for the determination of the application.

Transcript is sent out to counsel, who 'perfects' the grounds. In this case counsel can identify the part of the summing-up in which the judge gave his direction to the jury on the elements of the offence.

The application is sent to a single Judge to consider on the papers. In this case the single judge considers that the grounds of appeal are arguable and grants leave to appeal and a representation order for counsel to prepare the appeal. Papers are sent out to the appellant's counsel and to the prosecution and skeleton arguments are lodged. The case is then allocated to a lawyer in the Office for the case summary to be prepared. When that has been completed, the case is sent to the list office to fix a date for the hearing of the appeal.

This is the most straightforward case imaginable. It is usual for cases to be more complicated than this however. Some examples of things which may make a case more complex, or cause delay include:

- Mr X is convicted with three other defendants. Two months after his application is received, one of the other defendants (Mr Y) lodges an application for leave to appeal against conviction, on the basis that he has obtained fresh evidence from a witness who could not be found at the time of trial, but who has come forward having read about the case in the newspaper. The applications are linked, as it is a more effective use of the Court's time to hear cases arising from the same proceedings together. Otherwise the Court would be duplicating much of the reading involved. Inevitably however, this causes some delay to Mr X's case. Mr Y's solicitors then ask for more time to prepare, as the new witness seems reluctant to sign his statement.

- Mr X's counsel advised against an appeal, but Mr X drafts grounds himself, in which he complains that counsel failed to make various applications during the trial, with the effect that unfair evidence was before the jury which should have been excluded. In these circumstances, Mr 'X' is invited to waive privilege, so that counsel can comment on matters which would otherwise be confidential. Counsel is provided with a copy of the waiver of privilege and the applicant's grounds of appeal and explains why she did not make the applications to which Mr X refers. Her comments are copied to Mr X, who has the opportunity to make further representations before the application is sent to a single Judge.
- In his grounds of appeal Mr X provides information which suggests that one of the jurors knew about another trial he was due to face at a later date. The judge had agreed at a pre-trial hearing that the jury should know nothing about the other proceedings. The full Court considers the application and uses its powers under section 15 Criminal Appeal Act 1995 to direct the Criminal Cases Review Commission to investigate the allegation of jury impropriety.
- Mr X wants to rely on expert evidence from a witness who has cast doubt on the DNA evidence which helped to convict him. The witness is one of a handful of such experts in the world, doing new work on DNA analysis. At the time of Mr X's trial this work was not widely known. The expert is in great demand and it is difficult to find a time when he can come and give evidence.

In addition to complications such as these, counsel and applicants can cause delay by failing to respond to queries from the Office or by failing to lodge the necessary documents. Delay in lodging of skeleton arguments is still a common problem, despite the time limits set out in the Consolidated Criminal Practice Direction.

3. Cases heard this year

- 3.1 One of the major challenges faced by the Court has been the need to interpret and apply those parts of the Criminal Justice Act, 2003, which were brought into effect during the year.
- 3.2 On 15th December 2004, with a complete lack of adequate warning, the new “bad character” provisions of the Act were brought into force. The significant question immediately arose as to whether they applied to pending proceedings or only those commenced after that date. In **Bradley**, ([2005] EWCA Crim 20) heard on the 14th January 2005, the Court determined that the provisions applied to all trials commencing after that date regardless of when the proceedings came into being. The House of Lords subsequently refused leave to appeal against this decision.
- 3.3 In **Hanson and others** ([2005] EWCA Crim 824) heard on 28th March 2005, the first set of grouped applications, the Court gave guidance in relation to the relevance of previous convictions to the issue of propensity. It was necessary to establish whether the defendant’s history established a propensity to commit offences similar to those charged. If so, it was necessary to consider whether that propensity made commission of the offence charged more likely. In every case it was necessary to consider whether reliance on previous convictions was unjust.
- 3.4 In **Bovell and Dowds** ([2005] EWCA Crim 1091) heard on 25th April 2005, the Court stressed the need for all parties to have appropriate information concerning the background of the defendant (and, in some cases, others) in good time. Advance consideration of exactly what material would be required was necessary. In **Edwards, Fysh, Duggan and Chohan** ([2005] EWCA Crim 1813) heard on 29th June 2005, guidance was given as to how a Judge’s summing-up should deal with previous convictions. A clear warning had to be given that undue reliance should not be placed upon them. An explanation of why they were in evidence and their relevance to the issues being considered by the jury was essential.
- 3.5 Further consideration of the use to which evidence of bad character might be put, once admitted, was given in **Carp, Highton and Van Nguyen** ([2005] EWCA Crim 1985) heard on 28th July 2005. It was determined that the “gateway” through which it was admitted did not limit its use. It remained to be taken into account for any purpose for which it was relevant.
- 3.6 Other significant issues dealt with during the year included a major revision of the prohibition on what is commonly termed “plea-bargaining” which had been in place for more than a generation. In **Goodyear** ([2005] EWCA Crim 888) heard on 20th April 2005, a full Court consisting of five Judges presided over by the (then) Lord Chief Justice gave new guidance as to the circumstances in which, and how an advance indication of sentence might be sought from a trial Judge. Fundamental to the new guidance is reaffirmation of the principle that a defendant’s plea must be his or her own, entered voluntarily and without pressure, and that there must be no bargaining with or by the Judge. Any request for an indication must be initiated by the defendant and will be confined to the sentence which would be imposed on a plea of guilty at the stage in the proceedings at which the indication was sought. The Court set out in clear terms the duties of the Judge, the Defence and the Prosecution where an indication is sought.

- 3.7 In **Beckles** ([2004] EWCA Crim 2766) heard in November 2004, the Court considered the proper interpretation of section 34 of the Criminal Justice and Public Order Act 1994, which (with section 35) has been the subject of so many appeals over the years. The case was referred back to the Court by the Criminal Cases Review Commission and followed a judgment in the European Court of Human Rights which held that the trial judge's directions on the inference which could be drawn from the appellant's silence in interview had breached his Article 6(1) rights. The Court held that where a defendant genuinely relies on his solicitor's advice to remain silent in interview, it is still for a jury to assess whether that was reasonable. The Court agreed that the judge's direction was inadequate however and that the conviction was unsafe.
- 3.8 In February 2005, the Court considered the first conviction application concerning an offence of sexual assault under section 3 of the Sexual Offences Act 2003, in the case of **Karl H** ([2005] EWCA Crim 732). The Court held that the definition of 'touching' in section 79 of the Act included touching clothing, whether or not any contact with the complainant's body was in fact made, and clarified the meaning of 'touching' and 'sexual' for the purposes of the Act.
- 3.9 **Dica** ([2005] EWCA Crim 2304) heard on 27th July 2005, was an unusual case. In 2003, the appellant had been convicted of Inflicting grievous bodily harm in circumstances where, knowing he was suffering from a serious sexual disease, he had recklessly transmitted it to consensual sexual partners. His conviction had been quashed although, in doing so, the Court had overturned a decision of the Court of Crown Cases Reserved in 1888 in the case of **Clarence** ((1889) 22 QB 23). The appellant had again been convicted at a retrial ordered by the Court of Appeal, the trial Judge having directed the jury in accordance with the decision of the Court of Appeal. Being bound by its own decision on his earlier appeal, the Court dismissed the appeal against conviction but certified a point of law of general public importance so the issue may be considered by the House of Lords.
- 3.10 Following the decision of the Court in **Cannings** ([2004] 2 Cr. App. R. 7), the Law Officers set up an Inter-Departmental Group to review cases involving Non-Accidental Head Injuries (NAHI) in young children. In June 2005, the Court undertook a detailed review of four such cases (**Harris, Rock, Cherry** and **Faulder**; [2005] EWCA Crim 1980) in which it heard live evidence from twenty-one medical experts, handing down a reserved Judgment on 21st July 2005. The accepted medical hypothesis (that a triad of intracranial injuries was the hallmark of NAHI) was subjected to extensive examination in the light of potentially conflicting medical opinion (the "unified hypothesis"). In allowing three appeals and dismissing another, the Court concluded that cases of alleged NAHI were fact-specific and reiterated the existing guidance as to expert evidence.
- 3.11 In **Abdroikof, Green** and **Williamson** ([2005] EWCA Crim 1986), heard on 30th June 2005, the Court rejected the proposition that the fairness of the trial procedure would necessarily be compromised where police officers or employees of the Crown Prosecution Service served on a jury. A democratically elected Parliament had extended the jury franchise to include such persons. They (and others employed in the administration of justice) were properly eligible to serve on a jury. Whether an eligible person should serve on any particular jury was a matter for consideration on a case-by-case basis. The Court certified points arising as being of general public importance.

4. Legislative developments

- 4.1 The Criminal Justice Act 2003 (CJA) in particular continues to be the source of much case law and has had a significant impact on the work of the Court. The implementation of some of the provisions in the CJA has not been without controversy and attracted some adverse comment from the Court, notably in the case of *R v Bradley* ([2005] EWCA Crim 20), in which the Court criticised the ‘obfuscatory language’ of certain sections of the Act and lack of notice of commencement.
- 4.2 Part II of the CJA, dealing with evidence of bad character, has provided much work for the Court in recent months, involving the abolition of the previous common law rules and the introduction of a whole new statutory scheme to determine the admissibility of such evidence. Many new applications for leave to appeal conviction have raised issues under the new legislation and since the case of *Bradley* (above) which clarified the commencement provisions, the Court has heard a number of ‘batches’ of cases. Many of the applications have been referred directly to the full Court by the Registrar and listed together to facilitate the provision of much needed urgent guidance to the lower courts. Five such hearings have been listed to date (*R v Hanson and others* [2005] EWCA Crim 824, *R v Bovell and Dowds* [2005] EWCA Crim 1091, *R v Edwards and others* [2005] EWCA Crim 1813, *R v Highton and others* [2005] EWCA Crim 1985 and *R v Weir and others* (*judgment reserved*)), enabling the Court to consider a variety of issues raised by the provisions and ensuring that comprehensive guidance is easily accessible for judges and practitioners.
- 4.3 The provisions of Part 12 of the CJA also amount to a significant amendment to the existing law, in this case concerning hearsay evidence, but have not as yet generated quite as much work for the Court as Part II, although there are signs that this will change. More cases are expected to be listed early in the new term. Provisions in Parts 9 and 10 of the Act, giving the prosecution rights to appeal against certain rulings and the right to apply to re-try defendants acquitted of certain serious offences have not to date been the subject of applications before the Court, although the Office has had several enquiries about potential applications and is confident that it is sufficiently prepared to respond expeditiously when such applications are lodged.
- 4.4 Further measures in the CJA which will impact on the Court are not yet in force, such as the provision for appeal against a ruling by a trial judge that a trial should continue in the absence of the jury, or the trial should terminate and a new trial take place without a jury, where it appears that jury tampering has taken place.
- 4.5 A raft of new measures in the CJA was introduced in April 2005, including a wholesale revision of sentencing law. New indeterminate sentences of imprisonment/detention for public protection have been introduced to deal with offenders who pose a serious risk. A new generic community sentence which replaces all previous Community Rehabilitation Orders or Community Punishment Orders and new early release provisions are also expected to require comprehensive guidance from CACD.

- 4.6 The 2005 Criminal Procedure Rules came into force on 4th April 2005 and consolidated all existing rules, bringing together in one place rules which previously were to be found in almost 50 separate statutory instruments. The substance of the Criminal Appeal Rules 1968 is reflected in the new rules, which re-order and re-number the rules governing procedure in this Court. Together with the Criminal Case Management Framework as a whole, the rules indicate a broader cultural shift in the management of criminal cases, providing for more active case management by the courts, the impact of which may be expected to become apparent in the work of the CACD in time.
- 4.7 Many sentence judgments of the Court during this period have concerned the Sexual Offences Act 2003 and the Court has given guidance as to sentencing the new or newly defined offences in the Act.

5. Office organisation

- 5.1 The CACD is supported by the Registrar and staff of the CAO, both legal and administrative. The Office is organised into three casework groups ('B', 'C' and 'D') which deal with conviction applications and 'A' group which deals solely with sentence applications. Staff process applications, prepare summaries for the Court, arrange the listing of cases and deal with queries from appellants and their representatives through telephone calls and correspondence. Although CAO lawyers do not give legal advice to appellants, they provide advice and assistance on matters of practice, procedure and relevant authorities to the judiciary, legal representatives and appellants. There are also specialist staff including court clerks and those who determine case costs.
- 5.2 The period covered by this report has been a more stable period for the Office than the previous one. The changes introduced in the restructure in summer 2003 have been under review, to enable the Office to see what has worked well, and to identify areas where improvements can be made. For example, the sentence casework group, one of the major innovations implemented by the restructure, has been subject to a thorough review and some changes to practice have been introduced. The group deals with the largest volume of casework in the Office and has a very high turnover of cases. It has been particularly successful dealing with this large volume. It was however considered that the group would benefit from greater legal input and certain cases, for example appeals against confiscation orders, are now allocated to lawyers.
- 5.3 Many of the casework lawyers in the Office who were recently in training have completed that training during the period of this report and the benefits of this can be seen in the improved figures for summaries outstanding, as we anticipated. As well as having a direct effect on waiting times, a further consequence is that fewer resources need to be diverted into training needs and can be concentrated in other areas.
- 5.4 Also during this period one of the most experienced lawyers in the Office has taken on a new role, of Legal Information and Dissemination Lawyer – to improve case co-ordination, provide information on matters of law and practice to the judiciary, legal and administrative staff and to produce the weekly 'database' of conviction appeals. Such a role is particularly important when cases raise issues arising from new legislation. In May 2005 Tom Rees, one of the longest serving members of the Office, retired after more than twenty years of service. His knowledge of the law and criminal appeals procedure was particularly valuable and will be missed.
- 5.5 Work is in hand to revise and update materials, for example the Registrar's 'Guide to Proceedings in the CACD', which is probably the guide most frequently relied upon by applicants and legal representatives to check procedures in this Court. Work is also underway on improvements to information materials used by staff and creation of an Office best practice guide, to consolidate material presently in disparate form.

- 5.6 Some welcome improvements have been or are to be made in the areas of accommodation and technology. Funding is now available to refurbish the basement in the East block, which it is hoped will create new office space for the Administrative Court Office, thus freeing up much needed space for the Criminal Appeal Office. There have been improvements to the Office computerised case tracking system ('CACTUS'), including a simplified link to the transcript, orders and judgments relevant to any particular case.
- 5.7 The staff of the Office are now part of Her Majesty's Court Service (HMCS), which was launched in April 2005 and which encompasses the whole of the court service (except the House of Lords). CACD can now hope to take advantage of various HMCS wide initiatives, including the 'Courtroom Audio Visuals' (CAV's) programme. The Court now has a dedicated court (Court 38) equipped with videolink, which is most frequently used for witnesses who are not within the jurisdiction. Other advantages of the programme include 'realtime' transcription of evidence and power point facilities (used for the first time in the case of *Faulder and others* see 3) above). Plans are also underway to enable appellants in custody to be 'present' at their hearing via videolink. In time it is envisaged that significant advantages will derive from appeal hearings being conducted by videolink; it being less disruptive to prisoners and more cost effective. Prosecution appeals under Part 9 of the Criminal Justice Act 2003 will almost exclusively involve the defendant's presence by videolink.
- 5.8 The TV pilot which was conducted in November 2004 was hailed as a success. Court 4 was filmed, albeit under an agreement that the film will never be broadcast. Only the bench and the advocates were filmed. The broadcasting of court proceedings was the subject of a consultation exercise by DCA which closed in February 2005, but no new Government proposals have yet been put forward.

6. Contacts

- 6.1 The Registrar and Deputy Registrar regularly receive overseas visitors and this year has been particularly active in terms of encouraging international contacts. During the period of this review the following have visited the Court Office: a group of Mexican Congressmen (October 2004), the Minister of Finance and the High Commissioner of the Bahamas (November 2004), members of the Supreme Court of South Korea (March 2005), Judges Zainey, Gegenheimer and Firmin from Louisiana, USA (March 2005), fifteen French judges (April 2005) and Indira Francis, the Registrar of the Court of Appeal of the Bahamas (July 2005). Academic visitors have included Professor Daniel Meador of the University of Virginia Law School who spent a week observing the work of the Court of Appeal (October 2004). A group of students from Syracuse University also visited in June 2005.
- 6.2 The CACD User group was successfully launched in November 2004 and two meetings have taken place so far, with representatives from both limbs of the legal profession and organisations including the Criminal Cases Review Commission, the Crown Prosecution Service, the Probation Service and the Law Reporters. The meetings, which were chaired by the former Lord Chief Justice, covered such topics as new legislation, the work of CACD and recent practice directions. It is anticipated that a further meeting will take place early in the new term.

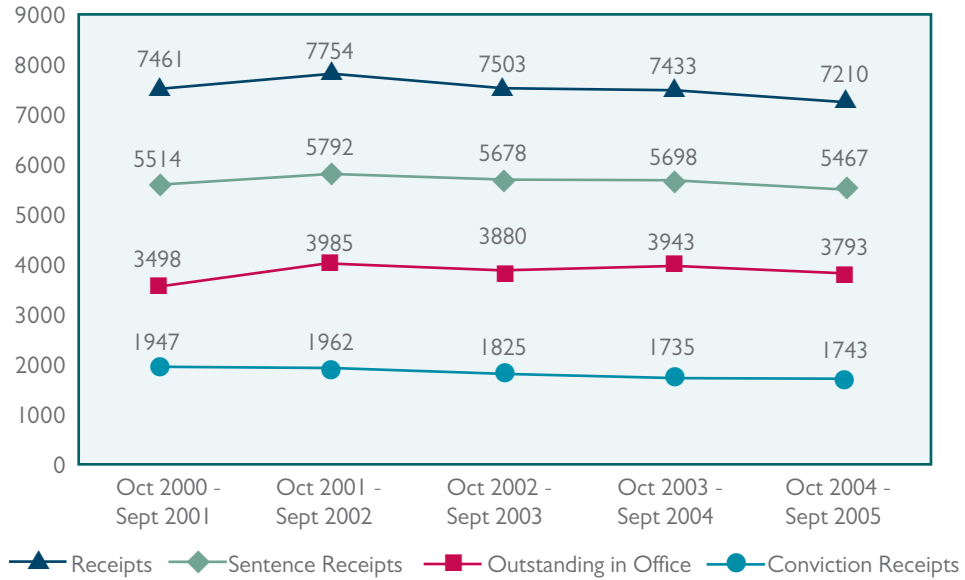
7. Conclusion

- 7.1 Whilst there are, as ever, areas in which improvement is needed, we are pleased to report that the progress anticipated in last year's review is clearly evident. The Court and its support staff have shown themselves more than able to adapt to new legislative and procedural initiatives and the Court is now well placed to meet the challenges ahead.

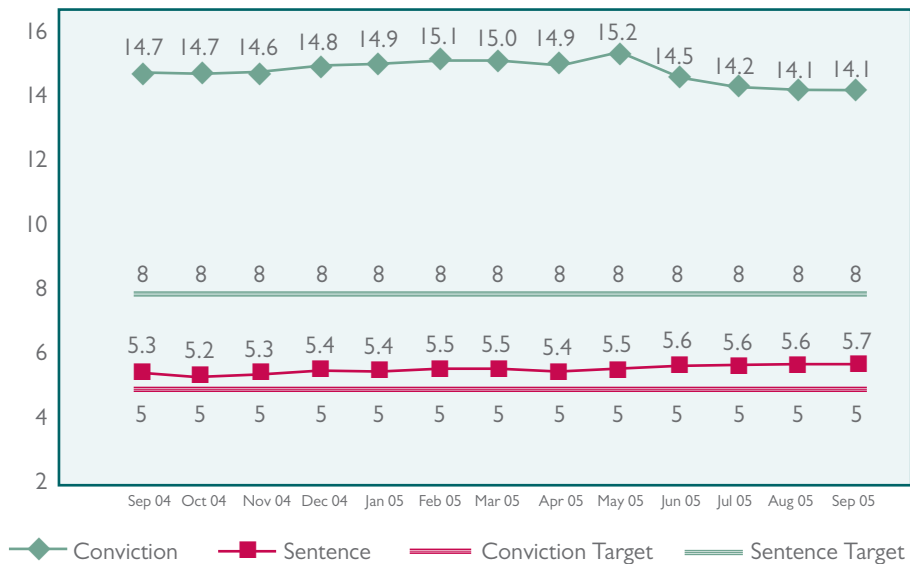
Lord Phillips
Lord Chief Justice of England and Wales

Lord Justice Rose
Vice President of the Court of Appeal
Criminal Division

Applications Received and Outstanding in Office

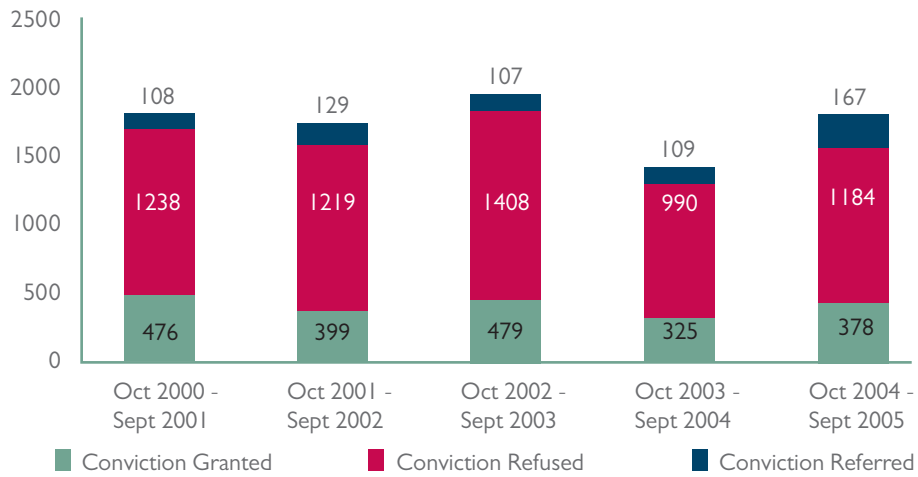


Average Waiting Times (in months)
Rolling average of cases disposed by full court over previous 12 months

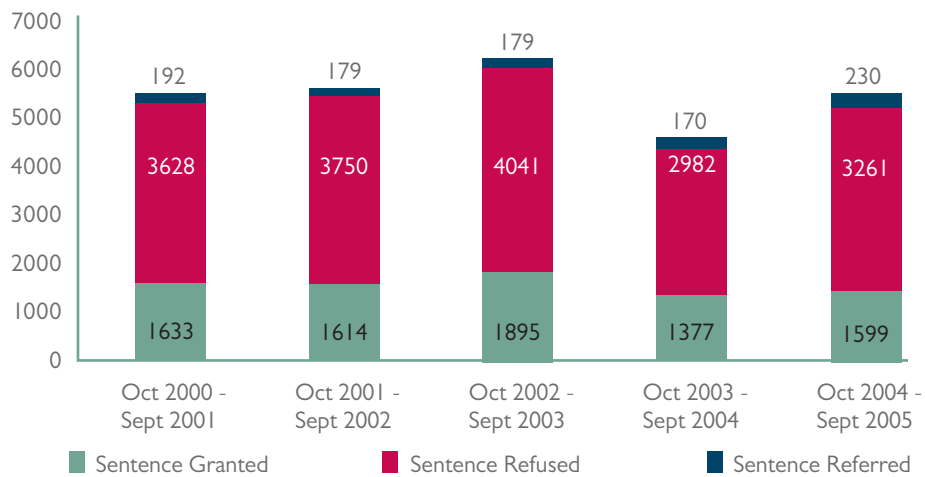


Annex C

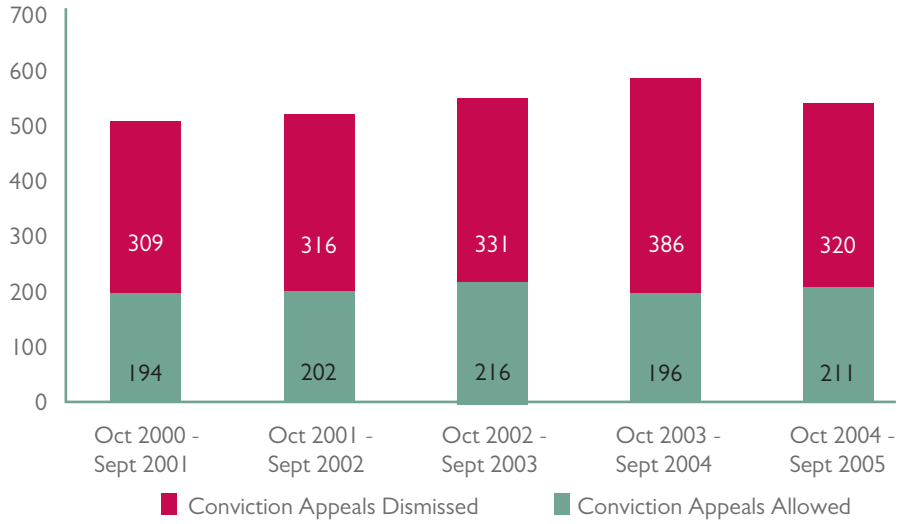
Section 31s – Conviction Applications dealt with



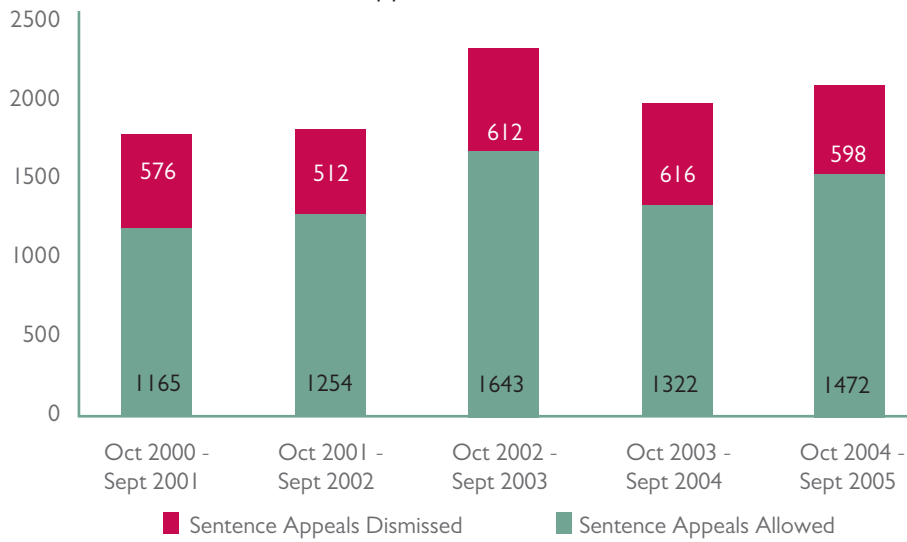
Section 31s – Sentence Applications dealt with



Appeals Heard – Conviction

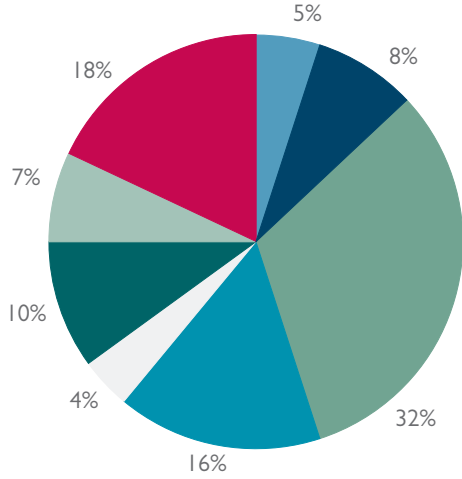


Appeals Heard – Sentence

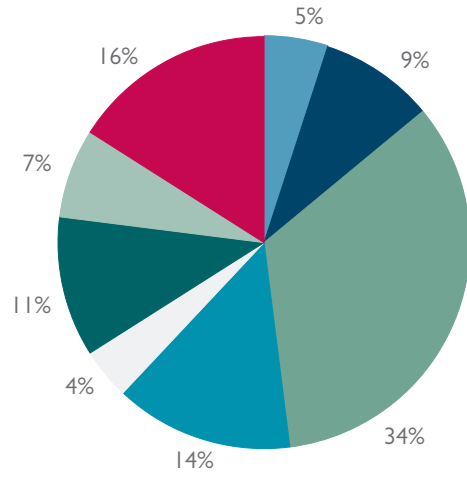


Annex E

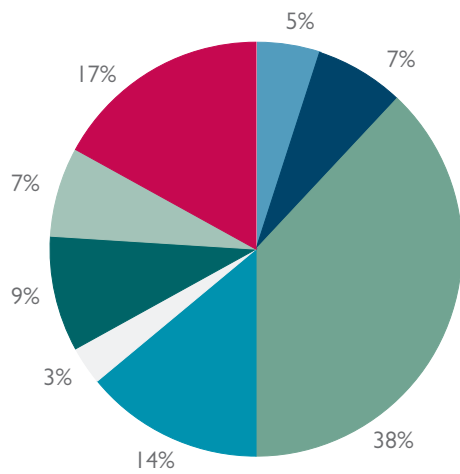
October 2000 - September 2001



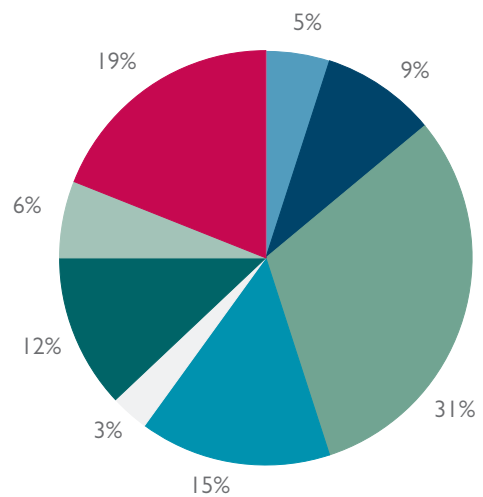
October 2001 - September 2002



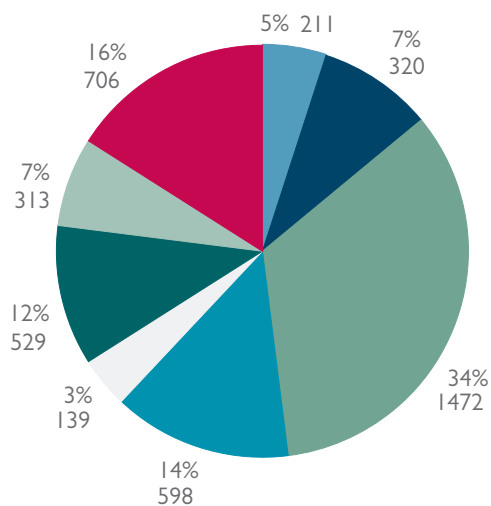
October 2002 - September 2003



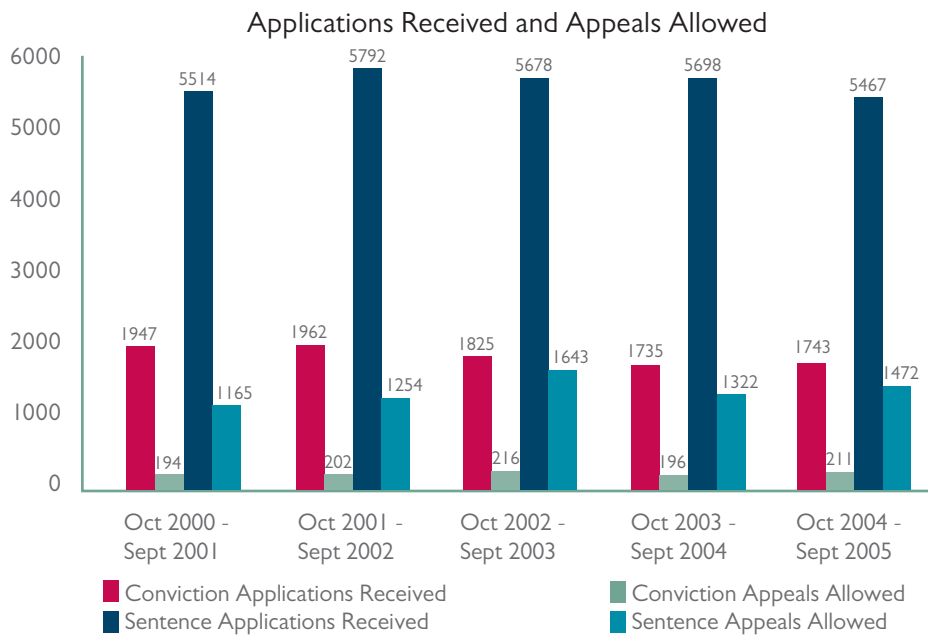
October 2003 - September 2004



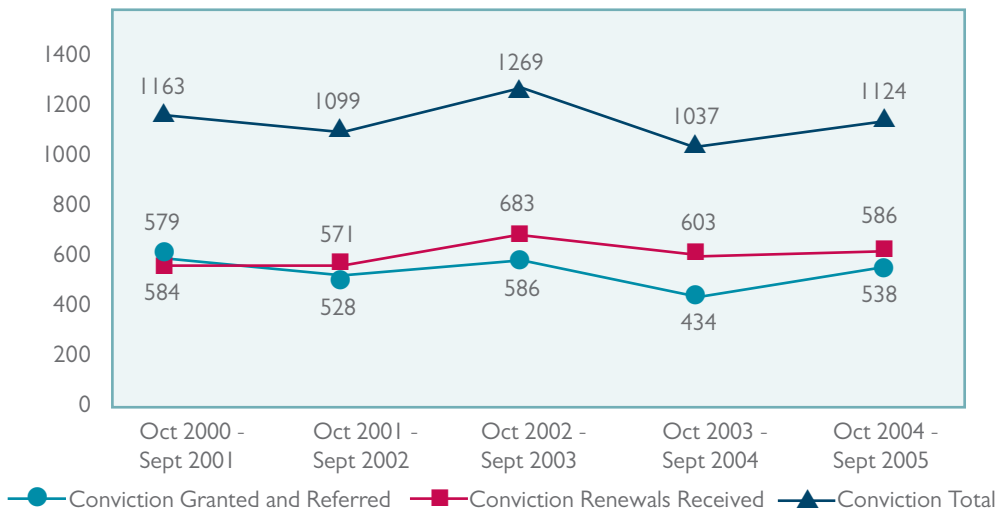
October 2004 - September 2005



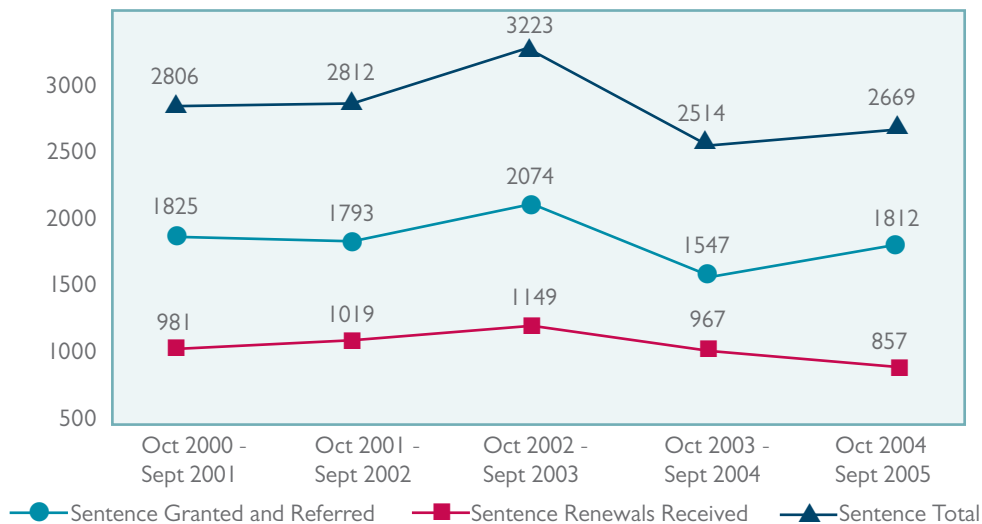
- Conviction Appeals Allowed
- Conviction Appeals Dismissed
- Sentence Appeals Allowed
- Sentence Appeals Dismissed
- Conviction Applications Granted
- Conviction Applications Refused
- Sentence Applications Granted
- Sentence Applications Refused



Applications Granted / Referred and Renewals Received (Conviction)

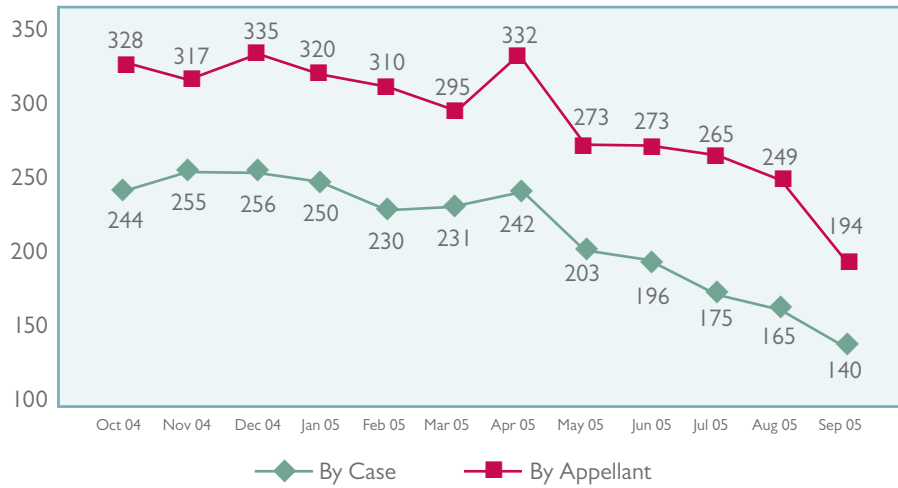


Applications Granted / Referred and Renewals Received (Sentence)

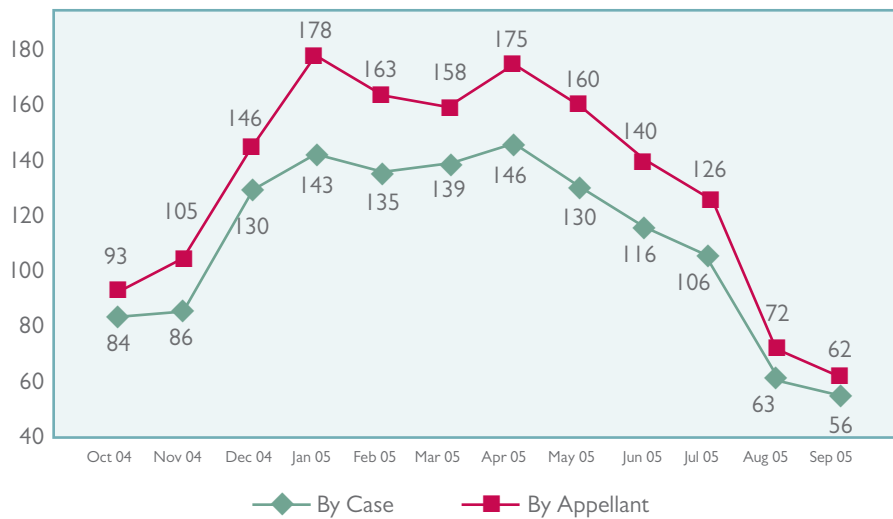


Annex H

Conviction Old Cases – Outstanding over 8 months



Sentence Old Cases – Outstanding over 5 months



The Court of Appeal
Criminal Division
Review of the Legal Year
2004 / 2005

The Court of Appeal Criminal Division



Review of the Legal Year
2004 / 2005