

# Criminal defence services: users' perspectives

An interim report by  
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## **Acknowledgements**

This study would not have been possible without the co-operation and support of H.M. Courts Service and the Association of Chief Police Officers. We want to thank those at a national and local level who gave permission for the survey to be conducted in magistrates' courts and police cells. Most importantly, we are extremely grateful to staff working within these settings for the help and support they gave to fieldworkers. In the magistrates' courts, fieldworkers were assisted by ushers and other court staff in ensuring the survey ran smoothly and did not disrupt legal proceedings. Security officers in the court cells were also helpful, and we thank the private companies involved for allowing those detained to be interviewed. Similarly, we greatly appreciate the help and support provided by police officers in enabling this survey to be conducted in the custody areas at police stations. We appreciate that such areas tend to be extremely busy and that their heightened level of security required even more police time for the survey to be run effectively.

Grateful thanks are also due to Ipsos Mori, not only for the professional way in which they assisted in the setting up of this survey but also for the high-quality performance of their fieldworkers. Last, but not least, we want to thank all our respondents, for without their co-operation this study would not have been possible. We very much appreciate their willingness to answer questions at a particularly stressful time.

# Executive Summary

## *Introduction*

This study was undertaken by the Legal Services Research Centre at the request of the Legal Services Commission. Its purpose was to find out more about accused people's choice of solicitor and their understanding of the criminal justice process. Almost 1,000 interviews were conducted, of which 212 took place in police stations and 767 took place in magistrates' courts.<sup>1</sup>

## *Key issues emerging from the surveys*

### *Understanding in the criminal justice system*

Respondents were asked if they understood what was happening to them at either the police station or at court.<sup>2</sup> Importantly, the majority of respondents knew exactly, or thought they knew, what was happening to them; two-thirds in the police station and three-quarters of respondents at court. However, one-third of respondents did not fully understand what was happening to them at the police station<sup>3</sup> and half of this group had 'no idea' of what was happening. A quarter of respondents at court did not fully understand what was happening and a quarter of this group had 'no idea' of what was happening to them. Not surprisingly, as the number of convictions increased, so too did respondents' levels of understanding of the criminal justice system.

Ethnicity seemed to be important in relation to understanding in the police station with 39 percent of Black and minority ethnic respondents not fully understanding what was happening compared to 25 percent of White British respondents. At court, respondents whose first language was not English appeared to be particularly vulnerable, as 45 percent

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<sup>1</sup> The interviews took place in Bradford, Birmingham, Bristol, Cardiff and the London Boroughs of Tower Hamlets and Lambeth.

<sup>2</sup> The responses were categorised as those who 'knew exactly' or 'thought they knew' what was happening and those who had 'no idea' or were 'not sure' of what was going on.

<sup>3</sup> That is, they either had 'no idea' or were 'not sure' of what was going on.

did not fully understand what was happening, compared to 22 percent whose first language was English.

Those with less understanding of what was happening in the court sample were correspondingly less likely to be legally represented. For example, 56 percent of respondents having ‘no idea’ of what was going on had no solicitor in the police station and 35 percent had no solicitor in court. In contrast, 37 percent of respondents who ‘knew exactly’ what was going on had no solicitor in the police station and only 15 percent had no solicitor in court. Conversely, in the smaller police station sample, those who had ‘no idea’ or were ‘not sure’ what was going on were somewhat more likely to ask for a solicitor with three-quarters doing so compared to less than half of other respondents.<sup>4</sup>

### *Perspectives of representation*

Respondents were asked whether they felt having a choice of solicitor was important and the vast majority (nearly nine out of ten) said it was important. Respondents were then asked what factors they considered to be important when choosing a solicitor. Most respondents commented on issues of quality, with the majority wanting a ‘good solicitor’, someone who was ‘experienced’, ‘knowledgeable’ and who would achieve good outcomes. Also important to respondents was the need to communicate with their solicitor, so that they would ‘explain’, ‘listen’ and ‘be friendly’. When asked specifically about certain factors, such as accessibility, a quarter felt this was important and almost all of them said they might have changed solicitor had they not been local. In contrast, very few respondents said they would have chosen a solicitor because of their sex or their ethnic background. However, we did find a propensity for BME respondents to choose BME solicitors.

### *Choice of solicitor*

At the police station approximately half of the respondents had a solicitor. At court, four out of five respondents had a solicitor. Of those who decided not to have a solicitor, the most common reason was because they did not need one, with most of this group suggesting there was nothing they needed to know or that they intended to plead guilty. Some also said they did not need a solicitor because they were innocent, while others were deterred from getting a

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<sup>4</sup> There are important differences between the two sample groups. Those at court, for instance, had all been prosecuted whereas many of those interviewed in the police station would have subsequently been diverted with a caution, fixed penalty notice or had no further action taken. In such cases it is anticipated that suspects would have been less likely to have requested a solicitor.

solicitor, either because of concerns that this would cause delays or because of the cost. Some respondents reported experiencing difficulty in obtaining a solicitor.

At the police station, of those represented, 61 percent had their own solicitor and 39 percent used the duty solicitor. At court, 71 percent had their own solicitor and 29 percent used the duty solicitor. It was through a recommendation that the vast majority of respondents said they first came to use their own solicitor, although there were some respondents, particularly at court, who said their own solicitor had first acted for them as the duty solicitor.

Of those using the duty solicitor at the police station, almost half did so because they did not know who else to use. One in four respondents selected the duty solicitor because they felt they were either better, quicker or easier to use than other solicitors. At court, around a third of respondents thought the duty solicitor was better, quicker, or easier to use, and a quarter did not know who else to use. Some informants reported that the duty solicitor had been recommended to them or that they had used the duty solicitor on a previous occasion.

Respondents revealed some confusion about the status of duty solicitors. Almost a quarter believed that duty solicitors were employed directly by the police. Similarly, 40 percent believed that the duty solicitor was employed directly by the government.

Work on this project is ongoing and interviews with defence solicitors in the six areas surveyed are currently being undertaken. A final report will be available in early 2009.



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## 1. Introduction

The Legal Services Research Centre (LSRC) was asked by the Legal Services Commission (LSC) to undertake a survey of users in the criminal justice system in order to gain their perspective on criminal defence services.<sup>5</sup> Following a tendering process, Ipsos Mori were contracted to undertake interviews at the main police stations and magistrates' courts in six different areas: Birmingham, Bradford, Bristol, Cardiff and two London Boroughs.<sup>6</sup> The interviews were carried out from 1 February to 10 April 2008 and, in all, 979 interviews were achieved: 212 at police stations and 767 at court.<sup>7</sup> There are two distinct datasets in the analysis. The smaller dataset comprises interviews conducted in the police station and is referred to as the 'police station sample'. The larger dataset comprises interviews at court and is referred to as the 'court sample'; however, within this sample respondents are asked about their experiences both at the police station and at court.

This report presents interim findings from the two datasets. They have been published at the earliest opportunity in order to assist policy-makers, criminal practitioners, and other stakeholders in the reform of criminal defence services. Work is ongoing and will include interviews with criminal practitioners, a literature review, and further analysis of the two datasets. The LSRC has applied to H.M. Prison Service to replicate the survey in two prisons; a women's prison has been requested in order to boost the number of female respondents, and this would then provide a third dataset of respondents.

In this interim report, we first set out a brief description of respondents' demographics, their previous offending history, and the type of offences with which they were arrested and/or charged. The report then comprises three separate parts.<sup>8</sup> In Part A we examine issues concerning access to independent legal advice in the police station. In Part B

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<sup>5</sup> The LSRC is the independent research division of the LSC. See the LSRC's website at [lsrc.org.uk](http://lsrc.org.uk) for details of work undertaken and currently in progress.

<sup>6</sup> The two London boroughs include Bethnal Green and Brixton police stations and Thames and Camberwell Green magistrates' courts. Very few interviews took place at Bristol police station; as there were also difficulties in carrying out interviews at Cardiff police station, these took place at Swansea police station instead. All interviews in Cardiff magistrates' court were held in the cells.

<sup>7</sup> In addition, another 256 people at police stations and 869 at court were approached but were either ineligible, unable or they refused to take part in the survey.

<sup>8</sup> A detailed Methods section and literature review will be included in the final report.

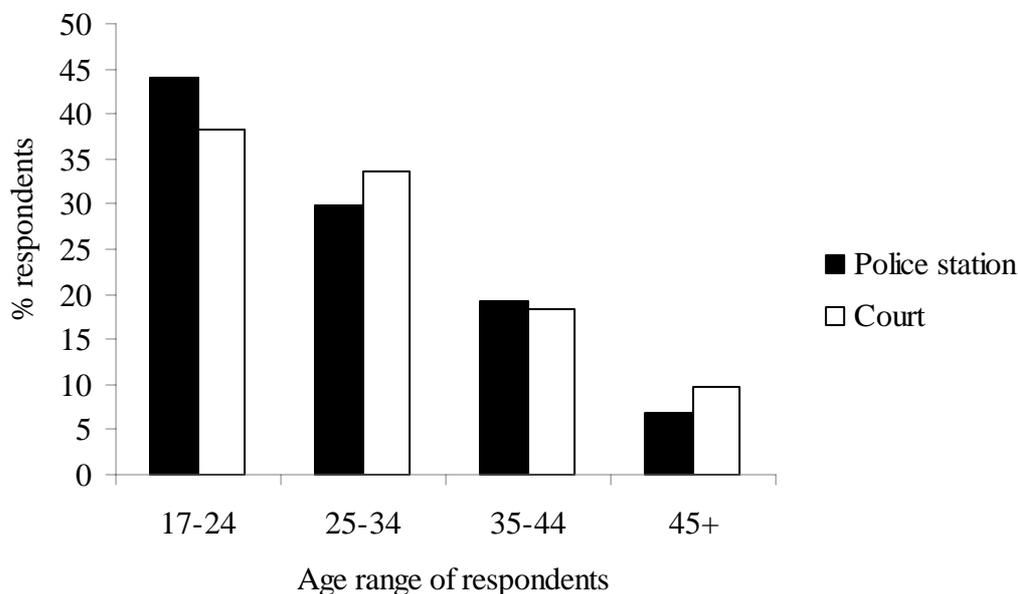
we discuss the level of understanding respondents have of what is happening to them at either the police station or at court and how this impacts on their broader strategy when choosing a solicitor, either their own or the duty solicitor.<sup>9</sup> This part entails modelling predictors such as previous offending history, severity of offences, and a wide range of other social and demographic predictors. In Part C we are concerned with issues of choice from the users' perspective. This includes consideration of the factors which are found to be important when respondents decide whether or not to use criminal defence services.<sup>10</sup>

## 2. Demographics, previous offending history and offences committed

### 2.1 Gender, age, ethnicity and country of origin

In the police station sample (all 212 respondents) 89 percent were male and 11 percent female. In the court sample (of 758 respondents where known), again 89 percent were male and 11 percent female. Figure A shows the percentages in each age group for both the police station and magistrates' court samples.<sup>11</sup>

Figure A: Age range of respondents in both the police station and at court



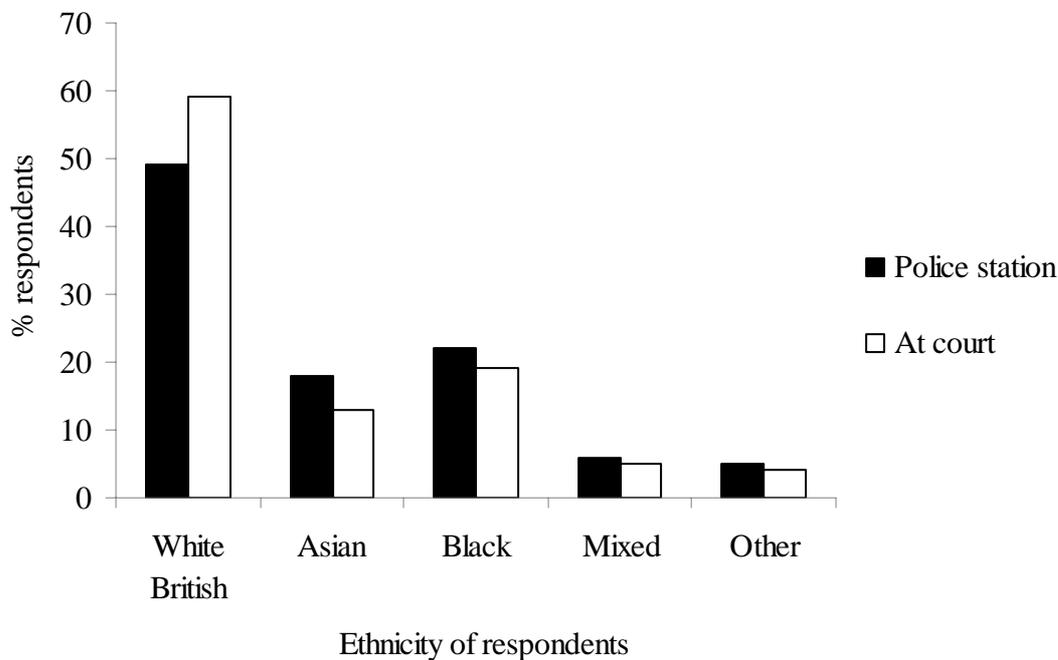
<sup>9</sup> The duty solicitor scheme is a service provided by solicitors in private practice and it is managed by the Legal Services Commission. The scheme relies on solicitors who put their names forward on a 'rota' or 'panel' to ensure sufficient coverage to provide legal representation at both the police station and at the magistrates' court for those who want a solicitor but do not have, or who choose not to use, their own solicitor.

<sup>10</sup> In the police station respondents might not have been using a solicitor but a paralegal, accredited police station representative or a trainee solicitor instead. Accordingly, when we comment on their use of a 'solicitor' in this report, the term 'solicitor' includes other legal advisers acting as representatives at the police station.

<sup>11</sup> 207 respondents in the police station and 757 at court gave their age.

When respondents were asked to identify their ethnicity, they were shown a card listing 18 different ethnic groups. They also had an opportunity to identify any ‘other’ ethnicity. The various different ethnic groups reported by respondents were collapsed into two new variables one with five different ethnic groups (White British, Black, Asian, Mixed and ‘Other’), and one with two groups (‘White British’ and ‘Black Minority Ethnic/BME’). Set out in Figure B below is the ethnicity of respondents in both the police station and court samples based on the five different ethnic groups.

*Figure B: Ethnicity of respondents in both the police station and court samples*



The LSRC had been asked to examine whether there were differences between the responses provided by White British and BME respondents. In order to achieve a sample with a higher proportion of BME respondents, four of the six areas selected by the LSRC had a relatively high BME population. This approach was successful as 51 percent of the police station respondents and 41 percent of the court respondents are members of Black and minority ethnic groups.<sup>12</sup>

<sup>12</sup> There were 2 respondents who did not confirm their ethnicity in the police station and 12 in the court sample. In addition, there were 13 respondents interviewed without an interpreter (3 at the police station and 10 at court) who said that they needed an interpreter when being interviewed by the police or dealt with at court.

With respect to language and country of origin, 22 percent of the police station sample had not always lived in England and Wales, and English was not the first language of 12 percent of all respondents.<sup>13</sup> Also 41 people were approached at the police station who could not take part in this study because they required an interpreter. At court, 11 percent of respondents said they had not always lived in England and Wales and for 10 percent of respondents English was not their first language.<sup>14</sup> There were 69 people at court who could not be interviewed because they required an interpreter.

## 2.2 Previous offending history and offence types

As the interviews were confidential, previous offending history and types of sentence received, relied on respondents' self-reporting. Set out in Table A is the proportion of respondents who reported having a previous conviction and a custodial sentence.<sup>15</sup>

*Table A: Proportion of self-reported convictions and custodial sentences*

	<i>Previous conviction %</i>	<i>Prison sentence %</i>
Police station sample	58	37
Court sample	64	39

Of respondents in the police station sample who reported having a criminal conviction, 26 percent said they had just one conviction, 12 per cent reported having two convictions, 10 percent had received three convictions and 52 percent reported having four or more convictions. In the court sample, 23 percent reported having one conviction, 16 percent two convictions, 10 percent three convictions and 51 percent had four or more convictions.

Respondents reported a wide range of offences, which were categorised as 'minor', 'medium' or 'serious' offences, adopting the 'gravity scores' used by the police when dealing with young offenders under the reprimand and warning scheme.<sup>16</sup> A gravity score of 1 is

<sup>13</sup> There were 209 respondents who responded to the question about country of origin and 202 respondents who commented on language. The majority of those who had not always lived in England and Wales had done so for over five years (16 respondents had resided for less than five years, 8 of whom had resided for less than two years).

<sup>14</sup> There were 756 respondents who responded to the question about country of origin and 750 respondents who commented on language. Once again, the majority of those who had not always lived in England and Wales had done so for over five years (20 respondents had resided for less than five years, 7 of whom had resided for less than two years).

<sup>15</sup> There were 209 respondents answering these questions in the police station and 751 at court.

<sup>16</sup> Reprimands and warnings are similar to cautioning in the adult criminal justice system.

used for the most minor of offences, mainly non-recordable offences. As very minor matters are unlikely to meet the eligibility criteria for legal aid under the ‘interests of justice’ test, we sought to screen them out, meaning there were very few offences with a gravity score of 1. Offences with a gravity score of 2 were categorised as ‘minor’ offences; including common assault, criminal damage and possession of drugs.<sup>17</sup> Offences categorised as ‘medium’ were those with a gravity score of 3; including theft, ABH and possession of an offensive weapon. ‘Serious’ offences were those with a gravity score of 4; including murder, robbery, GBH, kidnapping and burglary.<sup>18</sup> The proportion of offences within the three categories are set out in Table B.<sup>19</sup>

*Table B: Proportion of offence types based on the severity of the offence*

	<i>Minor %</i>	<i>Medium %</i>	<i>Serious %</i>
Police station sample	48	23	29
Court sample	53	38	9

<sup>17</sup> It was not known whether the possession was of Class A, B or C drugs.

<sup>18</sup> The gravity scores were used as appropriate but discretion was required on occasions. In the case of burglary, for instance, it was not known whether the burglary was of a domestic or non-domestic property with gravity scores of four and three respectively. It was decided to use the higher score of four placing burglaries as a ‘serious’ offence. In relation to the possession of drugs, there was a gravity score of two (minor) for Class B and C and three (medium) for Class A. On the basis that the majority of possession offences were likely to be Class B or C the lower score was used. Gravity scores in relation to some driving offences also had to be changed because a high score of four was used for offences such as driving whilst disqualified and driving with excess alcohol, as the police intention was to ensure prosecution of these offences. These two offences were re-categorised on the basis of offence seriousness with a score of three (medium) being used for driving whilst disqualified and two (minor) for excess alcohol.

<sup>19</sup> The offence types were reported by 206 respondents in the police station sample and 763 cases at court.

## **PART A – Access to independent legal advice in the police station**

### **3. Understanding of legal rights and accessing legal services**

This section explores issues concerning respondents' understanding of their rights to obtain free and independent legal advice. Also considered is the type of advice received and the quality of that advice, in relation to issues of audibility, confidentiality and timeliness.

#### *3.1 Respondents' understanding of their legal rights*

Following arrest, detainees are booked in at the police station. As part of this process they are read their legal rights. Under the Police and Criminal Evidence Act 1984, police detainees are entitled to free and independent legal advice. With the survey, we wanted to explore to what extent respondents understood those rights and whether they perceived they were being recommended to use a solicitor. However, because of the potential of the research to influence respondents' decisions, we recognised that we would be limited in the extent to which we could explore such issues. For instance, if following interview respondents who indicated they did not require a solicitor then changed their mind, it was likely the police would not allow the survey to continue as it was seen to interfere with the criminal process. Accordingly, in the police station sample following their arrest, respondents were asked if they could recall being told by the police of their right to speak to a solicitor. Of the 212 respondents, 206 said they could recall that right. When later asked if somebody had recommended they should speak to a solicitor following their arrest, 64 respondents answered 'yes'; 59 of whom said it was the police who recommended they should speak to a solicitor.<sup>20</sup> Interestingly, while it seems the vast majority of respondents understood from the police that they have a right to speak to a solicitor, only 31 percent perceived they had been recommended to speak to a solicitor.

As respondents in the court sample had progressed further within the criminal process than those interviewed at the police station, the question of whether they recalled being advised of their right to speak to a solicitor was not included. Instead they were asked if

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<sup>20</sup> Of those having been recommended to speak to a solicitor, three respondents said it was a friend or relative, one a solicitor, and another one, someone else who had recommended a solicitor.

someone had recommended that they should speak to a solicitor. Of 760 respondents, 417 said that at some stage of their case they had been recommended to speak to a solicitor. Of these, 295 respondents said it was the police who recommended that they should speak to a solicitor, 62 said it was a friend or family member and 54 said it was personnel at court.<sup>21</sup> It is not surprising that fewer respondents in the police station sample reported being recommended by someone to speak to a solicitor (almost a third compared to just over half), because the court sample had progressed further into the criminal justice process, which then can include influences from friends, relatives and court personnel. With the phrasing of the question ‘has anybody recommended that you should speak to a solicitor’ it is not clear whether respondents who said it was the police who suggested that they should speak to a solicitor did so explicitly or they inferred this from having their legal rights read to them. If it is assumed that at least some respondents inferred this from their legal rights, then it is of concern that so many people did not perceive anyone had recommended they should speak to a solicitor, even though the police advised them of their right to have free and independent legal advice.

### 3.2 *What type of legal advice was received?*

Respondents in the police station could be interviewed by Ipsos Mori at any time after they had been booked in by the custody officer and had made the decision about whether or not to have legal advice, and prior to their release. In the police station sample only 45 respondents had spoken to their solicitor at the time of the interview. Of those, 17 said they had received telephone advice only, 17 had face-to-face advice and the remaining 11 respondents had received both.

In the court sample, of the 767 respondents, 400 answered that they had requested legal advice and 380 said they had received such advice. When asked about the type of advice received, 375 responded and 51 had received telephone advice only, 197 received face-to-face advice and 127 respondents received both. At 86 percent, therefore, the majority of respondents had received face-to-face advice.<sup>22</sup> However, when splitting the sample across the six geographical areas, there appears to be wide variations in the use of telephone

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<sup>21</sup> There were nine respondents who said a solicitor recommended that they should speak to a solicitor, four who said their co-accused and three a community organisation recommended a solicitor.

<sup>22</sup> There was little difference in the type of advice received based on ethnicity as 14% of White British and 13% of BME respondents received telephone only advice (of these respondents, 56% were White British and 44% BME).

only advice, ranging from 7 percent in one area to 28 percent in another. With the small number of cases involved when the sample is split between the six areas, caution is needed when considering this finding. The suggestion that there might be wide variations in the take up of telephone only advice, however, raises important quality issues, which require further exploration.

### 3.3 *Satisfaction with advice*

Respondents were questioned about their satisfaction of the contact they had with their solicitor at the police station in relation to issues of audibility, confidentiality and timeliness. The first question asked if they were satisfied they could hear the advice given. Of 45 respondents who had received legal advice answering this question, the majority (n = 39) said they were satisfied, although three respondents were dissatisfied that they could not hear the advice. There were 376 respondents in the court sample who had received legal advice at the police station and commented on whether they were able to hear the advice given. The vast majority (n = 336) said they were satisfied they could hear the advice given although 30 respondents reported dissatisfaction. There were differences when considering responses based on the respondents' ethnicity. For White British respondents, for instance, 91 percent out of 207 respondents said they were satisfied that they could hear the advice compared to 87 percent of 162 BME respondents.

When asked if they felt the conversation with their solicitor was confidential, of 42 respondents in the police station, 31 felt the conversation was confidential. In the court sample, 330 of 371 respondents felt the discussions were confidential.

Respondents were also asked about the length of time they had to wait to have contact with their solicitor. In the police station sample, of 45 respondents, 22 (49%) were satisfied with the length of time they had to wait and 17 (38%) were dissatisfied.<sup>23</sup> Within the court sample, of 375 respondents, 219 (58%) were satisfied, 55 were neither satisfied or dissatisfied and 101 (27%) were dissatisfied with the length of time they had to wait. With White British respondents there was a slightly higher level of satisfaction when compared to BME respondents (63% compared to 53%) but about the same proportion of who were dissatisfied (26% compared to 28%).

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<sup>23</sup> The remaining respondents were neither satisfied nor dissatisfied.

## **PART B – Understanding and broad strategy when choosing a solicitor**

### **4. Respondents’ understanding of what is happening to them**

#### *4.1 Understanding at the police station (police station sample)*

Respondents were asked to what extent they understood what was happening to them at the police station. Responses were on a four-point scale for the police station sample as a whole, as shown in Table 1.

*Table 1: Respondents’ understanding of what was happening to them at the police station*

	Frequency	%
You know exactly what is going on	85	40
You think you know what is going on	57	27
You're not sure what is going on, or	36	17
You haven't got any idea what is going on	33	16
Total	211	100

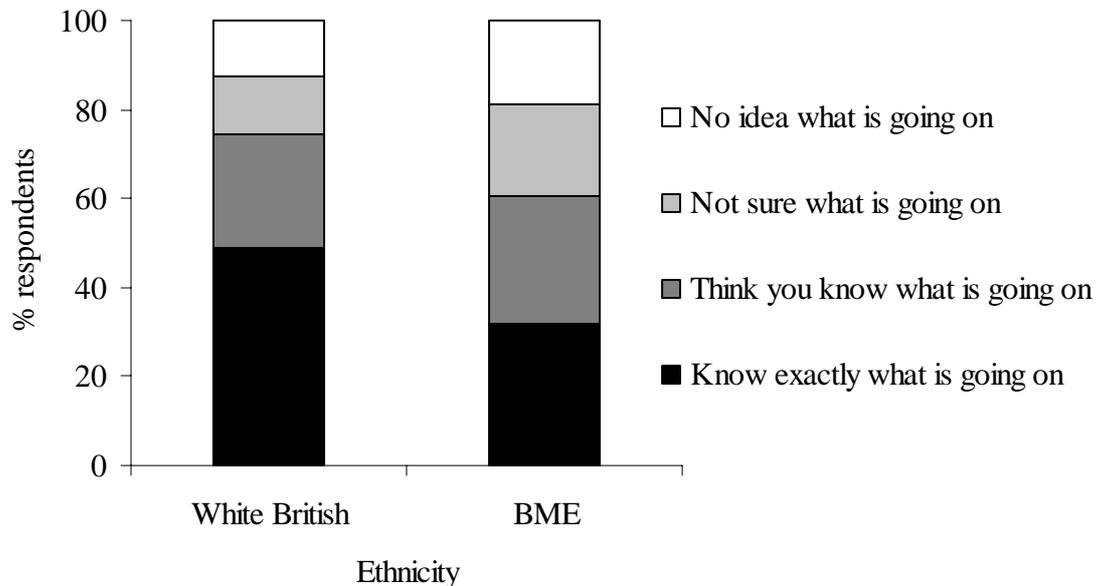
Understanding was then modelled as an ordinal response variable on the basis of experience (previous convictions and/or the number of previous convictions), offence severity and a range of social and demographic predictors.<sup>24</sup> Of these predictors, offence severity, gender, age, first language, marital status, tenure and long-term illness or disability had little impact on understanding. Meanwhile, ethnicity and the number of previous convictions both had a significant impact on understanding. Ethnicity was the single most important predictor of respondents understanding of what was happening to them at the police station with 49 percent of White British respondents suggesting that they ‘knew exactly what was happening’ compared to just 32 percent of BME respondents. Respondents’ understanding by ethnicity is shown in Figure 1 below.

Those with a previous court conviction were more likely to ‘know exactly what was happening to them’ (47% for those with previous convictions compared to 31% for those without). Respondents suggesting they ‘knew exactly what was happening to them’ also

<sup>24</sup> Ethnicity, gender, age, first language, employment status, marital status, housing tenure, and long-term illness or disability/mental health problems.

generally became more common as the number of convictions increased, making up just over half of the respondents with four or more convictions.

*Figure 1: Respondents understanding of what was happening to them at the police station by ethnicity*



#### 4.2 Understanding at court (court sample)

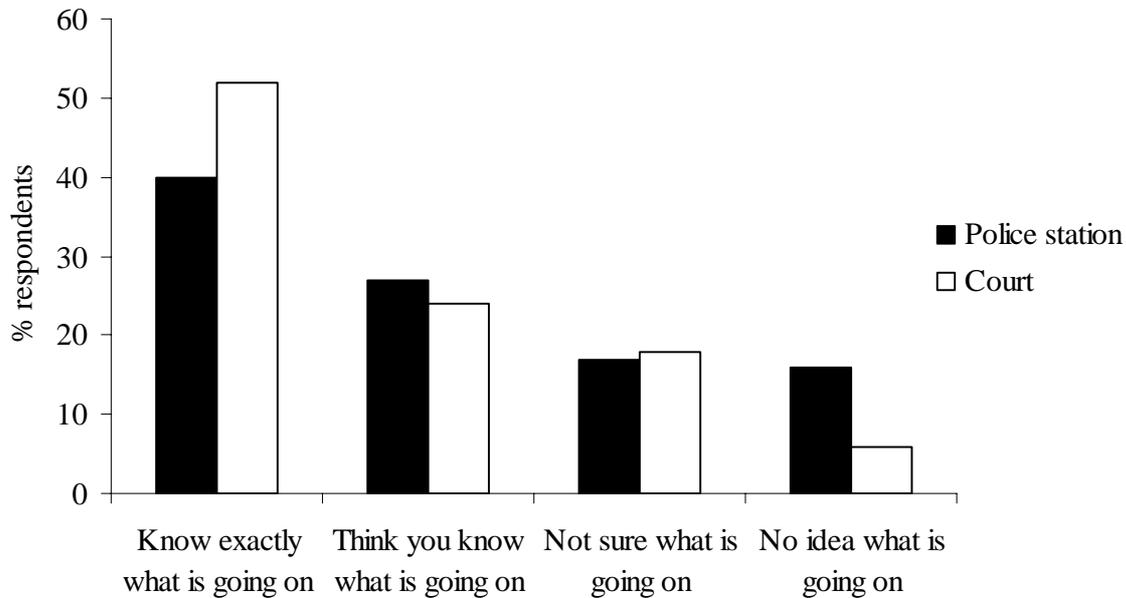
As in the police station sample, respondents at court were asked to what extent they understood what was happening to them at court. As previously, responses were on a four-point scale as shown in Table 2 for the magistrates' court sample as a whole.

*Table 2: Respondents' understanding of what was happening to them at court*

Respondent understanding	Frequency	%
You know exactly what is going on	399	52
You think you know what is going on	186	24
You're not sure what is going on, or	134	18
You haven't got any idea what is going on	48	6
Total	767	100

It is evident from Figure 2 that those at court felt they had a better understanding of what was happening to them than those interviewed at the police station.

Figure 2: Respondents' understanding of what was happening to them at the police station and court



As in the police station sample, the understanding of respondents at court was considered in relation to experience (i.e. previous convictions), offence severity and a range of social and demographic predictors.<sup>25</sup> Of these predictors, ethnicity, gender, age, marital status, housing tenure and long-term illness or disability had little impact on understanding. Meanwhile, number of convictions and whether English was the respondent's first language both had a significant impact on understanding, as did the seriousness of the current offence. As shown in Figure 3, as the number of previous convictions increased, so did the respondents' understanding.

<sup>25</sup> As before, these include ethnicity, gender, age, first language, employment status, marital status, tenure, long-term illness or disability/mental health problems.

Figure 3: Respondents understanding of what was happening to them at court by number of previous convictions

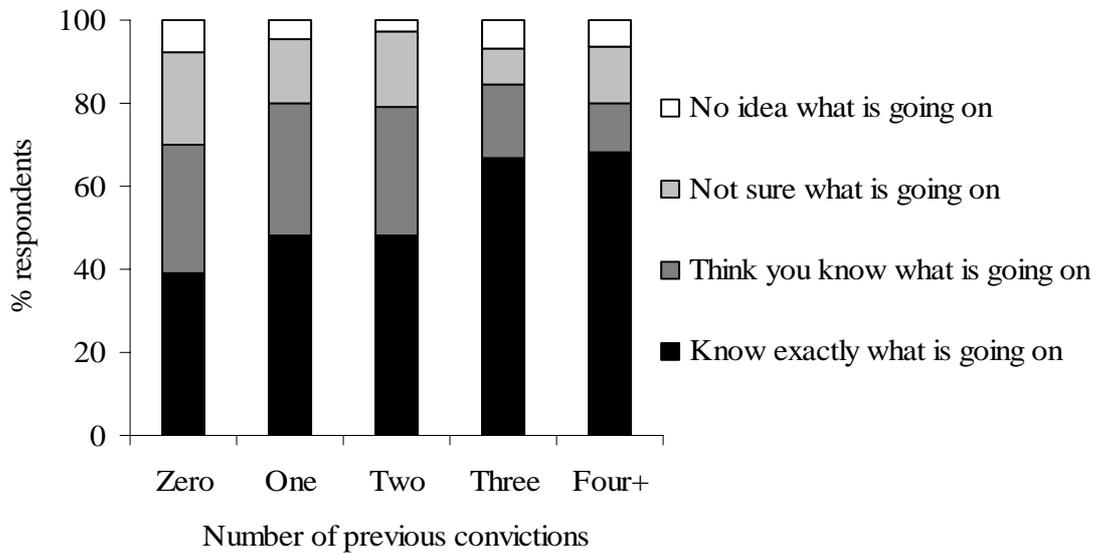
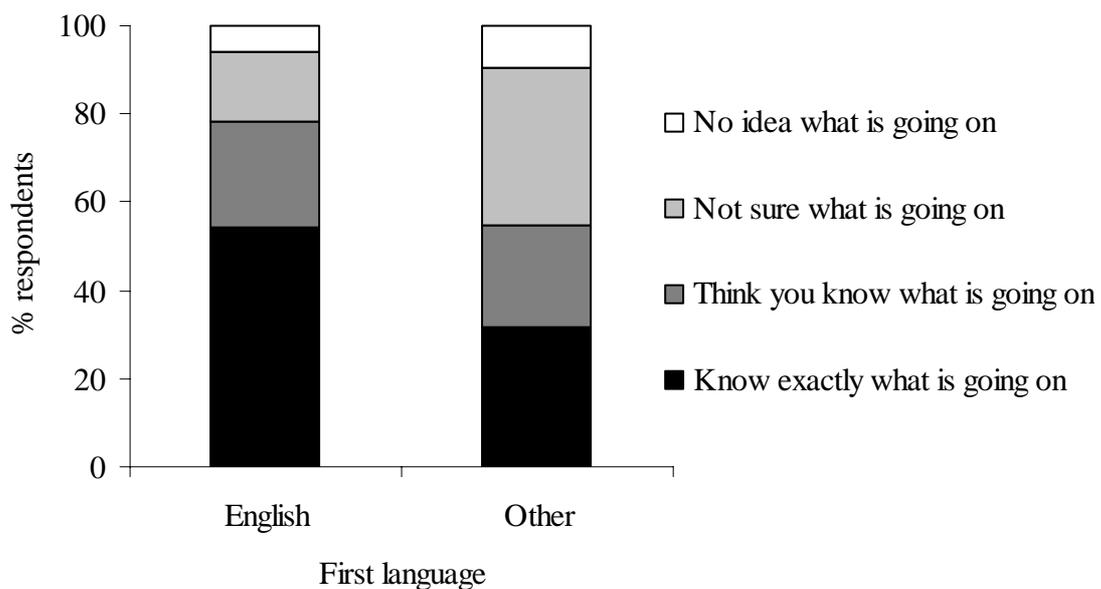


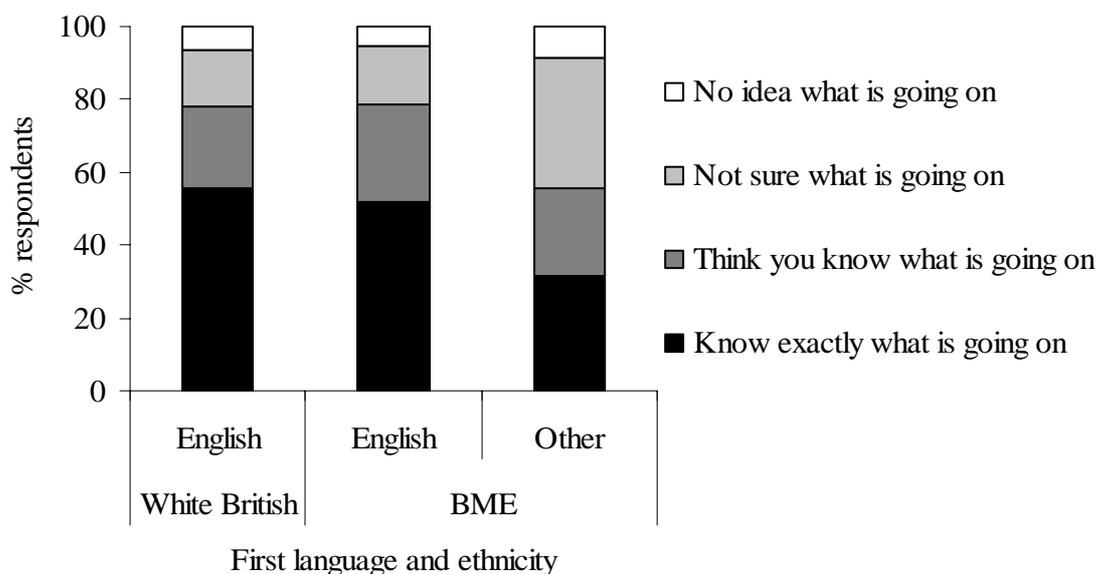
Figure 4 shows that those whose first language was English were more likely to understand what was happening at court when compared to those whose first language was not English.

Figure 4: Respondents' understanding of what was happening to them at court by their first language



Interestingly, when looked at in isolation (i.e. not taking into account the effects of other variables), both ethnicity and employment status appeared to have some association with understanding. In the case of ethnicity, differences appear to be simply a function of first language. That is, as shown in Figure 5, where English was a BME respondent's first language their understanding was comparable to White British respondents.<sup>26</sup> Similarly, increased understanding among respondents who were unemployed was likely to be a consequence of high rates of unemployment for respondents with convictions (or more convictions).

Figure 5: Respondents' understanding of what was happening to them at court by their first language and ethnicity<sup>27</sup>

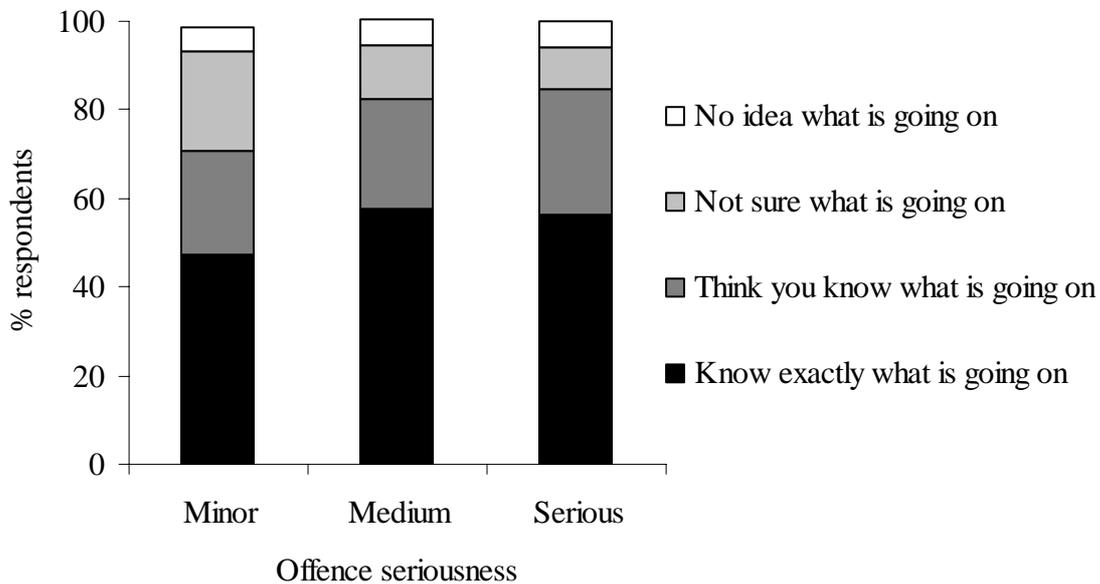


In contrast with the understanding of respondents in the police station, the understanding of respondents at court was associated with the seriousness of the offence with which they were currently charged. As shown in Figure 6, those whose offences were classified as 'minor' under the gravity score ratings within the court sample were more likely to be unsure of what was going on.

<sup>26</sup> Language effects were modest in the police station sample, although there were only twenty-five respondents in that sample with an 'other' first language.

<sup>27</sup> Note, that White British respondents reporting that English was not their first language (n = 3) were excluded from the analysis.

Figure 6: Respondents' understanding of what was happening to them at court by the seriousness of the offence

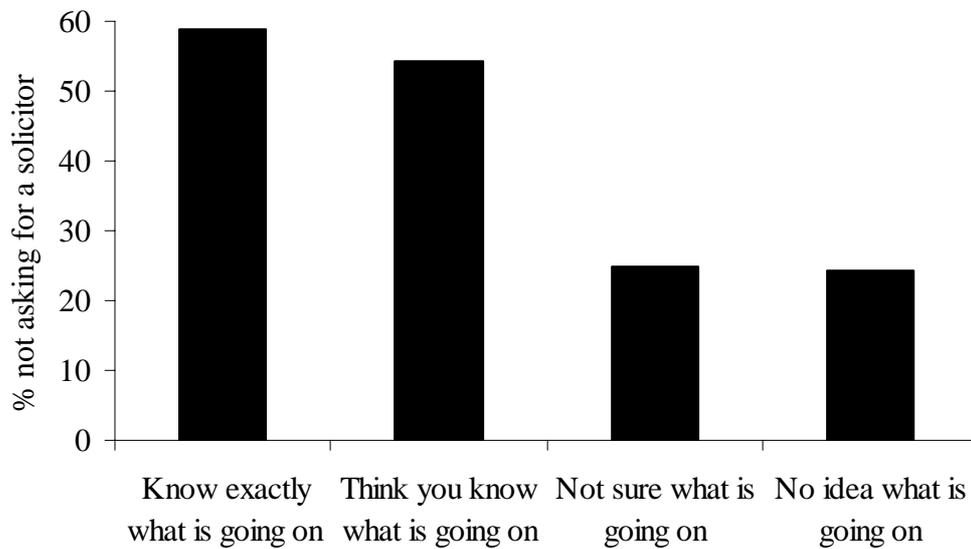


#### 4.3 The relationship between understanding and obtaining a solicitor

##### 4.3.1 Police station sample

In the police station sample, just over half said they asked for a solicitor, while one in five had actually spoken to a solicitor at the time of interview. Respondents' understanding of what was happening to them in the police station was negatively associated with whether or not they asked for a solicitor. The respondents who claimed to 'know exactly what was happening to them' or 'think they knew what was happening to them' were less likely than other respondents to ask for a solicitor, see Figure 7 below. For example, of the 80 respondents who suggested they 'knew exactly what is going on', 50 had not asked for a solicitor in the police station. This compared to 31 out of 57 respondents who 'think they knew what was happening', 9 out of 36 of those who were 'not sure' and 8 out of 33 of those who had 'no idea what was happening'.

Figure 7: Police station sample: percentage of respondents not asking for a solicitor in the police station by the level of their understanding of what was happening



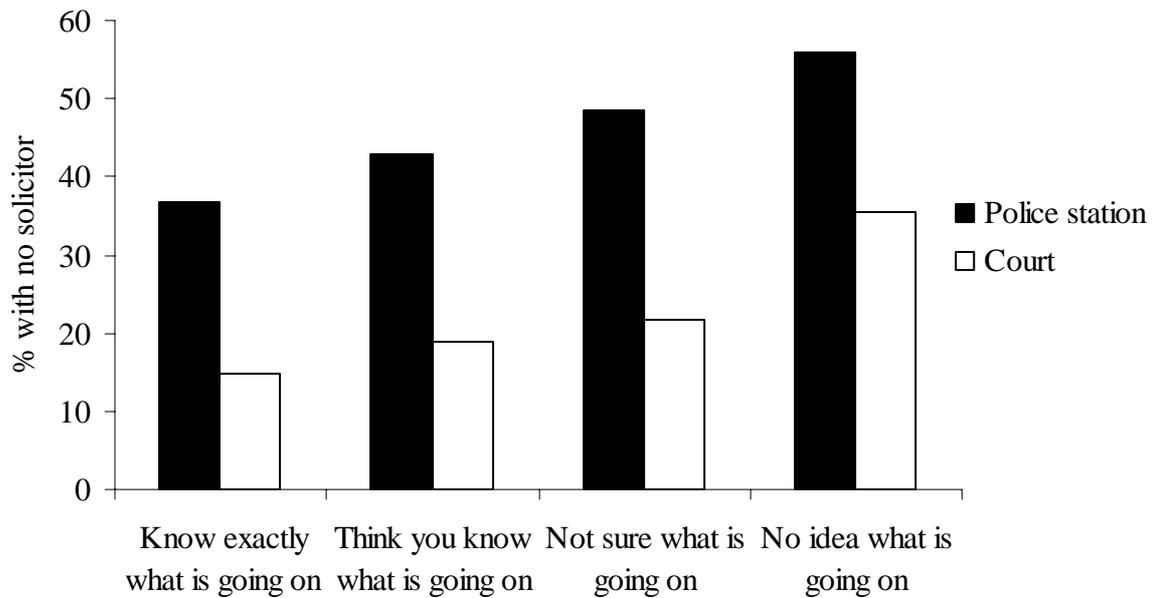
It appears counter-intuitive that those who think they ‘know exactly what is going on’ are less likely to use a solicitor in the police station when compared to those who have ‘no idea of what is happening’. It should be noted, however, that two-thirds of the respondents were still waiting to be interviewed by the police when the research interview took place. It might be that those who considered themselves knowledgeable of the system were waiting to see if they were to be interviewed by the police or dealt with informally, or if no action would be taken, prior to requesting a solicitor. This suggestion seems to be supported from comments made by respondents when asked why they had not requested a solicitor. Indeed, 20 respondents who considered themselves knowledgeable of the system commented that, ‘There is nothing I needed to know’ when asked why they did not have a solicitor. This comment was made by one respondent among those who did not understand what was happening at the police station.

#### 4.3.2 Court sample

In the court sample, as shown in Figure 8 below, respondents’ understanding of what was happening to them at court was strongly related to whether or not they obtained a solicitor (either in the police station or in court), though not in the same way as in the police station sample. So, for example, of those who had ‘no idea of what is going on’, 56 percent did not have a solicitor in the police station and 35 percent did not have a solicitor in court. In

contrast, of those who ‘knew exactly what is going on’, 37 percent and 15 percent had no solicitor in the police station in court respectively.

*Figure 8: Court sample: percentage of respondents without a solicitor in the police station and court by their understanding of what was going on*



As expected, we found respondents with less understanding of what was happening at both the police station and magistrates’ court were correspondingly less likely to have a solicitor. As only a third of respondents had been interviewed at the time of the police interview, we hypothesise that some of those who understood what was happening at the police station would wait to see what was going to happen before requesting a solicitor. This seems to have been borne out in the court sample, where all respondents had been prosecuted and those who considered themselves to be knowledgeable about the legal system were more likely than others to be represented by a solicitor.

## 5. Influences on respondents who decide not to have a solicitor

### 5.1 *Not represented in the police station (police station sample)*

Of the 212 respondents in the police station sample, 98 (46%) said they had not requested a solicitor. Respondents with previous convictions were more likely to ask for a solicitor than respondents who reported that they had not been previously convicted (59% compared to 47% of respondents). BME respondents were also more likely to ask for a solicitor than White British respondents (60% compared to 47%).

While social and demographic characteristics are later found to influence respondents' choice of a solicitor within the larger court sample, there were too few respondents in the police station sample to allow for such detailed analysis.

### 5.2 *Not represented at the police station (court sample)*

Respondents in the court sample were asked whether the police had interviewed them, and if so, if they had requested legal advice. There were 642 respondents who said they were interviewed in the police station and, of those 400 (62%) requested legal advice and 380 (59%) actually received such advice.<sup>28</sup> Of the 642 respondents, therefore, 262 (41%) did not receive legal advice. It is not surprising that more respondents requested legal advice at the police station in the court sample because these respondents had been prosecuted. As noted above, in the police station sample, some respondents would have been cautioned, or had no action taken, and they would have been less likely to have a solicitor. However, whether or not respondents used a solicitor seemed to vary considerably depending on their previous experience (i.e. court convictions), offence severity, and their social and demographic characteristics.<sup>29</sup>

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<sup>28</sup> There were 20 respondents who had requested a solicitor but who did not receive legal advice. When asked why they did not receive legal advice 4 respondents said this was because no solicitor had turned up, 4 reported the police did not arrange, or told them that they could not speak to a solicitor, 4 respondents said they thought getting a solicitor would delay things and 3 reported changing their mind.

<sup>29</sup> As noted above, these include ethnicity, gender, age, first language, employment status, marital status, housing tenure, and long-term illness or disability/mental health problems. Use of a solicitor was modelled using a logit model.

Use of a solicitor increased, to some extent, as the number of convictions increased. Those with four or more convictions were most likely to use a solicitor. Respondents were more likely to have a solicitor with an increase in the severity of the offence. In particular, for a small number of ‘serious’ offences respondents (n = 62) were more likely to use a solicitor (86%).

Gender was also found to predict choice of a solicitor with men more likely than women to use a solicitor. Marital status also had some effect, with cohabitants most likely (70%) and single respondents least likely (55%) to use a solicitor. There were differences in use of solicitors by housing tenure, with a small number (n = 44) of owner-occupiers least likely to use a solicitor (39%). In contrast, a high proportion (69%) of social tenants used a solicitor. Finally, both ethnicity and first language predicted solicitor use. Interestingly, ethnicity differences remained even when we took into account the respondent’s first language.

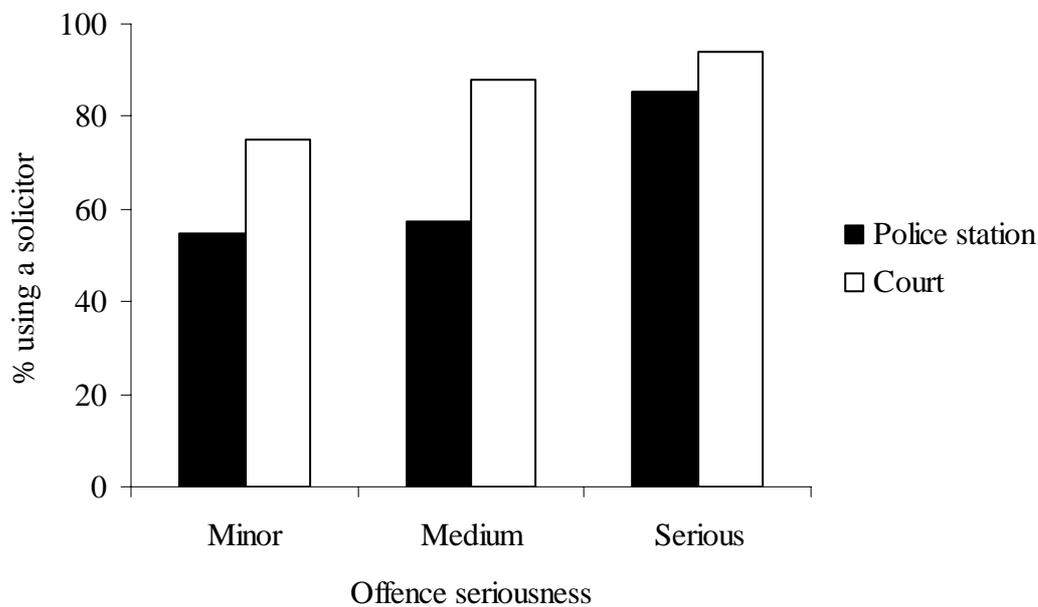
Examining ethnicity in isolation (i.e. not controlling for other variables) Black respondents had the highest percentage using a solicitor (74%) followed by ‘Mixed-ethnicity’ respondents (70%). In contrast, ‘other’ ethnicities had the lowest percentage (41%), followed by Asian respondents (48%) and White British respondents (56%). In the case of first language, of those with English as a first language, 60 percent used a solicitor, compared with 45 percent of those whose first language was not English. Within each of the five ethnic groups, first language only had an impact for Asian respondents, where 54 percent of those with English as a first language used a solicitor compared to 32 percent of those with a first language other than English. This difference for Asian respondents accounted for a major portion of the first language effect.

### 5.3 *Not represented at court (court sample)*

Of the 765 respondents who responded, approximately one in five (18%) did not have a solicitor at court. However, as with this sample’s use of a solicitor at the police station, their use of a solicitor at court varied considerably according to their previous convictions, offence seriousness, and social and demographic characteristics.

Once again, use of a solicitor was related to the number of convictions, although in court it had a stronger effect. Of those with no previous convictions, 76 percent used a solicitor in court. This percentage rose gradually with number of convictions (81% for one, 82% for two and 84% for three convictions) to 88 percent for those with four or more convictions. As in the police station, offence seriousness was a predictor for the use of a solicitor, becoming increasingly likely for more serious offences, with 75 percent using a solicitor at court for ‘minor’ offences, 88 percent for ‘medium’ offences and 94 percent for a small number of ‘serious’ offences (n = 65). Use of a solicitor at both the police station and at court by the severity of the offence (based on police gravity scores) is shown in Figure 9.<sup>30</sup>

Figure 9: Use of a solicitor in the police station and at court by offence seriousness



Unlike the use of a solicitor in police stations, there was little evidence of gender predicting use of a solicitor in court, though there were still some differences with marital status, with cohabitants most likely to use a solicitor (89%) followed by single respondents (81%) and married couples (73%). As at police stations, housing tenure had a similar impact on use of a solicitor, with the highest percentage of solicitor use for socially-renting respondents (87%) and lowest percentage for a small number (n = 61) of owner-occupiers

<sup>30</sup> Within the police station sample, offence seriousness predicted to a limited extent whether or not respondents had asked for a solicitor (50% being dealt with for minor offences, 59% for medium offences and 57% for serious offences asked for a solicitor).

(67%). There was some evidence of differences in the use of solicitors at court in terms of ethnicity. Use was most common among a small number of Mixed-ethnicity respondents (n = 37, 92% using a solicitor) and less common for Asian (74%) and ‘other’ ethnicity respondents (71%). However, the predictive value was reduced to some extent once ethnicity was considered in a model in conjunction with first language.

Those with English as a first language used a solicitor in court 83 percent of the time, compared to 67 percent of those with an ‘other’ first language. Set out in Table 3 is the number and percentage of those using a solicitor and at court, split by ethnicity (in five categories) and whether or not English was their first language.

*Table 3: Use of a solicitor in the police station and at court by ethnicity and first language.*

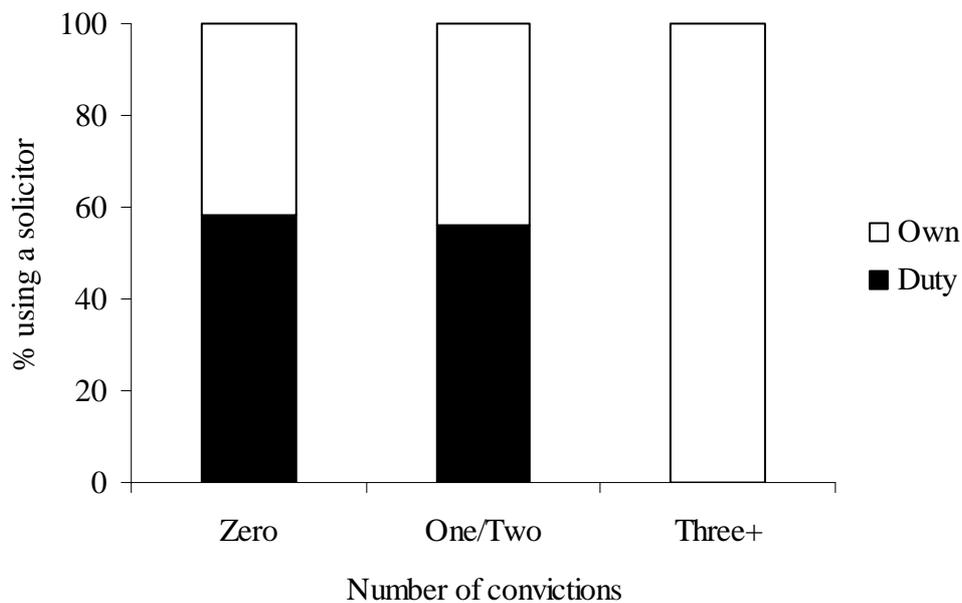
		Police station				Court			
		Solicitor		No solicitor		Solicitor		No solicitor	
Ist language	Ethnicity	No	%	No	%	No	%	No	%
English	White British	203	56	157	44	359	83	76	18
	Asian	29	54	25	46	52	79	14	21
	Black	82	73	30	27	108	84	20	16
	Mixed	21	68	10	32	31	91	3	9
	Other	4	40	6	60	9	90	1	10
<b>Total</b>		<b>339</b>	<b>60</b>	<b>228</b>	<b>40</b>	<b>559</b>	<b>83</b>	<b>114</b>	<b>17</b>
Other	White British	0	0	1	100	2	67	1	33
	Asian	7	32	15	68	19	63	11	37
	Black	7	78	2	22	9	75	3	25
	Mixed	2	100	0	0	3	100	0	0
	Other	8	42	11	58	16	64	9	36
<b>Total</b>		<b>24</b>	<b>45</b>	<b>29</b>	<b>55</b>	<b>49</b>	<b>67</b>	<b>24</b>	<b>33</b>

## 6. Predictors of those using the duty solicitor or their own solicitor

### 6.1 Respondents in the police station (police station sample)

Of the 113 respondents in the police station sample who were using a solicitor, 43 were using the duty solicitor, 29 their own individual solicitor, 39 their own firm of solicitors, and 2 were using CDS Direct.<sup>31</sup> With these represented respondents considerable differences were observed in choice of solicitor, by whether respondents had previous convictions. Of those with previous convictions, 73 percent chose an own solicitor in comparison with 42 percent with no previous convictions. Differences in choice by number of convictions are shown in Figure 10 below, with number of offences collapsed into fewer categories because of small numbers of respondents. The difference was predominantly associated with those with three or more convictions, with the 36 respondents all choosing an own solicitor.

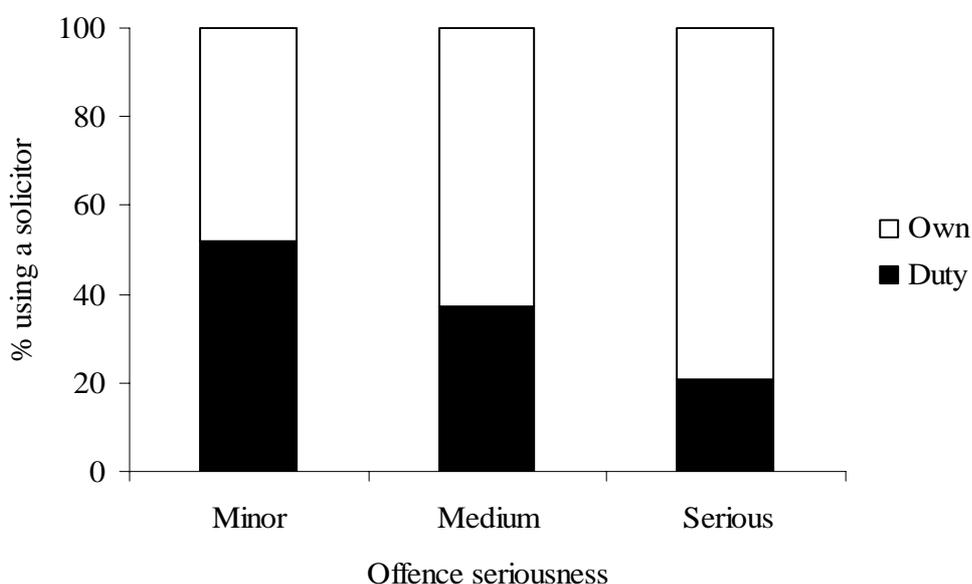
Figure 10: Choice of solicitor (duty vs. own) by the number convictions



Use of an own solicitor also increased with offence seriousness, from 48 percent for 'minor' offences to 63 percent for 'medium' and 79 percent for 'serious' offences. Choice of solicitor by offence seriousness (gravity score) is shown in Figure 11.

<sup>31</sup> For the purpose of this analysis, an individual own solicitor and an 'own firm' of solicitors were collapsed into a single own category and those using CDS Direct were removed to leave 43 (39%) using the duty solicitor and 68 (61%) their own solicitor (CDS Direct is a telephone-helpline which provides legal advice to suspects detained in the police station).

Figure 11: Police station sample: choice of solicitor by offence seriousness



There were some small differences for ethnicity. White British respondents used an own solicitor 70 percent of the time and 55 percent for BME respondents. Of 16 respondents with a first language other than English, half used an own solicitor. Additionally, there was some evidence of a small number of married respondents ( $n = 20$ ) being far less likely to use an own solicitor (30% doing so).

## 6.2 Respondents in the police station (court sample)

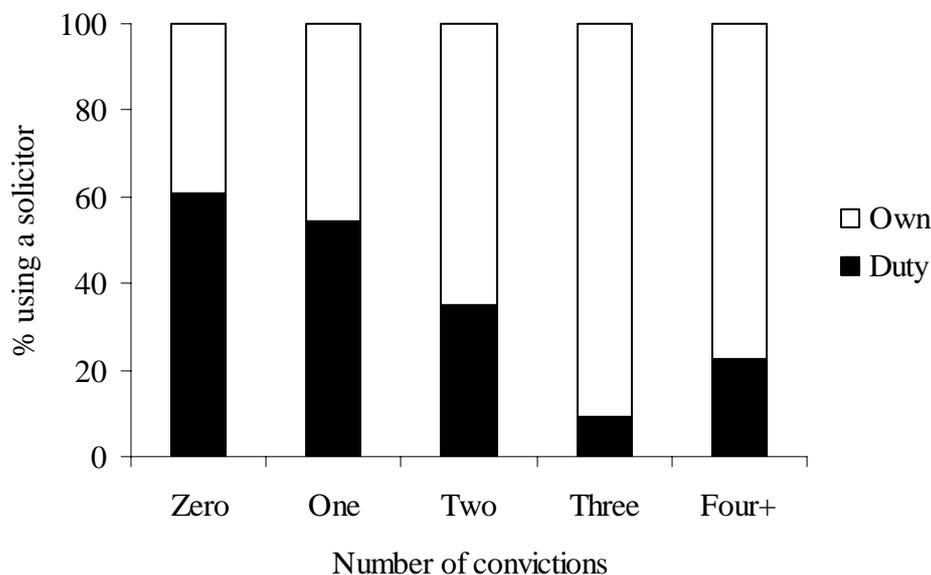
Of 374 respondents interviewed at court who had used a solicitor in the police station, 152 (41%) had used the duty solicitor and 222 (59%) their own solicitor.

In the police station, previous convictions and number of convictions had the greatest effects on predicting choice of own solicitor. Figure 12 below shows the percentage choosing the duty and own solicitor with the increase in previous convictions.

Offence seriousness also had an impact on respondents' use of the duty or their own solicitor in the police station. While those with offences classified as 'minor' and 'medium' had fairly similar percentages using an own solicitor (52% and 61% respectively), the percentage was higher for a small number of 'serious' offences ( $n = 53$ ) where 81 percent used an own solicitor.

Beyond previous convictions, social and demographic predictors had a fairly modest impact on type of solicitor chosen. Those whose first language was not English, appeared to opt for duty solicitors (54% compared to 40% for other respondents), although most of this difference appeared to be accounted for by other predictor variables. Similarly, modest employment effects (employed vs. unemployed) were reduced when set alongside other variables (particularly number of convictions).

Figure 12: Court sample: choice of duty or own solicitor in the police station by the number of convictions



### 6.3 Respondents at court (court sample)

Of 625 respondents using a solicitor at court, 180 (29%) used the duty solicitor and 445 (71%) use their own solicitor.<sup>32</sup> As with the choice of solicitor at the police station, the number of previous convictions was associated with the choice of solicitor at court although, interestingly, a preference for ‘own’ solicitors was most marked in cases involving respondents with four or more convictions. Figure 13 shows the percentage choosing the duty and own solicitor as the number of previous convictions increases.

<sup>32</sup> While the duty solicitor in the police station tends to carry out all duties which a client’s own solicitor would undertake, it should be noted that there is a more limited role for the duty solicitor at court. In particular, the court’s duty solicitor is only available at the first hearing, either to represent defendants pleading guilty or to advise and perhaps also to make bail applications on behalf of those in custody.

Figure 13: Court sample: choice of duty or own solicitor at court by number of convictions

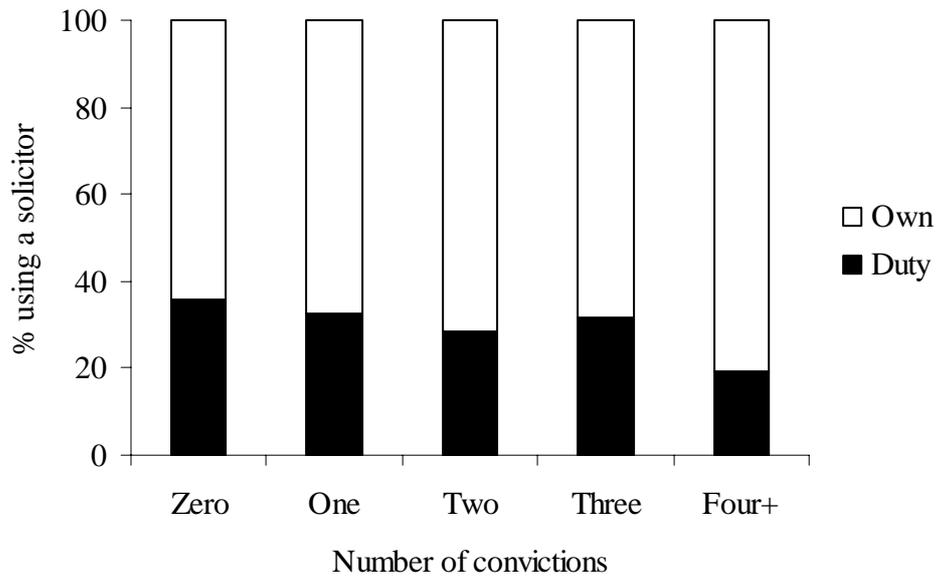
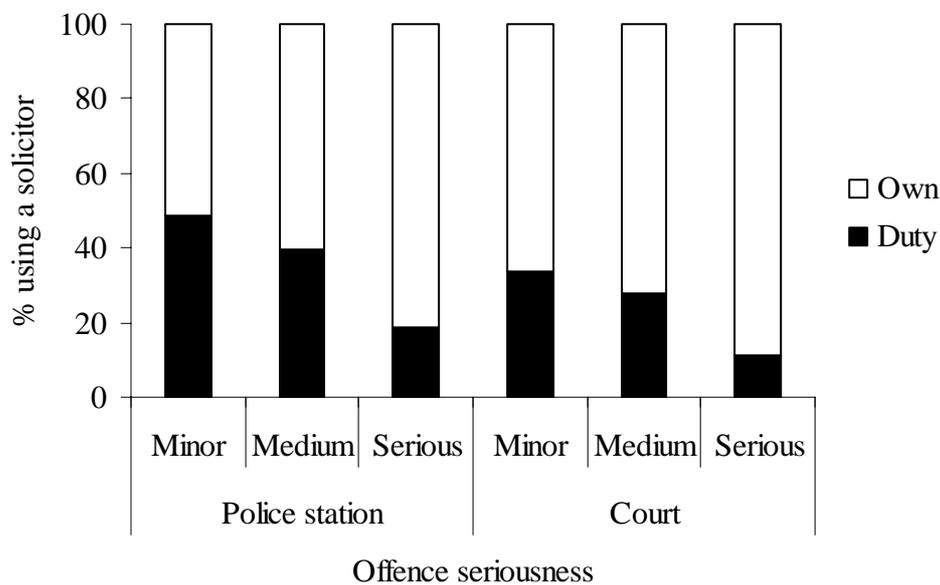


Figure 14: Court sample: choice of duty or own solicitor in the police station and at court by offence seriousness



At court, as in the police station, offence seriousness was associated with choice of solicitor; with respondents becoming increasingly likely to use their own solicitor as offence severity increased (67% for 'minor' offences, 72% for 'medium' and 89% for 'serious' offences). Choice of solicitor in both the police station and at court is shown in Figure 14 above.

Most social and demographic predictors were minimally associated with the type of solicitor chosen at court. There was an association with employment status, however, it appeared to simply be a proxy for number of previous convictions. Although ethnicity was associated with solicitor type, this association disappeared when considered alongside the spoken first language. Respondents with a first language other than English were nearly twice as likely as respondents with English as a first language to use a duty solicitor (47% compared to 27%). Table 4 below shows choice of duty or own solicitor, by both ethnicity and first language.<sup>33</sup>

*Table 4: Court sample: choice of duty or own solicitor, by ethnicity and first language.*

First language	Ethnicity	Duty solicitor		Own solicitor	
		No	%	No	%
English	White British	97	27	262	73
	Asian	18	35	34	65
	Black	29	27	79	73
	Mixed	6	19	25	81
	Other	4	44	5	56
Total		154	28	405	72
Other	White British	1	50	1	50
	Asian	10	53	9	47
	Black	4	44	5	56
	Mixed	1	33	2	67
	Other	7	44	9	56
Total		23	47	26	53

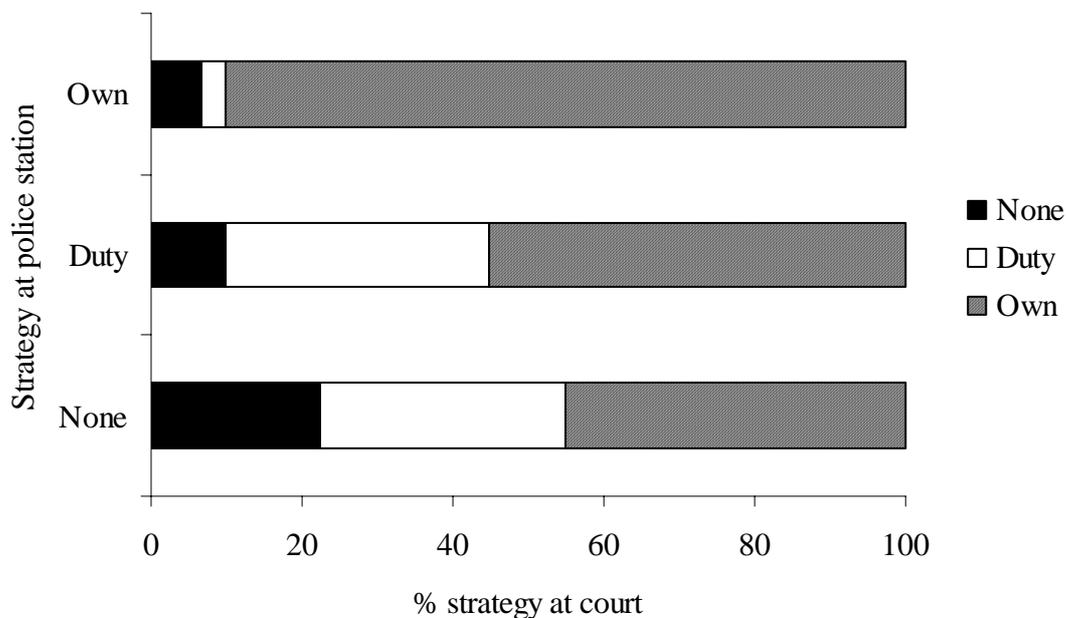
<sup>33</sup> A table is used rather than a figure, as some numbers for particular combinations of ethnicity and first language were small.

## 7. Strategies used when choosing a solicitor (court sample)

Respondents' choice of solicitor at the police station strongly predicted the choice made later at court. Figure 15 below shows respondents' advice-seeking strategy at court as a function of their earlier strategy in the police station. For example, just over 20 percent of those who chose no solicitor in the police station also chose no solicitor in court.

As can be seen from Figure 15, use of own solicitor in the police station almost always resulted in the use of own solicitor in court (90%). The move from an own solicitor in the police station to duty solicitor in court was particularly rare. Of those using a duty solicitor at the police station, a relatively small percentage (10%) had no solicitor at court, with a significant percentage (35%) continuing to use a duty solicitor and the majority (55%) converting to own solicitor. Finally, those without a solicitor in the police station were far more likely than other groups not to use a solicitor at court (23% for those who did not have a solicitor at the police station compared to 10% using the duty solicitor and 7% having their own solicitor).

*Figure 15: Court sample: respondents' advice-seeking strategy at court as a function of their earlier strategy in the police station*



Examining a sub-sample of respondents by removing those not using a solicitor at the police station or court, we observe the relationship shown in Table 5.

*Table 5: The relationship between duty and own solicitor choice at the police station and court (restricted to those using a solicitor at both the police station and court).*

Police station choice	Court choice		Total
	Duty	Own	
Duty	53 39%	84 61%	137 100%
Own	7 3%	200 97%	207 100%
Total	60 17%	284 83%	344 100%

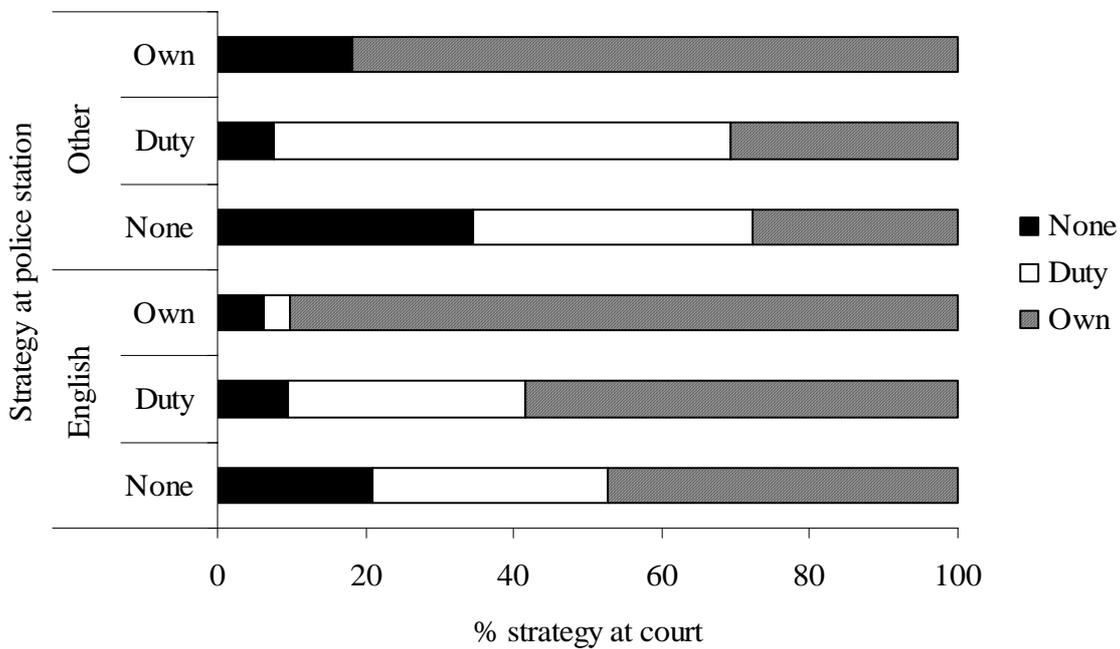
Respondents who used a duty solicitor in the police station and an own solicitor in court, were asked if the solicitor later used at court was the same solicitor (or from the same firm). Of the 84 qualifying respondents shown in Table 5 above, 36 reported that their own solicitor was the duty solicitor used in the police station, 24 reported they were from the same firm and 17 reported that a different solicitor was used.<sup>34</sup> In addition, all respondents in the court sample using an own solicitor, were asked how many hearings, including the current hearing, their solicitor had attended. A total of 192 respondents had two or more hearings, and of these, 19 had used the duty solicitor when first appearing in court for the case. Ten of the 19 respondents reported the duty solicitor was the same solicitor (or from the same firm) as their current own solicitor.

### *7.1 Language effects (court sample)*

As noted in section 6, there was little difference in solicitor choice between respondents with English as their first language and those with a first language other than English in the police station. The differences emerged at court. Those with an ‘other’ first language were more likely to use a duty solicitor compared to those whose first language was English who tended to use their own solicitor. As shown in section 5, both at the police station and at court, speakers of English as an acquired language, were less likely than other respondents to have a solicitor. Figure 16 shows the advice-seeking strategy of respondents at court as a function of earlier strategy in the police station, split by first language.

<sup>34</sup> The remaining 7 did not know or did not give an answer.

Figure 16: Advice seeking strategy at court as a function of earlier strategy in the police station, split by respondent's first language

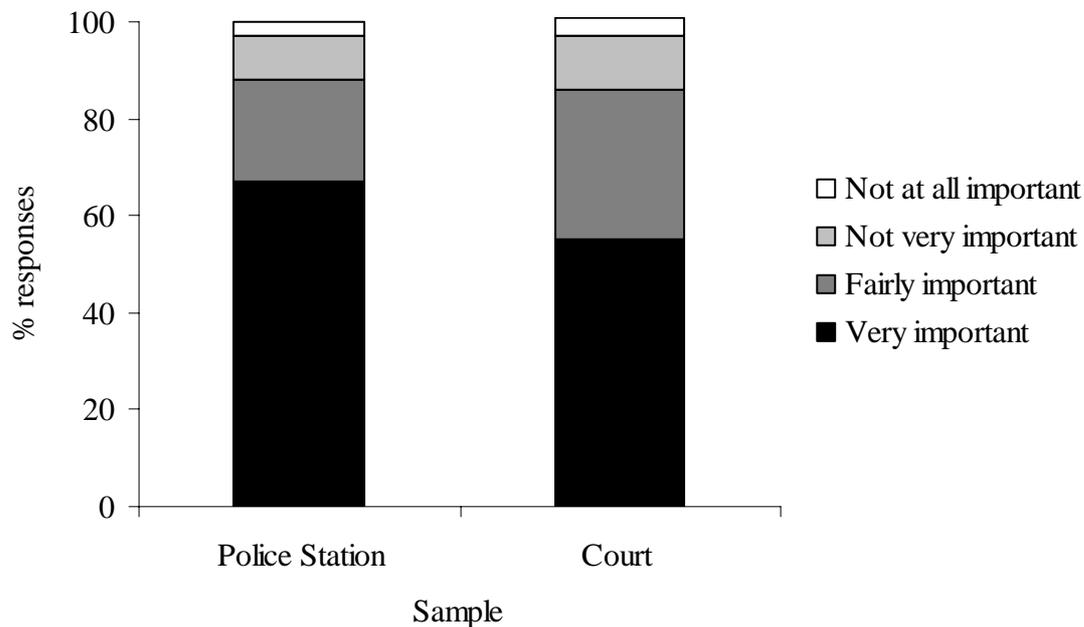


## PART C – The importance of choice and reasons for choosing a solicitor

### 8. The importance of choice

All respondents were asked how important it was to have a choice of solicitor.<sup>35</sup> It is evident from Figure 17 that choice is important for the vast majority of respondents.

Figure 17: How important it is for respondents to have a choice of solicitor



Not surprisingly, there were differences in the extent to which respondents felt it important to have a choice of solicitor, depending on whether they had already engaged their own solicitor, or were using the duty solicitor, or did not have a solicitor.<sup>36</sup>

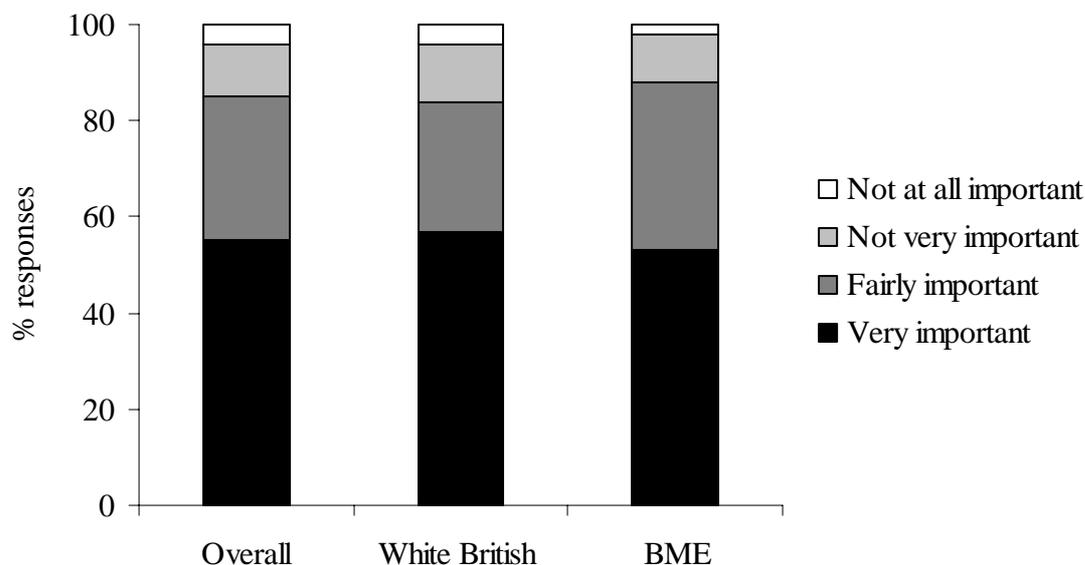
While the issue of choice was found to be important overall, the proportion of BME respondents who felt that choice was important was higher than White British respondents. For example, in the police station sample, 92 percent of BME respondents felt it was important to have a choice of solicitor compared to 85 percent of White British respondents. Similarly, in the court sample, 88 percent of BME respondents felt it was important to have a

<sup>35</sup> There were 199 respondents in the police station sample and 743 in the court sample who responded to this question.

<sup>36</sup> Within the court sample, 96% of those who had used their own solicitor at the police station said that choice was important, compared to 89% of those using the duty solicitor and 77% of those who did not have a solicitor.

choice of solicitor compared to 84 percent of White British respondents. The findings are summarised in Figure 18.

*Figure 18: The importance of having a choice of solicitor in the court sample based on ethnicity*



### 8.1 Factors which are important to respondents when choosing a solicitor

There were two open-ended questions in the survey. The first question asked respondents ‘What are the most important considerations to you when choosing a solicitor?’<sup>37</sup> As intended, many responses identified more than one important consideration. The following two responses help to illustrate this point:

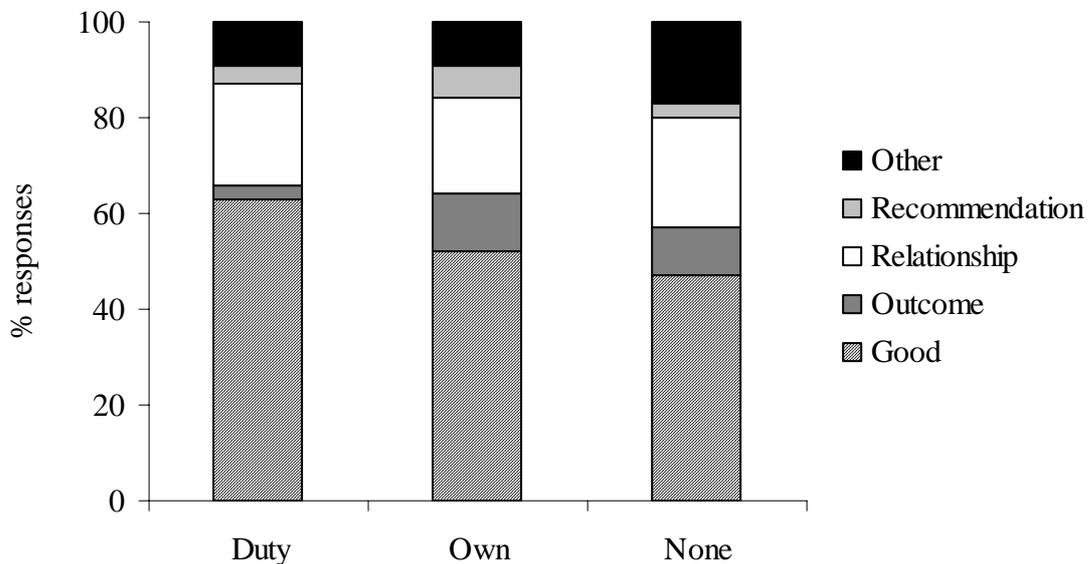
- ‘They have got to be a good solicitor. Good at time-keeping. Know what he’s doing. He has to be confident, speak out and make sure he is heard’.
- ‘That he can get me off and doesn’t let me down. That he can always get me out of the police station. There is only one solicitor for me. He knows all about my life. He has to know about the law and the sort of things I do, like theft.’

<sup>37</sup> The interviewers were instructed to ‘probe fully’ the responses, and if a particular factor was mentioned, such as reputation or ethnicity, they were to ask why the respondent felt this to be important.

For the purposes of the present analysis the responses have been collapsed into a single category, determined by what appeared to be the most important issue raised.<sup>38</sup>

Within the court sample, 523 respondents commented on the most important factors when choosing a solicitor: 114 respondents were using the duty solicitor, 348 had their own solicitor, and 61 respondents did not have a solicitor at court. A wide range of responses have been brought together under 5 different categories, which are set out in Figure 19 below.

*Figure 19: Factors which people at court said they found important when choosing a solicitor*



The most important factor identified by the majority of respondents was the need to have a ‘good solicitor’. This was often stated as wanting ‘good advice’, or someone who was ‘knowledgeable’, with ‘experience’, who has a good ‘reputation’, and who ‘knows what they are doing’. The category of ‘relationship’ seems to encapsulate the importance for a number of respondents of being able to communicate with their solicitor. Typical comments here included the need for solicitors to be ‘sympathetic’ and ‘friendly’. It was also important to a number of respondents that they ‘listen’ and ‘explain things well’. In addition, included in this category are those respondents who referred to the importance of the relationship they had developed with their solicitor over a number of years, using comments such ‘they know

<sup>38</sup> At this preliminary stage the allocation of responses into a single category has been fairly arbitrary as many responses could be allocated into a number of different categories. These multi-faceted responses will be analysed in more detail with NVivo, a computer analysis software package used in structuring qualitative data.

me well'. A number of respondents also referred to the importance of having a solicitor who was 'recommended' to them. The response from a number of people, for instance, was simply 'Recommendation'. So far as the 'outcome' category is concerned, this included respondents who said they wanted the solicitor to achieve good outcomes, that is 'to get me off', 'to get me bail' or 'to keep me out of prison'. The 'other' category includes a range of different responses referring to solicitors such as 'they are in the area where the case is heard' or 'they turn up when you need them'.

From the police station sample, 130 respondents commented on what factors were important to them when choosing a solicitor.<sup>39</sup> A similar selection of factors which were important to them were identified. For the majority of respondents, the main consideration was the importance of having a 'good solicitor' and the second most important category was the relationship, which respondents wanted with their solicitor.

## 8.2. *The impact of locality, gender and ethnicity when choosing a solicitor*

Very few comments in the open-ended responses related to locality, gender or ethnicity.<sup>40</sup> As these factors are important to policy-makers when considering people's choice of a solicitor, respondents were asked specifically about them. In this section, the responses from 437 people in the court sample who had chosen their own solicitor were explored. In relation to locality, two-thirds of the 437 respondents (n = 294) said their solicitor was in their locality and a quarter said it would have made a difference had their solicitor not been local. Of those 76 respondents for whom locality was important, 92 percent (n = 70) said they would have changed solicitor had they not been local.<sup>41</sup> Gender seemed to have little impact on client choice with only 12 out of 434 respondents commenting that gender was important to them (11 male and 1 female).<sup>42</sup> Of these respondents, 7 said they would change solicitor if the solicitor had not been of their preferred sex.

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<sup>39</sup> Of those 130 respondents, 60 who were using their own solicitor, 27 the duty solicitor and 43 were commenting on a previous solicitor.

<sup>40</sup> Three respondents mentioned specifically the issue of ethnicity, one mentioned gender and one mentioned locality. There was also one respondent who said he wanted a solicitor who understood mental health issues and another who was deaf and wanted a solicitor who could communicate with him.

<sup>41</sup> There were 20 respondents who said they definitely would have changed solicitor and 50 saying possibly.

<sup>42</sup> Of 390 male respondents, 65% had a male solicitor, 21% a female solicitor and 14% used both. Of the 44 female respondents, 55% said they had a male solicitor, 34% a female and 11% said both.

In relation to ethnicity, 430 respondents described their solicitors' ethnicity.<sup>43</sup> They were then asked if it would have made a difference when they first choose their solicitor had they not been from that ethnic background and there were 405 responses. Only 11 respondents said it would have made a difference (7 of whom were White British) and 8 said they would have changed solicitor.<sup>44</sup> However, we did find a tendency for BME respondents to choose BME solicitors when compared to White British respondents. In the court sample, for instance, of 400 respondents who had their own solicitor and stated their ethnicity, 18 percent of White British respondents had chosen a BME solicitor compared to 36 percent of BME respondents. As expected, the percentage using BME solicitors was generally higher in the four areas where there were higher BME populations. In Bradford, Birmingham and the two London boroughs, for example, 26 percent of White British respondents chose a BME solicitor compared to 41 percent of BME respondents.

### 8.3 *Speaking in another language*

Respondents were also asked if their solicitor spoke to them in a language other than English. Within the court sample, of those using their own solicitor, 435 respondents replied and 8 percent (n = 36) said that they did. However, only four of these respondents were non-English speaking: one spoke Gaelic, one Kurdish, one Punjabi and one Somali. As seventeen of these respondents were interviewed in Cardiff, it might be inferred that their solicitors spoke with them in Welsh.

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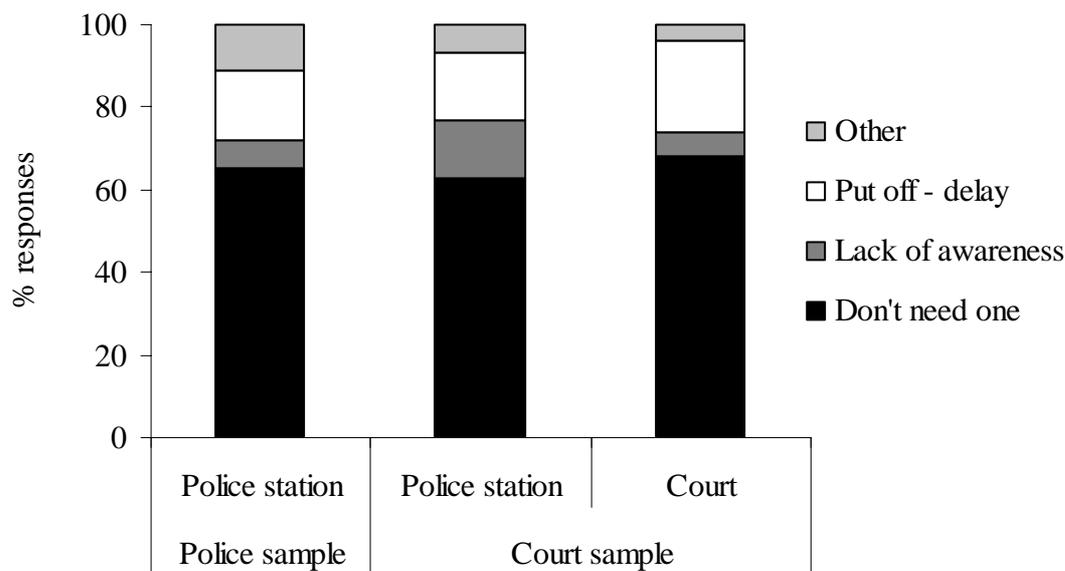
<sup>43</sup> Of the 430 respondents, 69% said their solicitor was White British, 15% Asian, 8% Black, 2% 'White Other', and 6% that it depended as they had seen solicitors from different ethnic backgrounds.

<sup>44</sup> There were 3 who said they would definitely have changed and 5 possibly have changed.

## 9. Reasons for not having a solicitor

Respondents who did not have legal advice were asked why they decided not to have a solicitor either at the police station or at court; their responses are shown in Figure 20.

Figure 20: Reasons why people do not choose a solicitor at either the police station or at court



### 9.1 Not represented in the police station (police station sample)

There were 46 percent of respondents in the police station sample who did not have a solicitor. Ninety-two respondents offered a total of 112 explanations as to why they had decided not to have a solicitor.<sup>45</sup> Almost two-thirds of these respondents said that they did not have a solicitor because they did not need one. In the main, this was because respondents felt 'there is nothing I need to know' (n = 21), although it also included 18 respondents who decided not to have a solicitor because 'I have not done anything wrong' and another 10 who said 'I was guilty'.<sup>46</sup> There were few respondents who chose not to have a solicitor because of their lack of awareness of what to do and all of those who were 'put off' it was because of

<sup>45</sup> When asking this question the interviewers were instructed to 'probe fully' the responses and to multi-code, as appropriate, and not to prompt a particular response.

<sup>46</sup> There were also respondents who said that 'the offence was too minor' (n = 8), 'it won't do any good' (n = 7), 'I didn't think about it' (n = 6) or 'I can defend myself' (n = 3).

concerns that this would delay matters.<sup>47</sup> Within the ‘other’ category, were five respondents who said ‘I will get a solicitor at court’ and two who said ‘I don’t trust solicitors’.

### 9.2 *Not represented at the police station (court sample)*

Within the court sample, 41 percent of respondents (n = 262) reported that they did not have a solicitor in the police station. There were 242 respondents offering a total of 287 explanations. As in the police-station sample above, almost two-thirds of respondents said they did not need a solicitor (63%). The two main reasons given in this category were: ‘I was guilty/admitted it’ (n = 58) and ‘There was nothing I needed to know’ (n = 56). Other comments included ‘I hadn’t done anything wrong’ (n = 21), ‘I just didn’t think about it’ (n = 17), ‘I couldn’t be bothered’ (n = 13), ‘It wouldn’t have done any good’ (n = 10). The second category, ‘Lack of awareness’, accounted for 14 percent of all responses, with comments like: ‘I didn’t understand how it could help’ (n = 17) or ‘I didn’t know what to do’ (n = 15). In the category of ‘put off – delay’ (16%), the main concern was that respondents thought it would take too long to wait for a solicitor (n = 30) or they wanted to get out of the police station quickly (n = 10). However, 7 respondents said the police told them it would take too long to see a solicitor. Within the ‘other’ category were 7 percent of responses with comments such as ‘I will get a solicitor at court’ and ‘I have not been offered a solicitor’.

### 9.3 *Not represented at court (court sample)*

At court, 18 percent of respondents (n = 140) did not ask for a solicitor. These respondents were asked why they had not chosen a solicitor and there were 177 explanations. At just over two-thirds, a slightly higher proportion of respondents compared to those in the police station said they did not need a solicitor. The two main responses within this category were: ‘There was nothing I needed to know’ (n = 48) and ‘I was guilty/admitted it’ (n = 46). Other comments included ‘It won’t do any good’ (n = 10), ‘I haven’t thought about it’ (n = 9) and ‘I haven’t done anything wrong’ (n = 7). The second category, ‘Lack of awareness’, accounted for just 6 percent of all responses, with some respondents (n = 6) not knowing what to do and others (n = 4) not understanding how having a solicitor would help. In the category of ‘put off – delay’ were 22 percent of the responses. While in the police stations it was the ‘delay’ which accounted for most responses, this was not the case for respondents in court. Indeed, only 7 respondents were concerned about delay at court. In the main respondents were ‘put

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<sup>47</sup> Three respondents reported being told by the police that it would take too long to wait for a solicitor and 15 thought themselves that it would take too long.

off' either because they could not afford a solicitor (n = 14), they were told they did not need one (n = 5) or their own solicitor had not turned up (n = 4).<sup>48</sup> The 'other' category accounted for just four percent of responses with comments such as, 'I don't trust solicitors' or 'I haven't been offered a solicitor'.

## **10. Reasons for choosing the duty solicitor**

Respondents in the police station sample were asked about their choice of the duty solicitor in the police station while those interviewed at court were only asked about their reasons for choosing the duty solicitor at court.<sup>49</sup> These respondents were then asked why they had chosen to use the duty solicitor and the responses are set out in Figure 21 below.

### *10.1 Choosing the duty solicitor (police station sample)*

In the police station sample, 39 percent of respondents used the duty solicitor. From Figure 21 there appear to be important differences between responses from the two samples, although this might be expected when respondents are at different stages in the criminal justice process and are making decisions about choosing a solicitor.<sup>50</sup> In particular, those at the police station were at an early stage of the investigative process and many would not have had the opportunity of discussing their legal representation with anyone other than the police. On the other hand, those at court have had the opportunity to talk to friends or family and to seek advice about which solicitor to use. Within the police station sample, there were 60 explanations from 45 respondents. Almost half of all explanations were categorised as having a 'lack of awareness', while almost a quarter of respondents said the duty solicitor was quicker, better or easier to use than other solicitors.

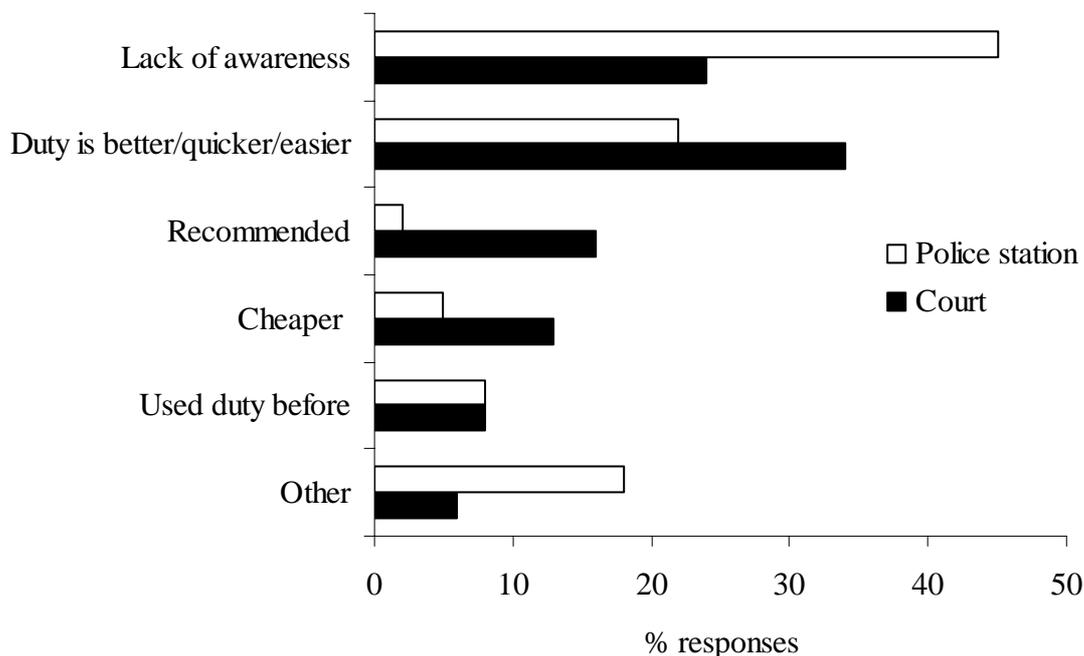
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<sup>48</sup> There were also respondents who said they were told by a solicitor, court personnel or a friend that they did not need a solicitor and others who said they had tried to use the duty solicitor but no-one turned up.

<sup>49</sup> Once again, this was a multi-coded response; interviewers were instructed not to prompt but to probe the responses fully.

<sup>50</sup> It should be noted that there were only 45 respondents in the police station sample, compared to 180 at court.

Figure 21: Reasons why people decided to use the duty solicitor



### 10.2 Court sample: choosing the duty solicitor

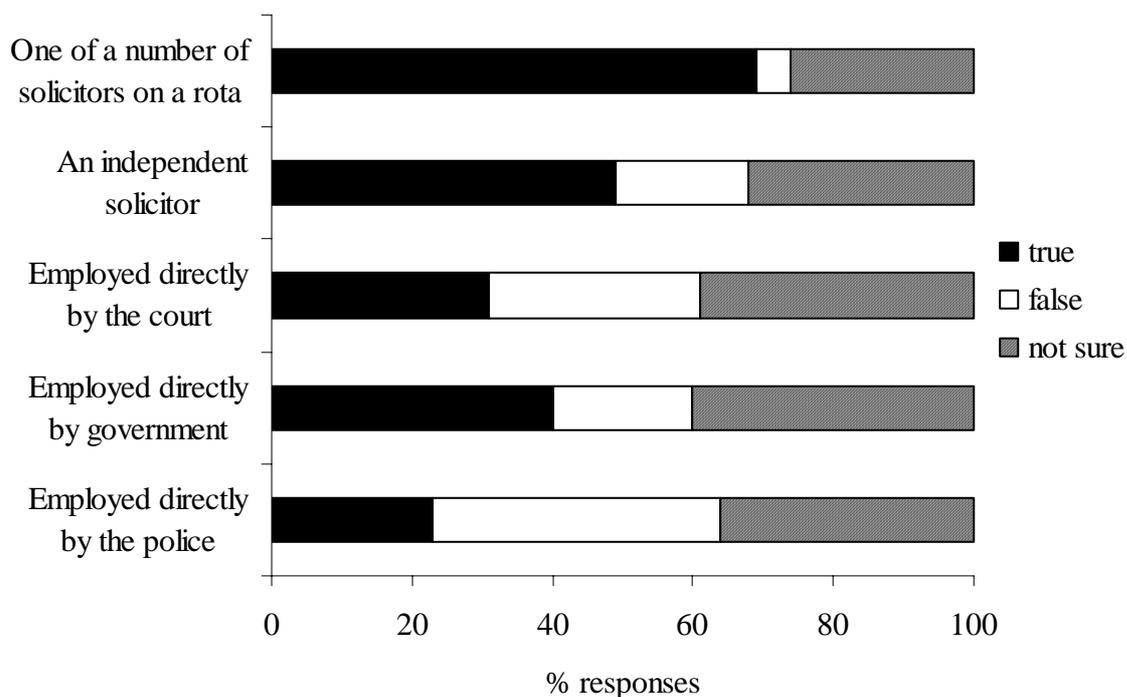
From the court sample, of 180 respondents choosing to use the duty solicitor there were 223 explanations in all. Almost a quarter of these explanations were categorised as a ‘lack of awareness’, including those stating ‘I didn’t know who else to use’ (n = 54) or ‘I was told I had no other option’ (n = 6). Just over a third of the explanations stated the duty solicitor was quicker (n = 60), easier (n = 26) or better (n = 9) than other solicitors. In 16 percent of cases, the respondents indicated that the ‘duty solicitor was recommended to me’ (n = 35) and 13 percent said it was cheaper to use the duty solicitor (22 respondents said they did not have to pay for the duty solicitor; in four cases, legal aid was refused; and in two cases the respondents said they could not afford the duty solicitor). In 8 percent of cases, the respondents indicated they had used the duty solicitor before (n = 17) and 6 percent of responses were categorised as ‘other’.<sup>51</sup>

<sup>51</sup> The ‘other’ category included 7 respondents who said their own solicitor was not available and 4 who said the offence was not serious enough for their own solicitor.

### 10.3 Understanding of the role of the duty solicitor

The duty solicitor scheme, at both the police station and the magistrates' courts, provides an important service to those who do not have their own solicitor but who choose to be legally represented. The scheme is managed by the Legal Services Commission, but the solicitors taking part are independent of both the police and government.<sup>52</sup> It is important that duty solicitors are independent, but it is not known to what extent people understand how solicitors are managed within the scheme. Accordingly, the questionnaire used at court included five statements (presented in reverse order to that set out in Figure 22 below) and respondents were asked to comment whether they thought the statement was 'true', 'false' or they were 'not sure'. There were 765 respondents at court and the findings are shown in Figure 22.

Figure 22: Responses to statements made about the duty solicitor scheme



The majority of respondents knew that the duty solicitor was 'one of a number of solicitors on a rota', and almost half knew that the duty solicitor is 'independent'. It is of concern, however, that almost a quarter of respondents thought the duty solicitor was employed directly by the police, and over two-thirds were not sure if this was the case or not.

<sup>52</sup> A very small number of public defenders are employed directly by the government through the Legal Services Commission.

Similarly, 40 percent thought the duty solicitor was employed directly by government and a further 40 percent were not sure if that was the case.

When analysing the responses to this question, we found some differences between the ethnic groups.<sup>53</sup> In relation to the statements that the duty solicitor was employed by the police, for instance, more BME respondents said this was true (26% compared to 21% White British). Similarly, more BME respondents said it was true that the duty solicitor is employed by the government (45% compared to 36% White British). This is interesting, bearing in mind that BME respondents tend to have a higher use of duty solicitors. There were also more White British respondents who thought the statements describing the duty solicitor as independent were true compared to BME respondents (50% compared to 46%) and also that duty solicitors were on a rota (73% and 62% respectively).

The duty solicitor statements were also put to 208 respondents in the police station (although the question about the duty solicitor being employed directly by the court was omitted). The responses in the police station were almost identical to those recorded at court. It was only in relation to the statement that a duty solicitor was an independent solicitor that fewer respondents interviewed at the police station said this was true compared to the response given by the court sample (41% compared to 49%) but with a higher proportion of those in the police station sample saying they were not sure (41% compared to 32%).

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<sup>53</sup> Of these respondents, 59% were White British and 41% BME.

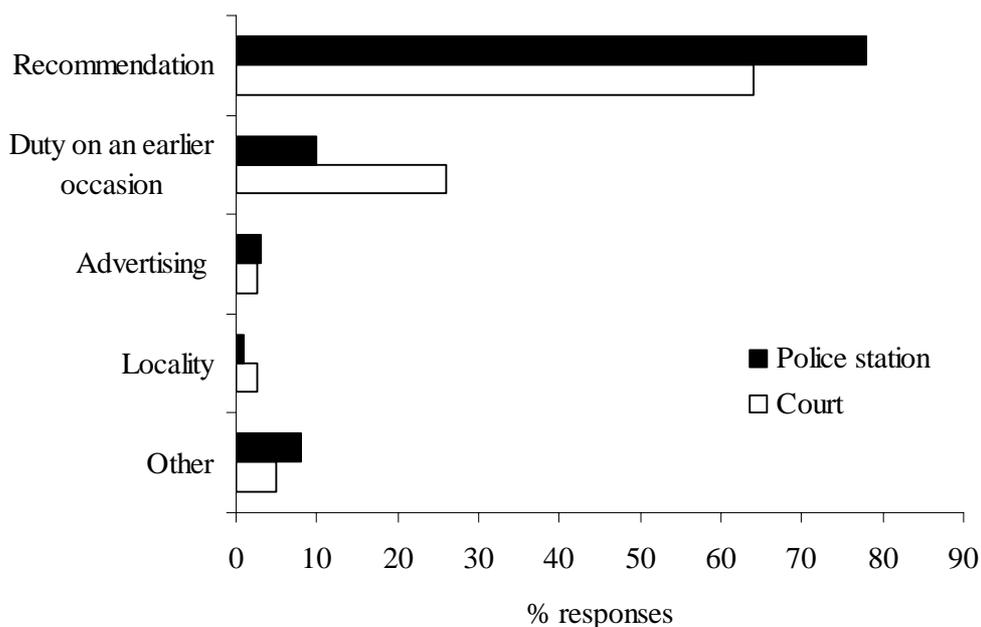
## 11. How were own solicitors originally chosen?

Respondents with their own solicitor were asked how they originally came to choose their solicitor and, as shown in Figure 23 below, this was mainly because of a recommendation.

### 11.1 Choice in the police station (police station sample)

There were 113 respondents in the police station sample who were using a solicitor; of these, 60 percent had their own solicitor. There were 68 respondents who answered the question of how they originally came to choose their own solicitor with 54 responding it was through a recommendation. The next main response given by 7 respondents was they had used their own solicitor as the duty solicitor on an earlier occasion.

Figure 23: Reasons why respondents initially choose their own solicitor



### 11.2 Choice at court (court sample)

Of 625 respondents using a solicitor at court, 71 percent had their own solicitor. There were 445 respondents who commented on how they originally came to choose their own solicitor and almost two-thirds of these (n = 284) said they had been recommended to a particular solicitor or solicitors' firm. In a quarter of cases (n = 113) the solicitor had originally acted as the duty on an earlier occasion. There were only a few responses in the other categories.

### 11.3 *How important is it for respondents to see the same solicitor?*

Respondents using their own solicitor thought it was important to see the same solicitor from their own firm. Of 58 respondents in the police station sample, 66 percent thought it was important and out of 273 respondents at court 88 percent considered it important to see the same solicitor. While it was important for many respondents to see the same solicitor this was not always possible. Indeed, just one-third of respondents in the police station, and around half of those at court got to speak to the same solicitor.

Respondents were then asked why it was important to see the same solicitor. There were only 38 respondents in the police station survey and the majority said that they wanted to see the same individual because ‘they know a lot about me’ (n = 25) or ‘they are friendly’ (n = 16).<sup>54</sup> In the court sample there were 326 respondents answering this question. A critical factor identified in the court sample was the importance of the relationship that respondents had with their solicitor. In over half of all responses, for instance, respondents referred to it, i.e. ‘They know a lot about me’ (n = 229), or ‘They are friendly and I feel comfortable with them’ (n = 118). In almost a quarter of responses it was because respondents did not want another solicitor. In this category, for instance, most respondents said either ‘Other solicitors don’t know anything about me’ (n = 39) or ‘Other solicitors don’t know what is going on’ (n = 34). A smaller number of respondents referred to the importance of the quality of their solicitor with most saying that ‘they are good’ (n = 60), or ‘they get me off’ (n = 15) or ‘they are specialists’ (n = 12).<sup>55</sup>

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<sup>54</sup> One referred to being given money as a perk and one to coming from the same ethnic background.

<sup>55</sup> A few said that their solicitor ‘Gets things dealt with quickly’ (n = 28). There were also three respondents who mentioned the importance of ‘perks’ (two saying ‘they give me cigarettes’ and one referring to receiving money), and two referred to the importance of gender.

## 12. How do respondents rate the solicitor they are using why?

All respondents who were using a solicitor, and those who were not using a solicitor but had done so on a previous occasion, were asked whether their solicitor was ‘good’, ‘okay/average’ or ‘not good’. The responses are set out in Table 6.<sup>56</sup>

*Table 6: Respondents’ ratings for solicitors used at court<sup>57</sup>*

	Frequency	Good %	Okay/average %	Not good %
Duty	95	55	38	7
Own	404	74	24	2
None	83	63	26	11

Respondents were then asked the second open-ended question of why they had said their solicitor was ‘good’, ‘okay/average’ or ‘not good’. An initial analysis of the open-ended responses suggests similar findings from asking respondents about the factors, which were most important to them when choosing a solicitor (see Table 19 above).<sup>58</sup> As noted above in relation to the first-open ended question discussed in section 8.1, the allocation of responses into a single category has been fairly arbitrary as many responses include a number of explanations. The following two responses help to illustrate this point:

- ‘He was clear in what he was telling me. He explained what he was going to do. I felt that he was there to support me, to do his best. He is worth his reputation. My friends say he is good at what he does.’
- ‘They know what they are talking about. They listen to me and tell me how it is. They recommend what they think I should do. It’s always right. They give good advice and the right advice.’

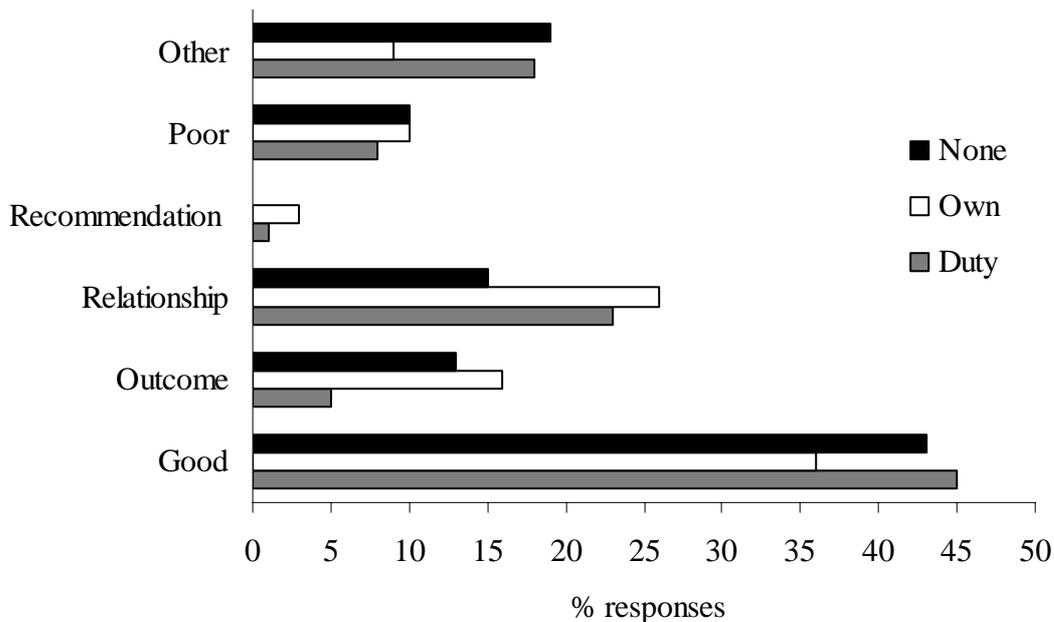
<sup>56</sup> Respondents were also asked this question in the police station survey but there were too few responses for detailed analysis.

<sup>57</sup> Those respondents who were not using a solicitor at court but had used a solicitor on previous occasions were also asked this question.

<sup>58</sup> There were 83 respondents who answered this question who were using the duty solicitor, 362 had their own solicitor and 69 respondents did not have a solicitor.

Accordingly, as shown in Figure 24, similar categories were used, as adopted from Figure 19, but with the added category of ‘poor’ which, at this initial stage, encapsulates responses where the solicitor was described as ‘not good’.

*Figure 24: Reasons why people at court found their solicitors to be ‘good’, ‘average’ or ‘not good’*



It is evident that the majority of respondents were making positive comments about their solicitor. The category of ‘good’ reflects, as described in section 8.1, responses which comment on wanting a ‘good’, ‘experienced’ solicitor who has a good ‘reputation’, is ‘knowledgeable’ and provides ‘good advice’. In relation to the category of ‘relationship’, this is about the importance of the relationship which the respondent wants with their solicitor in order to communicate and understand what is going on. The ‘outcome’ category is also as discussed above. With the phrasing of this question which asks people about issues of quality in relation to their solicitor, it is not surprising that few responses were categorised as ‘recommendation’. The ‘poor’ category includes complaints such as ‘they gave bad advice’, or ‘they didn’t know what they were doing’. Other criticisms included, ‘they were too rushed’ or ‘they did not give me enough information’. In the ‘other’ category were included comments where the respondent did not feel that they had known their solicitor long enough

to comment. For example, one said 'I've only met him a couple of times so I'm not sure yet'.<sup>59</sup>

As noted in the introduction, ongoing work is being undertaken on this project. Interviews are being held with criminal practitioners and the datasets will be analysed further. The LSRC also hopes to gain access to two prisons for a third sample of respondents. A final report will be available in early 2009.

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<sup>59</sup> Further analysis of these responses will include consideration of the different responses provided by those describing their solicitor as 'good', 'okay/average' or 'not good' /not good'.







Legal Services Research Centre

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