

European Judicial Training Network

Stage at the Tribunal de Grand Instance, Lyon

October 10th to October 21st 2016

Report of HHJ Nic Madge

Introduction

I was very privileged, through the auspices of the Judicial College of England and Wales and the European Judicial Training Network, to spend two weeks from October 10th to October 21st 2016 *en stage* (on placement), shadowing judges, at the *Tribunal de Grand Instance* in Lyon. The stage was supervised by Mme Michèle AGI, *directrice de centre de stage* and a *présidente de correctionnelle*. The day-to-day arrangements for the stage were made by Mme Sylvie BOGE, *vice-présidente chargée de l'application des peines* and Mme Nathalie MAZAUD, *présidente de correctionnelle*. They gave generously of their time and organised a comprehensive programme showing me at first hand many aspects of the French criminal justice system. I was also greatly assisted by a number of other judges, including M. Vincent CASTELLI, M. Julien FERRAND, Mme PORCHY, Mme Ysabel FOULETIER, M. Daniel GROLLEMUND and Mme Anne Rognaux and a number of *procureurs de la République* (public prosecutors), including M. Marc CIMAMONTI, the Senior Procureur of Lyon, his *adjoint*, M. Bernard RAYNARD, M. Marco Scuccimarra, M. Michel NOYER, Mme Elise BAYET, M. Guillaume MICHEL and M. Marc Emmanuel GOUNOT. Their *greffiers* (clerks) and *huissiers* (ushers) also assisted me. Mme Maia TOMBAL and Mme Delphine LEFEVRE at the *Service pénitentiaire d'insertion et de probation* (S.P.I.P.) also went out of their way to help me. I am extremely grateful to all of them for the warmth and generosity which they showed towards me.

In this report, I will summarise the various steps in the French criminal justice system (from the arrest of a suspect the completion of his or her sentence) which I witnessed and then set out a few reflections.

Different steps in the French criminal justice system

Garde à vue

Suspects may be arrested in an *état de flagrance*ⁱ (very soon after an offence has been committed), or in accordance with an *ordre de comparution forcée* (order for a forced appearance made by a *procureur*)ⁱⁱ or a *mandat d'amener* (warrant issued by a *juge d'instruction* - investigating judge)ⁱⁱⁱ. A *mandat d'amener* can only be executed in a citizen's home between 6 a.m. and 9 p.m. Suspects may be held in a police station and questioned by police or gendarmes for 24 hours. The period may be extended by the *procureur* (prosecutor) to 48 hours. A *juge des libertés et de la détention* (see below) or a *juge d'instruction* may authorise longer periods of detention in organised crime or terrorism cases. During the period that suspects are held at a police station, there is limited access to *avocats* (lawyers). Police cannot question suspects after the expiry of

that initial period. If police wish to take matters further, they must refer the matter to a *procureur*. A suspect must either be released or brought, physically, before a *procureur*.

Service Traitement Direct

The *Service Traitement Direct* (literally, the Direct Treatment Service, formerly known as Response in Real Time) allows police officers who have arrested and questioned a suspect to seek urgent advice and directions from a *procureur*. In Lyon, four duty *procureurs* (three for adults, one for minors) sit with a couple of *greffiers* in a room in front of desk top computers, while wearing head-phones. The computer screens show contact details of all the police officers seeking advice. The *procureurs* click on the screen and a call is automatically put through to the police who then discuss what they know about the case with the *procureur*. S/he directs what should happen next. If the offender is to be brought directly to court, that may be either for *Convocation (juge unique ou collégiale)* (i.e. a hearing at a later date which will allow further enquiries to be made), *Comparution Immédiate* (a hearing the next day) or *Comparution sur reconnaissance de préalable de culpabilité (C.R.P.C.* - a hearing where guilt is not likely to be contested). If an offence has been committed, but it does not warrant prosecution in court, the *procureur* may direct that the *dossier* (file) be sent for *Composition Pénal*^{iv}, or *Mesure alternative aux poursuites* (conditional suspension of the prosecution).^v The *procureur's* permission is also required if the decision is to take no further action. There may be other situations where the police simply want to inform the *procureur* of developments of interest or concern.

I spent the afternoon of October 19th with M. Guillaume MICHEL, a *procureur* attached to the *Service Traitement Direct*. I sat next to him, wearing a set of headphones, so that I could listen to the conversations between him and the police officers. Among the calls I heard, there were cases involving;

- An allegation of domestic violence. The offender had hit his partner, broken a window, cut the telephone line and “broken everything in the house”. After questioning, he did not contest his guilt. The case was listed for *C.R.P.C.* six months later;
- A man admitted selling less than a gram of cannabis. He was referred to a *procureur* to issue an *ordonnance pénal*. It was likely that he would be fined;
- An allegation of burglary, committed by an offender the day after his release from prison. His DNA was found on a knife used to break into a crèche 20 metres from his home. He would be brought to court for a *comparution immédiate* the following day. M MICHEL said that the evidence appeared overwhelming, and, even if he did not accept his guilt, the trial would probably take place the following day as there was sufficient evidence in the *dossier*;
- The previous day police surveillance led to the search of a house where police found 700 grams of cannabis and €10,000. A resident in the house and a man who buyers identified as their dealer were arrested. M. MICHEL saw both suspects by video link and agreed a request by the police to prolong the *guard à vue* for a further 24 hours. Neither suspect had any observations to make. Later in the afternoon, M MICHEL spoke to the police officer who described the evidence obtained. He directed that both suspects should be brought to court for a *comparution immédiate* the following day;

- Three passengers had been stopped for travelling on a train without a ticket. M. MICHEL said this was a *contravention* (i.e. low level offence) and there had been no need to call him;
- An allegation of aggravated violence. In a fight between a couple, the man suffered five knife wounds. The woman had a hand injury. The couple were still together and neither wished to take matters further. M. MICHEL authorised the police to take no further action;
- A suspect was arrested for swindling. He had given a bar-owner a cheque for €649. There was no money in the account. M. MICHEL authorised the police to take no further action because the bar-owner was “not interested”;
- In March 2015, a man paid €65 for a computer tablet which did not exist. M. MICHEL referred this for *composition pénal* so that the victim could be reimbursed without the need for a prosecution;
- After a road traffic collision, the driver went round to the house of the victim and punched him. The victim was incapacitated for more than eight days. The driver accepted what he had done. The case was listed for *C.R.P.C.* six months later;
- A man was questioned after being arrested for theft of a jacket worth €129 in a shop. He disputed the allegation. M. MICHEL referred this for *convocation par officier police judiciaire*;
- A man threw a Molotov Cocktail at a car in one of the *banlieus*, setting light to it. Although he was not apprehended at the scene, an eye witness told police that he had burnt himself. A suspect with burns to his hand was arrested in hospital and admitted burning himself. M MICHEL directed that he should be brought to court for a *comparution immédiate* the following day. (I later heard that the following day he was sentenced to six months immediate imprisonment);
- A woman from Cameroon was accused of ill-treating her children by cutting her daughter’s head with a razor and hitting another child with a belt. The children had been removed by Social Services. The mother accepted what she had done. As there was no further risk, M. MICHEL directed that the case should be listed for *C.R.P.C.* six months later.

During the afternoon, M. MICHEL discussed twenty-five separate suspects with police officers.

Other calls which did not involve a suspect in a *garde à vue* concerned a police officer who had injured himself with his service weapon at home while drunk and a police officer who had lost his service weapon and two magazines after driving off with them on the roof of his car. (They were found the following day.) M. MICHEL asked to be kept informed about developments.

The following morning, I was very privileged to be invited to the 9 a.m. debriefing meeting of the Senior *Procureur* of Lyon, M. Marc CIMAMONTI, his deputy and his *adjoint* M. Bernard RAYNARD. They discussed cases which had been referred to the *procureurs* over the preceding 24 hours. They also noted incidents the previous night in the *banlieu* of Venissieux, which had been reported on national television, when rubbish bins had been set-alight on tramlines and Molotov Cocktails had been thrown at police cars, without any injury or damage. They also discussed a demonstration of some 800 discontented police officers who had marched from the Place Bellecour the previous

evening. That too had featured on national television. (I saw the demonstration. Police officers lit red flares. Spoke hung over the main square as *policiers* marched behind banners.)

Saisine (juge d'instruction)

Where a suspect has been arrested and the *procureur* considers that further investigation is needed before *convocation* (an appearance or hearing) s/he may be brought before a *juge d'instruction pour être mis en examen par procès-verbal d'interrogatoire de premier comparution* (essentially, questioning).^{vi} An *ouverture d'information judiciaire* (preliminary judicial investigation) is compulsory for *crimes* (serious crimes) and when the prosecution considers that during the investigating phase the suspect should be placed either on bail (*contrôle judiciaire*) or in custody (*détention provisoire*). The enquiry continues under the control of the *juge d'instruction* who can interrogate the suspect (*interrogatoire de première comparution* or *interrogatoire au fond*) or instruct the police or *gendarmes* to make further enquiries.

On October 12th, I witnessed the separate examination of five suspects by M Michel NOYER. They were accused of being engaged in the large scale theft and handling of cars and car accessories over a period of some eighteen months. The proceeds of the thefts were said to be in the region of €300,000. They had all been arrested at 6.05 a.m. two days previously. The police evidence in the *dossier* already comprised details of phone tapping, geo-location from phones, video surveillance, details of stolen car accessories found in a garage rented by one of the suspects and the admission of an accomplice. In one of the suspects' flats, police had found a number of fire extinguishers, which they claimed, were used to remove forensic traces.

The interviews took place in an office on the eighth floor of the *Nouveau Palais de Justice*. M. NOYER, who was not robed, wore a jacket but no tie, while the suspects' advocates were robed. He and his *greffier* sat behind a desk. The suspects and their *avocats* sat opposite, on the other side of the desk. Two police officers sat behind them. The process was formal, with the *juge d'instruction* initially pointing out that the suspects had three choices; (i) to remain silent; (ii) to make a prepared statement; or (iii) to answer questions. The expectation was clearly that the suspects would answer questions. All did so, with virtually no intervention from their *avocats*. M. NOYER asked each suspect questions, many of them prepared in advance, and then dictated the answers given to his *greffier*. The questions always started with the *contexte* (personal details, income, previous convictions) and then moved on to the facts (*les faits*) of the case. The main suspect said that he was innocent. He accepted that he frequently went out between midnight and 4 a.m. to drive around with friends. He talked about the garage he rented, but said that everything in it was legitimate. He was asked how he could afford to eat in good restaurants and pay for the services of prostitutes. He answered that this was from the profits of his (undisclosed) business of buying cars cheaply and selling them at a profit. The second suspect had already implicated the main suspect when answering police questions and, in answer to questions from the *juge d'instruction*, repeatedly referred to what he did with "his colleague". He frankly admitted to the *juge d'instruction* that he had been involved in 90% of the thefts, but said they were the idea of his colleague. At the end of each interview, the *greffier* printed out a record of the interview, including the questions and answers. The formal record also stated that M. NOYER had

placed all the suspects *en mise en examen* (the equivalent of charging them) with details of the charges. The record was signed by the suspects and the *avocats* (often without reading it) and by the *greffier*.

Four were placed under *contrôle judiciaire* (i.e. on bail) with conditions (such as reporting to police twice a month, not contacting co-defendants and lodging a security (*caution*)). However, the *juge d'instruction* demanded that the main suspect, who had a number of previous convictions and two outstanding cases, should be remanded in custody (*détention provisoire*). A hearing was arranged before the *Juge de Liberté et Détention* while questioning of the other suspects continued.

On October 18th, I was present while M. Michel NOYER questioned a man who was facing charges of trafficking in drugs. He had already been questioned on arrest and then detained (*détention provisoire*) for five months and was brought to the room by two police officers. M. NOYER started the interrogation by stating that his impression was that the defendant had previously minimised his role. He nodded and then proceeded to volunteer what appeared to be full and frank admissions about how he and friends had sold large quantities of cocaine and MDMA to students between September 2015 and May 2016. At the end of his questioning, M. NOYER indicated that he would recommend that he be released under *contrôle judiciaire*.

On October 20th, I observed another *procureur*, M. Marc Emmanuel GOUNOT, questioning one of eight suspects in an alleged V.A.T. fraud. It was a classic MTIC (missing trader intra-community) or carousel fraud, in which cars had been bought in Germany, at a price which excluded V.A.T., and were sold in France to purchasers at price which purportedly included V.A.T., but without the tax being paid to the French government. The investigation related to 92 cars and over €1.7 million. Police had recovered lap tops from the suspect which contained fake invoices for car sales. In interview, he readily admitted his involvement, saying that he had prepared the fake invoices, having found templates through Google searches. It was likely to be two years before the case came to trial. The suspect was released under *contrôle judiciaire*.

Juge de Liberté et Détention

A *juge d'instruction* has power to release a defendant, under *contrôle judiciaire*. However, if s/he wants a defendant to be remanded in custody (*détention provisoire*), the defendant must be taken before the *juge de liberté et détention* (the bail or custody judge, whose primary functions are to consider whether to grant bail or remand in custody and applications to extend the length of time on remand.)

On October 12th, after the conclusion of the examination of the first suspect in the car theft case (see above), the *juge d'instruction* took the *dossier* downstairs to Mme PORCHY, *Juge de Liberté et Détention*. She read the *dossier* and convened a hearing in court which I watched. The prosecution were represented by the *procureur* and the defendant was represented by the *avocat* who had been present during his examination. A typed record of the hearing was made by the *greffier*. The defendant was in a glass enclosed dock, with two police officers, on one side of the court room. Members of the defendant's family sat at the back. The *procureur* and defence *avocat* both made short

speeches. Mme PORCHY rose to consider the position but then remanded the defendant in *détention provisoire*. The *Ordonnance de saisine et de la détention pour placement en détention provisoire* stated the reasons for remanding the defendant in custody as being to prevent fraudulent *concertation* (consultation) with accomplices, to end the commission of the offence in question and to prevent the commission of further offences.

Juges de liberté et détention also have power to extend the length of *détention provisoire* after the initial period expires. They also hear requests for remand prisoners to be realised under *contrôle judiciaire*. On October 17th, I saw Mme Porchy conduct two hearings relating to defendants who had been in *détention provisoire* for some time. The first involved a man, described by the *procureur* as a “*grand délinquant*”, who was alleged to have used Kalashnikovs to seize cash-in-transit deliveries and explosive devices to blow up cash machines. Standing in the enclosed glass dock, he told Mme PORCHY, “*Je suis fils de la République. Je paie mes impôts*”^{vii}. Despite evidence of his DNA on some of the explosives, he was denying responsibility for all except one offence. Mme PORCHY extended the period of his detention. Later, I saw her conduct a video link hearing involving a prison officer who was remanded in *détention provisoire*. He was facing allegations of corruption – receiving money to provide favours to prisoners in the *maison d’arrêt* (prison) at Corbas. The prosecution evidence included marked bank notes which were found in his possession when he was leaving prison at the end of his shift. Given the length of the investigation and the defendant’s previous good character, the *juge d’instruction* had indicated that he would not oppose his release under *contrôle judiciaire* if he lived in a town far from Lyon. Mme Porchy indicated that she would give her decision the next day, when, despite concerns that he might seek to influence enquiries, and noting that it might be two years before the case came to trial, she released the defendant under *contrôle judiciaire*.

Convocation (juge unique ou collegiale)

Most trials in the *Tribunal Correctionnel* are listed before three judges, a president and two assessors.^{viii} (Occasionally the second assessor may be a *juge de proximité* (a legally qualified person who is not a *magistrat*.) In Lyon, they are held in modern court rooms, often with light wood walls and desks or benches with green leather surfaces. They have little or no natural light. They are subtly lit with tasteful desk lamps. The judges sit on a long raised bench, with the *procureur* at one end and the *greffier* at the other end. To the left hand side there is a dock (sometimes encased in glass). Defence *avocats* sit in front of the dock. On the opposite side there is a bench for the *avocats for parties civiles* (victims who are present to make a claim for compensation). There is desk for the *huissier* (usher) behind the *avocats for the parties civiles*. Immediately in front of the President, often no more than a couple of metres away, there is a lectern, where any defendant who is not in custody, or any *partie civile*, stands when addressing the bench. When not speaking, they sit on chairs facing the bench immediately in front of their advocates.

The procedure in the trials I observed followed a set pattern;

- The President of the Tribunal reads out a summary of the evidence and any other relevant information from the *dossier*. This generally includes a summary of the defendant's previous convictions (if any);
- The President asks the defendant questions, often seeking an explanation for his or her behaviour;
- The President asks the *partie civile* questions;
- Apart from hearing orally from the defendant and the *partie civile*, the court hears no other live evidence. The judges rely on statements made by witnesses to the police or *juge d'instruction* which are contained in the *dossier*;
- The *avocat* for the *partie civile* addresses the court, generally putting forward a financial claim against the defendant;
- The *procureur* addresses the court, concluding by stating the *peine* (the sentence) which the Republic seeks;
- The defendant's *avocat* makes a speech, often talking quickly and in a tone which might be considered slightly theatrical or emotional when compared to the cold, analytical approach of an English advocate;
- Finally, the President asks the defendant if there is anything further which s/he wishes to add.

If there are still more cases to be heard, it is common for the court to hear those further cases before retiring to consider verdict and sentence. The verdict, sentence, any compensation for the *partie civile* and any ancillary orders are often announced briefly, without reasons (*motivations*). On many occasions which I observed, the *avocats* had left before this stage, leaving defendants on their own.

On the afternoon of October 13th, I sat in with Mme Natalie MAZAUD and two assessors (both judges) on trials within the 6^{eme} *chambre correctionnelle*. The hearing began at 2 p.m. and concluded at 6.40 p.m. There were three effective cases, all dating back to 2013;

- A man, aged 23, who, while driving a scooter, had killed an elderly pedestrian. According to statements made by witnesses, he was exceeding the speed limit and went through a red light. He was charged with involuntary homicide. He had previous convictions for motoring offences and his licence had been suspended. The widow of the deceased man was present as a *partie civile*. The defendant was sentenced to a suspended sentence of 12 months; he was ordered to pay an *amende* (fine) of €2,000; his driving licence was suspended for 12 months; and he was ordered to pay the *partie civile* €40,000;
- A 21-year old man charged with theft. With another man who was not apprehended, he forced open the door of a house and stole a computer. The partner of the owner's son, who was in the shower, heard a dog barking, ran downstairs and disturbed the burglars. The defendant, who did not dispute any of the facts, was asked by the judge why he had burgled the house. He replied, "I needed money." The judge responded, "You had no need. According to your family, you were in a good situation." The defendant shrugged his shoulders and said little more. The court heard from both the owner of the house and the young woman who was in the shower. The defendant, who had previous convictions,

was sentenced to 10 months' imprisonment suspended, fined €800 and ordered to pay compensation;

- A third man, who was aged 19 at the time, was charged with violence leading to permanent mutilation or infirmity. He had been playing a game, throwing stones at a friend. The friend ducked. A 17-year old girl who was behind him, speaking on her mobile phone, turned and was hit in the eye by the stone. She lost the sight of the eye. Soon after, the defendant texted her saying "I am really sorry." He told the court "I didn't see her. I didn't mean to hurt her." The girl was not present in court, but, as a *partie civile*, was represented. She had already received €50,000 through some form of insurance. The *procureur* submitted (correctly in French law) that throwing the stone was a voluntary act of violence causing injury, even though the defendant had no intention of hurting the victim. The defendant's *avocat* made an impassioned plea, referring to the defendant's lack of intention. "It was an accident." The defendant was found guilty and sentenced to eight months' imprisonment, suspended.

On the afternoon of October 14th, I sat on the bench with M Yves DE FRANCA and two judicial assessors in the 16^{eme} *chambre correctionnelle*. The hearings started at 2 p.m. and finished at 7.30 p.m. There were two effective trials with a total of three defendants. All were in *détention provisoire*. The offences were alleged to have been committed in the summer of 2015;

- A 26 year-old man charged with attempted theft in a house with violence. After returning to his house in an expensive *quartier* in Lyon, the home owner saw a number of men through the glass window of a door trying to get into the house. He fired a gun and they ran away. His CCTV footage showed that for an hour or so, four men, their faces disguised with hoods and masks, had waited in the pool house before coming to ambush the home owner and his wife. They had a handgun, knives, a screw driver and a tear gas bomb. The defendant (whose face was not completely covered) was identified from a police photograph album and traces of his DNA, and, after his arrest, fibres from his gloves, were found on a window sill. When asked by the President of the court what he had done that night, he said that he had got into a Renault Clio with two men he did not know and then stayed with them. "I had no choice. I made a bad choice." Although he was unemployed, he told the judges that he had saved the €2,750 which the police found in his home. He did not trust the banks. The *dossier* revealed that he had several previous convictions for violence and carrying arms. A psychiatric report revealed no psychiatric pathology, but referred to his "immature personality". The home owner (*partie civile*), who worked collecting the takings from *discothèques*, described being traumatised and said "life has become complicated." His lawyer asked the court to watch the CCTV footage, but the court saw no need to do so. The *procureur* demanded a sentence of three years imprisonment of which one year should be suspended. Despite an impassioned plea from the defendant's *avocat*, the court had little difficulty in finding the defendant guilty. Despite the *procureur's* demand, he was sentenced to four years imprisonment of which 18 months were suspended. He was ordered to provide financial compensation to the *partie civile*.

- A Pole and a Czech were charged with violence aggravated by three circumstances resulting in incapacity lasting more than eight days.^{ix} There was one (Polish) interpreter for the two men – the Czech “spoke some Polish”. Police were called late at night to an insalubrious squat with no electricity and found the victim lying in a sea of blood. He had been stabbed repeatedly, kicked and punched, and beaten with a chair. The aggravating features were that the defendants had acted together, used a weapon and were in a state of obvious drunkenness. When arrested, the Pole was holding two knives covered in blood. He told police that he had merely threatened the victim, who was himself becoming aggressive, because he had discovered that he had stolen one of his knives. He was alleged to have told the victim, “In Saudi Arabia they cut off hands for theft.” He had a similar conviction in 2010. The Czech denied doing anything. Both said that the victim’s partner, who had made a statement to the police describing them attacking the victim in a frenzied manner, but was not a witness at court, was too drunk to remember what happened and that, in the absence of any lighting, the flat was too dark for her to see anything. The victim was not at court and was not a *partie civile*. He had been arrested for unrelated matters and was in prison. His injuries had included several stab wounds, a ruptured artery and fractures of the clavicle and several ribs. Again, when they retired, the judges had little difficulty in finding both defendants guilty. They sentenced the Pole to three years imprisonment and the Czech to two years imprisonment.

On the afternoon of October 18th, Mme Michelle AGI, sitting with two assessors presided over a hearing in the 16^{eme} *chambre correctionnelle*. There was only one effective case listed;

- In June 2016, a 48 year-old man had been tried in his absence on charges of acquiring, holding, transporting and attempting to import drugs. Now, he was requesting that the conviction be annulled. In 2012, a Mercedes van containing 600 kilograms of cannabis had crashed near Valencia in Spain. The defendant and other men were found nearby. Co-defendants were arrested in France and so the Spanish authorities were happy for the defendant to be extradited. The prosecution relied on geo-location evidence which showed that the defendant’s phone had taken the same route as the van, northwards from Ceuta. The defendant denied this, saying that he had only been contacted by a friend asking for help after the friend’s van had crashed. After retiring, the judges confirmed the defendant’s guilt, but reduced his sentence from two years imprisonment to fifteen months.

On the afternoon of October 20th, I again observed Mme Nathalie MAZAUD sitting with two assessors. The hearing began at 2 p.m. and ended at 9.30 p.m. (Mme MAZAUD told me that the latest time she had ever sat until was 2.30 a.m.) There were 14 trials in the list, including;

- A Sudanese man who faced three allegations of sexual aggression towards minors. The *dossier* contained statements from three 15 year-old girls who said that he had touched their buttocks and legs, while swimming in a crowded part of a lake. The girls were not in court, but the mother of two of them, who were

sisters, was in court as a *partie civile*. A psychiatric report stated that the defendant had no psychiatric issues. The defendant vehemently protested his innocence. “I am ashamed of having been accused. It is not possible.” The court found him guilty and sentenced him to a suspended sentence of three months imprisonment, with compensation of €500 for each girl;

- Some ten squatters were accused of *violation de domicile*^x (i.e. entering or remaining in the residence of another). Only three of them turned up at court. One was a Dutch woman who was given an English speaking interpreter. Some suspects appeared to have given false names and to have been released under *contrôle judiciaire* without their true identity being established. The trial of those whose identity had been established proceeded in their absence. The evidence in the *dossier* was that a number of people entered a house. They sat in the garden, drinking wine and champagne, which they had taken from the wine cellar, and then used furniture from the house to barricade the doors and windows in an attempt to prevent the police from entering. The evidence of the owner of the house, who did not come to court and who was not a *partie civile*, was that it had been in her family for generations, but she had lived elsewhere since 2005, while building works were being carried out. The works were delayed due to her ill-health. Photographs showed some furniture in the house, but the owner stated that there was no bed and she had no personal belongings there. The toilet did not function. Mme Mazaud, after consulting with the two assessors, returned verdicts of not guilty (“*relaxe*”) because there was insufficient evidence that the property was a *domicile*.

Comparution Immédiate

Some defendants appear in court the day following their questioning by the police or *juge d’instruction* – e.g. if the case is straight forward and prosecution enquiries are complete. Defendants may be brought to court in custody or under *contrôle judiciaire*.

On October 17th, I observed hearings in the 14^{eme} *chambre correctionnelle*, presided over by M. Daniel GROLLEMUND and two assessors. The public benches in the courtroom were full of friends, relatives and supporters of defendants. They included two young children who, after some judicial intervention, were asked to leave by the *huissier*. The cases included;

- A 23 year-old Algerian man who faced charges of *exhibition sexuelle* (exposure), *aggression sexuelle*^{xi} and attempted theft, committed the previous day. As this was a case involving sexual offences, it was adjourned for psychiatric reports;
- A 20 year-old man charged with failing to stop, drunk driving, *rebellion recidive* (violent resistance to a person in authority)^{xii} and *outrage* (threatening behaviour)^{xiii}. The *procureur* requested immediate judgment. M. GROLLEMUND read out loud from the *dossier* that police had seen the defendant driving a scooter with two passengers the wrong way down a one-way street. None was wearing a helmet. When police tried to stop the scooter, it mounted the pavement, but the defendant lost control and ended up on the floor. He then insulted the police officers, making sexual references to their mothers, and,

later in a cell, spat at them. He was found guilty; sentenced to eight months' imprisonment; and ordered to pay €150 each to the police officers. He questioned the decision. M. GROLLEMUND told him "You are going to Villefranche [a local prison] today." As he was led away, he shouted "It was not my fault. Eight months in Villefranche" and then blew kisses to family members. Some of the other cases were adjourned.

Comparution sur Reconnaissance Préalable de Culpabilité

There is no procedure allowing defendants to plead guilty in French law. The court must always satisfy itself from the *dossier* that the defendant is guilty. However, if a suspect does not dispute guilt (*il ne contest pas*) the *juge d'instruction* may direct that the case be listed for a short hearing to establish guilt and to pass sentence (*Comparution sur Reconnaissance Préalable de Culpabilité – C.R.P.C.*).^{xiv} In Lyon, these hearings were being listed six months after consideration by the *S.T.D.* Before *C.R.P.C.* hearings, the defendant, generally with an *avocat*, attends a short hearing, where the *procureur* indicates what sentence s/he would demand if the defendant does not contest guilt.

On October 14th, there was a *C.R.P.C.* list containing 23 cases. Thirteen of those cases involved motoring offences; many of them driving with excess alcohol. Other cases involved *escroquerie* (swindling – passing false cheques in shops, using false identification), food hygiene offences by a baker, *rebellion*, *outrage* and offering to sell drugs in a nightclub toilet. At 8.30 a.m., I sat in a small bare office, containing a metal and formica desk, with Mme Elise BAYET, a *procureur* and her *greffier*. A succession of defendants and their *avocats* came individually into the room and sat in front of the desk. The *avocats* were robed, but Mme BAYET was not robed. After checking each defendant's identity, Mme BAYET very briefly summarised the nature of the charges and quickly asked the defendant about the circumstances of the offence and his or her background. For example, a 56-year old man born in Portugal, was charged with driving with excess alcohol, after crashing his car. He had committed a similar offence the month before. When asked about the current offence, he said that, after bumping into some friends, he had drunk three glasses of *Ricard* before 10.30 a.m. "Do you have a problem with alcohol?" "No, I don't think so," he answered. The *procureur* proposed a suspended sentence of three months' imprisonment with measures to control his alcohol consumption. The *procureur* proposed an identical sentence for a 23 year-old woman who was not contesting her third offence of driving with excess alcohol within three years. In tears, she accepted drinking wine and "some" mojitos and did not dispute that she was incoherent when the police stopped her at 3.30 a.m.

The only case in which the *procureur* said that she would demand immediate prison (*prison ferme*) involved a man charged with driving after consuming drugs (cannabis). The *procureur* said that she would propose four months. The defendant's lawyer advised him to accept that proposal and then, at a later stage, to seek *aménagement de peine* (alteration of sentence – see below).

The hearings before the *procureur* were described to me as a form of plea-bargaining, but with the exception of one case, in which an *avocat* asked if the *procureur* could seek a lighter sentence, there was no discussion. In general, the *avocat* turned to the

defendant and asked if s/he would accept the proposed sentence. Without exception, s/he nodded assent. At the end of each brief hearing, the *greffier* prepared documents (*requête en homologation d'une proposition de peine*) recording the charges and the proposed sentence and requesting that the *C.R.P.C.* judge formally approve the sentence.

At 10 a.m., as the hearings before the *procureur* were still proceeding, I went upstairs to a courtroom where Mme Ysabel FOULETIER, *Juge de Comparution sur Reconnaissance de Préalable de Culpabilité* was sitting alone, without assessors. She hurriedly read through the *dossiers* and the documents which a *huissier* had brought upstairs. Defendants sat nervously waiting with their *avocats* to see whether Mme Fouletier would approve the proposed sentences. As each case was called on, the defendant walked up to the lecturn, a metre or so away in front of the judge. Their *avocats* stood next to them. The judge spoke briefly to each defendant and then listened to a short address from his or her *avocat*. She approved and confirmed all the proposed sentences except for the two drunk drivers with previous convictions. In those two cases, she considered that the sentences sought by the *procureur* were not severe enough. She adjourned those two cases to be heard at a later date in another chamber. Mme FOULETIER lectured those defendants that she did sentence about the importance of not breaching their suspended sentences (“one false step and you risk everything”) before the *greffier* handed them written confirmation of sentence. Although many sentences were lower than they would have been for comparable offences in England or Wales, Mme Fouletier gave the appearance of being a tough judge.

Sentence (Peine)

Sentence was generally passed immediately after trial. Apart from sex offenders, whose sentences were almost always adjourned for psychiatric reports, it was rare for sentences to be adjourned for reports (as often happens in England and Wales). The *dossier* contains information about the offender’s background. Sentences almost invariably comprised two elements, punishment of the defendant and compensation by him or her for the *partie civile*.

If there was a panel of three judges, sentence was always pronounced in open court after they had risen to deliberate. No reasons (*motivations*) were given. There appeared to be considerable judicial discretion – no equivalent to English and Welsh Sentencing Council Definitive Guidelines.

It is difficult after only a short period in a French court to make comparisons between sentences in France and those in England and Wales. Offences are not the same. The rules about the time actually to be served in prison and remission are very different. However, in very general terms, sentences in France seemed to be lighter than those in England and Wales.

According to *Direction de l'Administration Pénitentiaire* (Prison Administration) statistics, on 1st July 2016, the French prison population was 69,375 (excluding 11,530 persons not detained in penal institutions (*écrouées non détenues*).) The prison population rate was 103 per 100,000 of national population) Pre-trial detainees/remand prisoners

represented 28.9% of the total prison population. 3.4% were women. 1.1% were aged under 18. Foreign prisoners amounted to 21.7% of the prison population. The official capacity of the prison system was 58,311 and so the occupancy level on 1st July 2016 was 119%. (The comparable figures for England and Wales were a prison population of 85,639, with a rate of 146 per 100,000 of national population. Remand prisoners constituted 10.9%; women 4.5%; juveniles/minors/young prisoners constituted 0.7%; foreign prisoners constituted 11.9%. The official capacity of the English and Welsh prison system was 77,344, with an occupancy level of around 111%.) In France, roughly twice as many offenders are ordered to serve sentences in open conditions as opposed to closed conditions. S.P.I.P. statistics refer to approximately 175,000 offenders who have been given sentences other than immediate prison.

I was told that eight out of ten male prisoners have drug or psychiatric issues and that the suicide rate in French prisons is ten times higher than the general population.

Offenders who pay fines within a month receive a reduction of 20%.

Aménagement de peine

Sentences of less than two years' imprisonment (one year in the case of a recidivist) are subject to *aménagement de peine* (alteration of sentence) by a *juge d'application des peines*^{xv} (*J.A.P.* – a judge who deals with offenders after sentence). This may occur in court or in prison.

On October 10th, I was driven to the *maison d'arrêt* (prison) at Corbas where I listened to a series of applications for *aménagement de peine* by offenders who wanted their sentences reduced. Corbas is a modern prison with capacity for 771 prisoners (711 male, 60 female). On October 7th, it was holding 1,256 prisoners. The hearings were conducted by *J.A.P.* M. Vincent CASTELLI, with the assistance of his *greffier*. Most offenders were represented by *avocats*. The state was represented by a *procureur*. The *J.A.P.*, *procureur* and *greffier* were robed. The judge's *greffier* wrote out notes which the offenders, their *avocats* and *greffier* signed. The requests were generally for the balance of the sentence to be suspended with *semi-liberté* (i.e. to sleep in a prison establishment but to be allowed out in the day-time) or with a *bracelet électronique* (electronic tagging). The *dossiers* generally contained reports from S.P.I.P. (the equivalent of the British National Offender Management Service – see below) and of disciplinary offences committed in prison. Most offenders were in prison for violence or theft. Most had a series of earlier convictions. In each case, the *J.A.P.* summarised the contents of the dossier, asked questions of the offender, asked the *procureur* if she had any questions and then listened to speeches from the *procureur* and the defendant's *avocat*. Finally, the offender was asked if s/he had anything further to say. During the afternoon, the *J.A.P.* heard nine applications, eight from men, one from a woman. In all cases, the decision was deferred.

On the morning of October 11th, I listened to *J.A.P.* Mme. Sylvie BOGE conducting five interviews in her room with offenders who wanted her to change their sentences (*requête aux fins d'aménagement de peines*). She was unrobed. Although one offender was represented by an *avocat*, all the others were unrepresented. No *procureur* was present.

The interviews were relatively informal, with the *J.A.P.* summarising the contents of the *dossier* and then asking questions of the defendants. Mme BOGE indicated that she would seek the views of the *S.P.I.P.* and the *procureur* on her recommendations, before making decisions.

The same afternoon, I watched contested hearings (*débats contradictoires*) in court where more offenders were seeking *aménagement de peines*. *J.A.P.* M. Julien FERRAND was robed, as were the *procureur* and *avocats*. Some defendants who had not yet started to serve sentences of *prison ferme* (immediate, closed prison) were seeking suspension (*soursis mise à l'épreuve*), sometimes with a daily fine (*jour amende*), unpaid work (*travail d'intérêt général*), electronic tagging (*bracelet électronique*) etc. For example, in one case, the *procureur* indicated that she would be amenable to a prison sentence imposed for violence and exposure being reduced and suspended on condition that the defendant paid a daily fine, carried out unpaid work and compensated the victims. Others were seeking the variation of sentences already being served in the community. In another case, the *procureur* demanded the revocation of the suspension of a sentence because the offender had not performed any unpaid work and had made no contact with the *S.P.I.P.* The judge heard seven applications during the afternoon. In each case, the judge indicated that he would give his decision at a later date.

Exécution de peine

Besides *aménagement de peine*, *juges d'application des peines* have responsibility for enforcing breaches of sentences (*exécution de peine*). I heard of three examples;

- A *J. A. P.* was notified that a man, released from prison after conviction for violence causing incapacitation of less than eight days, had immediately breached the terms of his licence by going back to live with the woman he had assaulted. The *J.A.P.* called him in a few days later to explain;
- A *J. A. P.* was notified that a man with a suspended sentence with electronic tagging had been evicted from his home and had travelled to Montpellier to live with a friend without the permission of the *J.A.P.* She had him arrested and brought back from Montpellier to Lyon by the police. After hearing his explanation, she placed him in semi-liberty and adjourned for a further report.
- A man with a *bracelet électronique* which had been broken four times appeared before the *J. A. P.* She adjourned to seek the *procureur's* opinion about sanction.

Service pénitentiaire d'insertion et de probation (S.P.I.P.)

The *S.P.I.P.* is in many ways the equivalent of the English and Welsh National Offender Management Service. It is part of the French Ministry of Justice. Its aim is to prevent recidivism. It monitors offenders referred to it by judicial authorities and aims to achieve their reintegration into society. It provides educational and social services in the closed environment of prisons and provides assistance to offenders in an open environment, i.e. outside detention. It is responsible for day to day supervision of *peines* such as unpaid work (*travail d'intérêt général*), electronic tagging (*bracelet électronique*) etc. It provides group and individual therapy and employs the services of psychologists.

I spent the morning of October 19th at the *S.P.I.P.* offices in Lyon. After Mme Maia TOMBAL explained the organisation's functions, I watched Mme Delphine LEFEVRE interview two recently released prisoners who were to be under the *S.P.I.P.'s* supervision;

- A 30 year-old man, who had been released from the *maison d'arrêt* at Corbas four days previously. He had been sentenced to four years imprisonment (with 18 months suspended) for aggravated theft. He was living with his mother in law and was clearly happy to have been released from prison. Mme Lefevre discussed his plans to find work and explained his obligations; general requirements to keep appointments, not to be absent from home for more than 15 nights and not to travel abroad. His specific requirements, as part of his sentence were to obtain work and indemnify the *parties civiles*. An obligation not to go to a particular *banlieu* had been lifted;
- A very edgy man, with many previous convictions, who had been sentenced to a year's imprisonment with four months suspended for theft. His first comments on entering the small interview room were "I want to return to prison. I will not follow the judge. You have to go to the judge to demand my return to prison. They have destroyed my life." He complained about convictions in his absence, while serving other sentences and said "in prison I saw everyone leave except for me." Mme LEFEVRE calmed him down and talked about assistance that the S.P.I.P could provide. She talked about organisations which could help him find work (e.g. *Groupe pour l'emploi des Probationnaires* – an organisation which helps find work for offenders) and gave him the address for *Assistance Sociale*. She discussed his obligations and said that he would be given the telephone number of a counsellor. He promised he would keep his next appointment and shook Mme Lefevre's hand as he left.

Commission d'indemnisation des victimes d'infractions (C.I.V.I.)

C.I.V.I. (the Board for the Compensation of Victims of Crime) is financed by the insurance industry, which makes a levy of a few euros on every insurance policy taken out in France. It primarily compensates victims where offenders cannot be found or where they have no money.

Compensation is available for victims of serious offences, if they have suffered

- permanent or total disability preventing them from working for at least one month;
- the death of a close relative following a serious attack;
- rape or sexual assault; or
- human trafficking.

In such cases, there is no limit to the amount of compensation.

Compensation is also available for victims with less serious bodily injury causing a total incapacity to work of less than one month if they cannot get compensation from other agencies. In such cases, there is also a means test.

If there is material damage (*dommage matériel*), compensation is capped at €4,500. It is limited to offences of theft, fraud, embezzlement, extortion, corruption, destruction or damage of property where the victim cannot obtain compensation from any other agency and the offence causes serious trouble to the victim's life. There is a means test.

Compensation is also available if a car is destroyed by arson, although compensation is limited to € 4,500.

If the Director of the Fund refuses to compensate, there is a right of appeal to the Tribunal.

On the morning of October 21st I observed such a tribunal presided over by Mme Anne ROGNAUX, sitting with two assessors, one a judge, the other from an organisation which represents victims. They heard a list of eleven cases including;

- an 18 year-old who was the victim of a street robbery. He claimed €600 for a watch that was stolen and €500 for moral prejudice. The claim was rejected by the Director and by the Tribunal because of the absence of total incapacity;
- a claim arising from the arson of a car in a garage. The Director had accepted the claim for the damage to the car, but rejected a claim for damage to the garage door as it was the landlord's property. The tribunal disagreed. The victim was responsible to the landlord for the replacement of the door;
- a litigant in person who claimed that, after the theft of his passport, a bank account was fraudulently opened in his name and money withdrawn. The Tribunal rejected the claim. He was in a better financial position now than he was at the time of the theft;
- a bus driver claimed that after a verbal confrontation with a passenger he suffered psychological shock and had been unable to work for three years. The Tribunal rejected the claim. There was no evidence of an offence;
- a claim for the value of a car which caught fire in a car park. The claim was rejected because there was no evidence of an offence. The car could have caught fire accidentally.

The hearings themselves lasted from 9 a.m. to 10.30 a.m., but the Tribunal spent another hour and a half deliberating and agreeing their reasons.

Reflections

These are personal reflections. They do not in any way represent views of Ministry of Justice or HM Courts and Tribunals Service.

Importance of international exchanges

The *stage* was extremely beneficial. Whenever someone travels, it is axiomatic that s/he learns about the country visited. However, a perceptive traveller also learns (by comparison) about their own country and about their own personality. During my *stage*, I learnt a huge amount about French criminal law and procedure and about French judges. It also made me think deeply about our own criminal justice system and the way in which I judge. There are lessons to be learned. I also hope that the French judges to whom I talked benefitted in the same way. My personal hope is that, if the United Kingdom leaves the European Union, such *stages* can continue. There is a great deal to be gained by international judicial co-operation.

Our different legal systems

Although English and French are different languages, in part, they come from the same roots. Some words are the same. Some words are completely different. Confusingly, some words are the same but have very different meanings (e.g. “magistrate” and “bail”^{xvi}). The two languages can be used as an analogy for our two legal systems. The roots of both the English and Welsh and French criminal justice systems lie in similar

medieval systems. Many of the legal words we use come originally from Norman French. However, the French legal system was torn up, root and branch, in 1789 and replaced by Napoleon with new codified laws and procedure. Our two legal systems are now as different as our two languages. There are aspects of the French legal system which it is hard for an Englishman to understand. Just as it takes many years to become fluent in French, it is impossible in two weeks to master all the complexities of the French criminal justice system. However, a few general points can be validly made.

In some ways, the two systems are now very different. Three key differences can be identified. The first is the contrast between the importance of the *dossier* in the French system and the importance of oral evidence in the English and Welsh system. In France, the contents of the *dossier* are the evidence. Other than the *partie civile* and the defendant, eye witnesses do not come to the trial. What is said at trial is far less important than the contents of the *dossier*. In England and Wales, the jury do not see the contents of written statements made by witnesses. Unless agreed by defendants, all evidence has to be given orally at trial. The result is that English and Welsh trials are far longer, commonly lasting days or weeks. On the other hand, our system allowing guilty pleas, made orally in court, avoids the need for trials in many cases.

The second difference is the question of who decides guilt or innocence and the way in which it is done. For us, the jury constitute a fundamental protection of our democratic liberties. It may be argued that their failure to announce their reasons in open court is a weakness, but the way in which judges sum-up the law and the evidence should ensure that juries do reach reasoned verdicts. There is also a general perception that juries do, generally, “get it right”. In France, there are juries in the *cour d’assise* where *crimes* (the most serious offences punishable with sentences of over ten years, such as murder, rape, terrorism offences etc) are tried. There, juries of six people retire with the presiding judge and two judicial assessors. In the *tribunal correctionnel*, there are no juries. In general, culpability and sentence are decided collectively by three judges.

The third key difference is the role in France of the *procureur* and the *juge d’instruction*. Like the judges who try cases and perform other judicial functions (e.g. as *juge de liberté et détention* or *juge d’application des peines*), they are all *magistrats*. The French judicial career as a *magistrat* may begin at a relatively young age, after studying at the *Ecole Nationale de la Magistrature*. Thereafter, a *magistrat*, during a life-time’s career, may perform different functions e.g. as a *juge d’instruction*, as a *procureur*, and as a *présidente de correctionnelle*. One year, a *procureur* may appear in court as a prosecutor. The next year, s/he may be trying a similar case as a judge. At court, *juges d’instruction*, *procureurs* and trial judges all have offices in the same building. In court, the *procureur* sits at the end of the same bench as the trial judges. From an English common law perspective, where the Crown Prosecution Service and the judiciary are two completely separate entities, that raises issues as to the independence of the judiciary. The French response is that there are sufficient checks and balances to preserve independence – e.g. the right of appeal from decisions of the *juge d’instruction*.

There are undoubtedly very different approaches to law, but some of the theoretical bases are not as far apart as one might think. One of the key differences since

Napoleon's time has been the common-law ability of English and Welsh judges to make law on the one hand and French codification on the other hand. It can though be argued that codification is far less of a difference than is often perceived. British Acts of Parliament have replaced or codified much case law and we now have our own procedural code, the Criminal Procedure Rules. Another key difference is the supremacy of the French *dossier*. Although I have no doubt that our tradition of the hearing of oral evidence will remain paramount, we are moving towards a situation where the English and Welsh police, the Crown Prosecution Service and the courts will share one common file. The introduction of the digital Common Platform is imminent.

There are also many common factors which are bringing our legal systems closer. Over the last fifty years English and French society, and hence the problems faced by our judicial or penal systems, have converged. When I first visited Paris in 1968, French cars were very different (e.g. the Citroen 2CV and DS), French clothing was far more stylish and French food far more tasty. Although Citroen, Renault and Peugeot still make cars, they are almost indistinguishable from the silver or grey cars one sees throughout Europe. With regards clothes, throughout the world, everyone wears jeans. And we now enjoy the benefits of French cuisine in Britain. The very different legacies of two world wars have receded into history. As post-colonial powers, our two countries share many common factors; the financial constraints of modern society; the benefits and challenges of immigration; and the threat of terrorism. In the field of law, we share the effect of the European Convention on Human Rights (especially Article 6, the right to a fair trial) and, at least for the moment, European Union regulations and directives. Our police forces, prosecutors, lawyers and courts face similar issues of lack of resources, over-work and lack of morale. Our prison systems are equally over-crowded.

There is undoubtedly considerable pressure upon French judges. I was told that there are too few judges. Some judges are forced to sit late into the evening. Delays in some cases coming to trial are longer than in England and Wales. On the other hand, there are considerable benefits from greater collegiality – not just because French judges often sit in panels of three, but also, since judging is a life-time career, due to the camaraderie fostered during their original training in the *Ecole Nationale de la Magistrature*.

One aspect of the *stage* which I found fascinating was the opportunity to watch other judges judging. It is over twenty years since I appeared in court as an advocate. Apart from a period when I appraised deputy district judges, during my time as a judge, I have rarely seen any other judges judging. As a tutor judge for the Judicial College, I have helped devise and train on several courses fostering judicial skills (*Craft of Judging*, *Business of Judging* and *Judging Today/The Judge as Communicator*). So judicial skills, especially communication skills, are of particular interest to me. Watching hearings during the *stage* reinforced the importance not only of judges listening (arguably one of the key judicial skills) but also giving the appearance of listening. Similarly, it reinforced the importance of good communication – of judges explaining in clear and simple language what was happening and what would happen. In France, judges speak directly to defendants, rather than to their advocates far more. If a defendant is not in custody, communication is enhanced by the proximity of the defendant to the judge. The lecturn used by the defendant may be only a couple of metres from the judge, whereas in

England and Wales, the dock is often far away, at the back of the courtroom. The proximity means that the character of the defendant (both strengths and weaknesses) are far more apparent. There is no doubt that the defendant is an individual human being, not just another defendant, in the distance, on the far side of the court room. How many English or Welsh judges would be comfortable sentencing a defendant who is directly in front of them, only a couple of metres away?

One issue which became obvious to me during my stage was the over- representation of first, second and third generation immigrants in the French criminal justice system. Of the 91 suspects or offenders I saw at first hand during my stage, I estimate that 74 were first, second or third generation immigrants (81%). Although I have no statistics, and although the numbers are not so stark in the United Kingdom, there is a similar over-representation of black and minority ethnic defendants and prisoners in the British criminal justice system. Although immigration is overwhelmingly a positive factor, bringing many benefits to western society, this is clearly a matter of concern, one which I raised with some of my French colleagues. My conclusions are that the over-representation of black and minority ethnic defendants is predominantly a male problem. Women feature very little in the criminal justice system. Emigration may lead to the breakdown of families. It is possible that, before migration, there may be stricter controls both within the family and society as a whole, than in the (so-called) “liberal” west. After migration, many fathers are absent or present poor role models. Young people, just as those from a western background do, may reject traditional values. Arguably, we in the West face an absence of a prevailing new morality to replace the decline in religion. Added to that, our media create unrealistic expectations of wealth, where fabulously rich football stars and reality TV stars become role models^{xvii}. Added to that are problems of poverty and unemployment, which in both our societies, are more prevalent among black and minority ethnic communities. In France, they face a greater likelihood of being housed in *banlieus* which lack good schooling and perhaps the same facilities or work opportunities as inner cities. There is also a greater likelihood that the police, both in France and the United Kingdom, will stop, search and arrest young black and minority ethnic men. There is no doubt that we face similar challenges, both in France and in the United Kingdom, but these are problems which our court systems alone cannot solve. They are problems for society as a whole.

Conclusion

And my final thoughts? Both the English and Welsh and French criminal justice systems work reasonably well in achieving our common aim of justice. Both have strong points. Both could benefit from reform.

His Honour Judge Nic Madge
Inner London Crown Court
30th November 2016

ⁱ Article 53 of the *Code de procédure pénale*.

ⁱⁱ Article 78 of the *Code de procédure pénale*.

ⁱⁱⁱ Article 134 of the *Code de procédure pénale*.

^{iv} *Ordonnance pénale* (simplified procedure). See Article 495 of the *Code de procédure pénale*.

^v Articles 41 – 2 of the *Code de procédure pénale*.

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- vi Article 116 of the *Code de procédure pénale*.
- vii I am a son of the republic. I pay my taxes.”
- viii Article 398 of the *Code de procédure pénale*.
- ix Article 222-10 of the *Code Pénal*.
- x Article 226-4 of the *Code Pénal*.
- xi Article 222-22 of the *Code Pénal*.
- xii Article 433-6 of the *Code Pénal*.
- xiii Article 433-5 of the *Code Pénal*.
- xiv Article 495-7 of the *Code de procédure pénale*.
- xv Article 721 of the *Code de procédure pénale* onwards.
- xvi In French *bail* means a lease. In English, it is the equivalent of *contrôle judiciaire*. In French a *magistrat* is a highly trained professional judge. In English, a magistrate is a lay judge with little legal training.
- xvii As I arrived in France, police were investigating a €9 million theft of jewellery from Kim Kardashian in Paris.