



*HMcp*si**
HM Crown Prosecution Service Inspectorate

THE JOINT INSPECTION OF THE DEVON AND CORNWALL CRIMINAL JUSTICE AREA

ON-SITE SEPTEMBER 2006

FEBRUARY 2007

HMICA
HM Inspectorate of Court Administration



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of Probation

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PREFACE

The Chief Inspectors of the criminal justice inspectorates are pleased to publish their joint report on the Devon, Cornwall and the Isles of Scilly criminal justice area. This inspection builds on previous joint inspection work and is part of a programme of area joint inspections planned for 2006-07. This emphasises the continuing commitment of the criminal justice inspectorates to joint inspection working to help the delivery of improved case management and increase public confidence in the criminal justice system.

The criminal justice inspectorates have for some time been placing greater emphasis on the effectiveness of the relationships of the organisations which they are responsible for inspecting; in particular how effective and successful those agencies have been in working together to improve performance within a framework which recognises the inter-dependencies of a criminal justice system, whilst respecting the separate and independent role of the agencies themselves.

Local Criminal Justice Boards operate on a non-statutory basis and formally came into existence on 1 April 2003. They represent a different way of doing business within the criminal justice system, through better co-ordinated and more cohesive working arrangements. This national infrastructure also offers a more substantial focal point for integrated inspection. We, as leaders of the criminal justice inspectorates, are determined to continue to build on this through the planned programme of joint inspection.

Strategic planning and managing delivery on a cross-agency basis at a local level is a developing concept. The scope of the work of the Local Criminal Justice Boards is kept under constant review by the National Criminal Justice Board, and the Office for Criminal Justice Reform regularly issues guidance and practitioner toolkits, both on new initiatives and best practice, toward improving performance against existing measures. Although the potential benefits of integrated inspection based on criminal justice areas are substantial, the inspection processes will likewise need careful and ongoing development. Each joint inspection is subject to a rigorous evaluation to ensure that there is continuous improvement in our processes.

The framework used for this inspection has been developed and utilised throughout the joint inspections undertaken during 2006-07 and focuses on four objectives:

- Increasing public confidence in the criminal justice system;
- Increasing the number of offences brought to justice;
- Reducing ineffective trials; and
- The enforcement of community penalties.

Within the framework we address issues of corporate governance arrangements and the strategies and policies of the Devon and Cornwall Criminal Justice Board, together with the effectiveness of inter-agency co-operation on those matters which affect overall performance, from the point of charge through to passing of sentence and enforcement of community sentences. The framework draws on standards and guidance produced by the National Criminal Justice Board, the Office for Criminal Justice Reform, or the individual agencies themselves.

This inspection was carried out in accordance with the principles of inspection set out by the Office for Public Service Reform and examined issues so far as practical from a user perspective – particularly that of victims and witnesses. The inspection team worked closely with the Quality and Standards Department of Victim Support and their assessments have been incorporated into the overall report.

Our intention is that this report will inform the people of Devon, Cornwall and the Isles of Scilly about how effectively the local criminal justice system works by highlighting the strengths of inter-agency working and identifying where further improvement can be made. It will also inform the policies, strategies and delivery of the wider criminal justice community.

Finally, the Chief Inspectors take this opportunity to thank the Chief Officers and staff of the criminal justice agencies in Devon and Cornwall for the considerable assistance given during the course of this inspection. We also thank those from the wider community who come into contact with the criminal justice system for giving up their time to inform us of their experiences.

1. INTRODUCTION

Devon, Cornwall and the Isles of Scilly

- 1.1 Devon, Cornwall and the Isles of Scilly are situated in the south-west of England. The counties cover an area of 3,960 square miles with the largest territorial police force area in England. The total resident population is approximately 1.5 million, although the population dramatically expands through tourists - it is thought that there are 11.5 million tourist visits every year. As well as areas of affluence, there are parts of the counties of significant social deprivation, especially in the west of Cornwall, where unemployment is prevalent.
- 1.2 There are four Basic Command Units (BCUs) and 15 magistrates' courts sitting at Barnstaple, Bodmin, Camborne, Cullompton, Exeter, Honiton, Isles of Scilly, Launceston, Liskeard, Newton Abbot, Penzance, Plymouth, Torbay, Totnes and Truro, while the Crown Court sits at Exeter, Plymouth and Truro. There are nine field probation offices, two Approved Premises and three prisons. Additionally, the area is covered by four Youth Offending Teams (YOTs): Cornwall and the Isles of Scilly; Plymouth; Devon; and Torbay. The CJS partners are mainly co-terminous with the police and courts' structure.
- 1.3 Devon, Cornwall and the Isles of Scilly has a number of minority ethnic communities including those from Black, Asian, Iraqi and Eastern European backgrounds. The minority ethnic population density is 1.2%¹ of the total resident population, but is concentrated primarily in Exeter (2.4%) and Plymouth (1.6%).

Devon and Cornwall Criminal Justice Board

- 1.4 The Government has established 42 criminal justice areas, each with a Local Criminal Justice Board (LCJB). Devon and Cornwall Criminal Justice Board (DCCJB) formally assumed its responsibilities on 1 April 2003. All LCJBs are charged with establishing, agreeing and delivering, at local level, targets to support the achievement of national objectives for the criminal justice system (CJS) that are designed to improve its overall efficiency and effectiveness. The national targets, which are drawn from the Ministerial Public Service Agreements (PSAs), include:
- Increasing the level of public confidence in the criminal justice system to 40% by March 2007.
 - Improving the delivery of justice by increasing the number of crimes for which an offender is brought to justice to 1.25 million by March 2008.
 - A reduction in the proportion of ineffective trials by 27% by March 2007, with the proportion to be no more than 18% in magistrates' courts and 17% in the Crown Court.
 - All community breach penalties should take an average of no more than 35 working days from breach to resolution, and that 50% of all breach proceedings be resolved within 25 days of the relevant failure to comply.

¹ 2001 Census

1.5 The Office of Criminal Justice Reform (OCJR) has detailed targets for each criminal justice area to assist them to contribute to the overall national targets. DCCJB were set specific local targets which included:

- Increasing the level of public confidence in the criminal justice system to 48% by March 2008.
- Improving the delivery of justice by increasing the number of crimes for which an offender is brought to justice by 29,227 in 2006-07.
- Reducing ineffective trial rates in the magistrates' courts to 18% and in the Crown Court to 12%².

Scope of inspection

1.6 The inspection was a joint one by HM Inspectorate of Constabulary (HMIC), HM Crown Prosecution Service Inspectorate (HMCPPI), HM Inspectorate of Court Administration (HMICA), HM Inspectorate of Probation, and HM Inspectorate of Prisons. The Quality and Standards Department of Victim Support also assisted the joint inspectorate team.

1.7 The inspection examined the criminal justice process from the point of arrest to sentence, but did not comment on matters for which the judiciary have a responsibility. It specifically looked at how effectively the criminal justice agencies and partners such as Victim Support (including the Witness Service) were working together to deliver the outcomes necessary to achieve agreed performance targets. We considered the governance and strategy of the Devon and Cornwall CJB, and the joint response of criminal justice agencies and partners from the point at which a crime is reported to the passing of sentence, as well as assessing the enforcement of community penalties. This included an examination not just of the work of the CJB, but also the interaction between criminal justice agencies and partners outside the CJB framework.

Methodology

1.8 Our methodology included an examination of management information, plans and documentation from the CJB. The Board also provided a self-assessment of performance against the inspection framework. We visited the area for two weeks from 11 September 2006 and held interviews with criminal justice agency staff at all levels, criminal law practitioners and representatives of local community-based organisations. Focus group meetings of victims and witnesses, police officers, agency case progression officers and magistrates were also held. The inspection team carried out observations on the quality of service delivery by the criminal justice agencies and partners at both the magistrates' courts and the Crown Court. This included an assessment of courthouse facilities for court users, including those in custody.

² National and local targets are detailed in the Criminal Justice System Business Plan 2006-2007, produced by the Office for Criminal Justice Reform, available from: www.cjsonline.gov.uk

- 1.9 We examined a selection of Crown Prosecution Service (CPS) files and looked in particular at the level of witness care and the timeliness of the exchange of information between the prosecution team and other agencies. We also examined a selection of Probation and Youth Offending Team (YOT) files to assess the enforcement of community sentences by both organisations.
- 1.10 HMCPsi carried out a core inspection of CPS Devon and Cornwall, in accordance with its statutory remit, at the same time as the joint inspection. That inspection is subject of a separate report, although the pivotal role of the CPS within the overall criminal justice process means that there is an overlap between the issues considered in this joint report and those in the HMCPsi core report.
- 1.11 The Chief Inspectors are grateful to all those who gave their time to the inspection, whether in preparation of documentation or by making themselves available for interview. A list of individuals, outside the criminal justice agencies, from whom we received comment is set out at Annex A.

Structure of the report

- 1.12 An Executive Summary sets out the main findings of the report. The main body contains the detailed findings of the inspection in relation to the topics inspected, which are aligned to the inspection framework and the targets of increasing public confidence in the criminal justice system, increasing the number of offences brought to justice, reducing the rate of ineffective trials, and the enforcement of community penalties. A number of annexes are included, these highlight some further performance results, acknowledgements, the structure of the DCCJB and a glossary of terms.
- 1.13 Throughout the report we identify strengths and as well as aspects for improvement and make recommendations. The recommendations address significant weaknesses relevant to important aspects of performance, which we consider merit the highest priority by the Devon and Cornwall Criminal Justice Board and its criminal justice partners.

2. EXECUTIVE SUMMARY

Overview

- 2.1 The geographical size of the Devon and Cornwall criminal justice area raises logistical issues for the local criminal justice agencies and the Criminal Justice Board (CJB) that are not faced by most. The distances between major business centres impacts on resource time and can create difficulties for the administration of justice, for example the time taken for victims, witnesses and defendants to get to court. These issues of rurality mean that the Devon and Cornwall Criminal Justice Board (DCCJB) has to work harder than many other Local Criminal Justice Boards (LCJBs) to remain visible as a leader in driving forward criminal justice improvements.
- 2.2 All the criminal justice agencies contribute to achieving the Board's objectives and there was a commitment to securing improvement across all aspects of performance. There is an inclusive approach to the Board's work and good examples of forward thinking, for example the inclusion of the Chair of one of the NHS strategic partnerships as a standing member and the involvement of Victim Support in the victim and witness sub-group.
- 2.3 The Board's three year Delivery Plan provides the focus for its work and drives activity. A number of key initiatives are being supported and driven by the Board, for example the Courts and Community Justice project. These are being considered nationally as good practice and Devon and Cornwall have been commended on working to deliver joined-up and improved services.
- 2.4 The structure of the Board's sub-groups, which support the delivery of its objectives, needs to be clarified. The piloting of a Plymouth Local Delivery Group cuts across the remit of the other sub-groups and has resulted in confusion about where responsibility for delivery rests at operational level. There was also some misunderstanding, despite clear terms of reference, about the general remit and accountability of the sub-groups.
- 2.5 At a strategic level some of the lack of clarity and uncertainty derives from the non-statutory basis of LCJBs, with the resultant lack of statutory authority. Whilst at a national level the Board is seen as a key driver of criminal justice reform, as a corporate entity Chief Officers can only seek to influence change and cannot hold others to account. Because of this anomalous position it was not always possible to see how strategic intent had been turned into effective change at an operational level. The impact of the absence of a clear statutory authority to hold to account was most obvious when considering how the police Basic Command Units adopted Board priorities.
- 2.6 In addition to the inclusive approach adopted by the Board through its sub-group structure it has worked hard to forge effective links with major stakeholders, for example Against Domestic Violence and Abuse in Devon (ADVA), Race Equality representatives and the Intercom Trust (which supports gay, lesbian, bisexual and trans-gendered members of the community). This highlights how the Board is willing to engage and develop its processes to reflect the need of its 'customers'. There are also effective links with the many Crime and Disorder Reduction Partnerships (CDRPs) in the area.

- 2.7 The criminal justice agencies are working well together to achieve their key performance targets. The target for increasing the number of offences brought to justice was met in 2005-06 and the one for 2006-07 is also likely to be met. The effective trial rate target in the Crown Court was just missed in 2005-06, but performance was much better than found nationally. There were, however, aspects of trial preparation which needed to be improved to increase the effectiveness of pre-trial reviews (PTRs). Consideration also needed to be given to targeting PTRs in those cases where they add value. There was good joint performance analysis of cracked and ineffective trials in the magistrates' courts and Crown Court.
- 2.8 The benefits of the statutory charging scheme were starting to be achieved, although the percentage of cases discontinued in the magistrates' courts after a pre-charge decision needed to be reduced. There was also a need to increase the number of cases where face-to-face advice is sought by the police.
- 2.9 Overall the needs of victims and witnesses were being met, although the quality and timeliness of information passing between the police and the CPS about the needs of vulnerable and intimidated adult victims and witnesses needed to be improved. At some court centres the facilities for victims and witnesses required improvement.
- 2.10 There were good working arrangements between the relevant agencies to ensure that the targets for the enforcement of community penalties were met. The area's performance was significantly better than that found nationally and could be improved further if more priority was given to executing warrants when offenders failed to answer bail.
- 2.11 We comment in further detail on the specific aspects of performance in the following sections.

Public confidence and community engagement

- 2.12 There are good examples of engagement with the wider community as well as minority groups. The Board recognise that there is a need to marshal activity around community engagement. A key member of the support team is the communications officer who is beginning to ensure that there is pro-activity in communications. The Board needs to ensure that any activity is complemented by action and messages emanating from the single agencies.
- 2.13 The Board has pro-actively worked to improve its public consultation and public confidence measures, although performance remains behind target.

Bringing offenders to justice

- 2.14 Devon and Cornwall has been successful in meeting and exceeding the 2005-06 offences brought to justice target as well as the required sanction detection rate, although it is failing to meet the locally set 'stretch target' for sanction detections. It is on course to meet the 2006-07 targets for both offences brought to justice and sanction detection.

- 2.15 Some key aspects of the pre-charge decision scheme needed to be improved to increase its effectiveness. In particular there was a need to increase the amount of face-to-face advice provided and strengthen case 'ownership'. Inspectors found that CPS advice was often given using paper files and police officers were not present to clarify issues or discuss matters with lawyers. Whilst there was a commitment to the scheme at a senior level, this needed to be pushed down to an operational level through increasing the level of face-to-face advice sought by the police. Assurance has to be sought that, following CPS advice, the police are carrying out the actions necessary to make a charge viable or are notifying the CPS that they have concluded that it is not possible and do not seek to pursue a prosecution. There needs to be greater liaison between the bail management teams, police case reviewers and duty lawyers. We found cases in which there was delay in police investigation, and in which this was compounded by the police proceeding by way of summons rather than charge.
- 2.16 There are good examples of working with stakeholders to develop systems and processes for specialist and sensitive cases, which are generally well managed. Awareness at a force operational level needs to be increased and asset recovery performance needs to be improved.

Reducing ineffective trials

- 2.17 Area performance is significantly better than both the national average and target for ineffective trials in the Crown Court. In the magistrates' courts the area met its target in the final quarter of 2005-06 and has continued this positive trend in the first quarter of 2006-07. Effective trial rates (a better indicator of performance) have remained better than the national average and have recently (2006-07) improved in both jurisdictions to meet the national target.
- 2.18 There are effective processes in place to support improvement activity around the handling of cracked and ineffective trials; cross-criminal justice agency meetings are used to consider reasons, identify trends and implement improvement.
- 2.19 There was evidence of inefficient pre-trial preparation. The police, CPS and courts all have a part in this - police file preparation could be improved, CPS summary trial preparation could be substantially better, and the courts' practice of listing pre-trial reviews in practically all not guilty plea cases is impacting on resources. Although the stated policy was to hold PTRs only in charged cases, our observations included a number of cases where there were PTRs, even though they fell outside that policy.
- 2.20 Case progression has been hindered by the loss of two of the three case progression officer posts in the CPS at Exeter, who were not maintained when additional funding from the Office of Criminal Justice Reform (OCJR) was ended. Losing these posts has increased delay as effective links between the CPS and Courts Service have been stretched. The Courts Service has worked hard to ensure that there are effective processes in place to aid case progression and trial readiness checks are used as a means to improve compliance with court directions and ensure effective hearings.

The treatment of victims and witnesses

- 2.21 The quality of the treatment of victims and witnesses is crucial to the effectiveness of the criminal justice system. Victims and witnesses in Devon and Cornwall felt, generally, that those in the criminal justice agencies had treated them well. There has been an ongoing commitment to Witness Care Units (WCUs) and this has been demonstrated by a recent increase in police-funded resources. Witness Care Unit processes are developing and relationships with the Witness Service³ are strong. A better understanding of the CPS systems and needs would be of benefit.
- 2.22 The inclusion of Victim Support representation at the DCCJB sub-group level demonstrates a willingness to learn from the user perspective, although concerns were expressed about the ability of the sub-group to influence the overall Board strategy.
- 2.23 Concerns were expressed about the limitation of the court estate to meet the needs of victims and witnesses. Some specific issues were raised about the quality and availability of accommodation for victims and witnesses across the court estate and the impact this had on safety and security.

The treatment of defendants

- 2.24 The treatment and rights of defendants are generally respected within Devon and Cornwall. We identified a number of concerns about court cell accommodation at Exeter Crown Court and disembarkation of prisoners at Plymouth Magistrates' Court. We found good psychiatric services provided in Plymouth and Cornwall although there is a need for these to be more consistently available across the area.
- 2.25 In court defendants are treated with courtesy and respect, although local practices around handcuffing defendants and accommodation security raise specific issues.

The enforcement of community sentences

- 2.26 The agencies are working well to achieve the nationally set targets for the enforcement of community sentences. These are that all community penalty breach proceedings should take no more than an average of 35 working days from breach to resolution, and that 50% of all breach proceedings be resolved within 25 days of the relevant failure to comply with the order.
- 2.27 For the period April-July 2006 breach proceedings in Devon and Cornwall took an average of 34 working days to be resolved and 61% of cases were resolved in 25 working days. Performance for the year 2005-06 had been consistently better than the targets set and, nationally, the area's performance is in the top quartile.
- 2.28 There was, however, a lack of clarity in the Youth Offending Teams (YOTs) about when an offender's absence from a required activity under an order should be marked as unacceptable. There was also a need to improve the prioritisation and execution of warrants when offenders failed to answer bail.

³ The Witness Service is part of the volunteer organisation Victim Support and offers support to victims and witnesses

Key performance results

- 2.29 Devon and Cornwall are meeting all key Public Service Agreement (PSA) targets, except the public confidence measure. All supporting targets, for example persistent young offender (PYO) performance and sanction detections, are being met. The key performance results are at Annex B.
- 2.30 The area has a target to bring 29,227 offences to justice by March 2007. Performance up to September 2006 records that 31,922 offences have been brought to justice, 9.2% above current target.
- 2.31 The ineffective trial rate in the Crown Court has shown improved performance since 2004-05 and was very good in 2005-06. The rate for 2005-06 was 6.5% against a target of 16.5%. In the magistrates' courts in 2005-06 the area performance of 20.3% was worse than target of 19.5%, although for the first half of the 2006-07 year performance is better, at 15%, than the target of 18%.
- 2.32 The effective Crown Court trial rate target was narrowly missed in 2005-06, at 59.5% against a target of 60.5%, which was better than the national average of 47.7%. In the magistrates' courts the effective trial rate was good at 52.4%, against the national average of 42.4% and a target of 55%.
- 2.33 For the period April-June 2006 the average processing period for PYOs from arrest to sentence for all cases was 69 days compared with 71 days nationally. This was within the Government target of 71 days, although performance had slipped from 51 days for the period November 05-January 06. This was as a result of a loss of focus, as performance had been good for such a long period. The area recognises this and has taken action to address it.
- 2.34 In 2005-06 Devon and Cornwall failed to meet its target to increase the public confidence measure of bringing offenders to justice. Area performance was 44% against a target of 48% and national performance of 44.4%.
- 2.35 We found the following strengths:
1. The inclusion of the Chief Executive of the Devon Partnership NHS Trust at Devon and Cornwall Criminal Justice Board level and the development of a structured approach to influencing the health agenda (paragraph 3.3).
 2. The three year planning cycle and the stakeholder and partnership consultation undertaken to develop the strategic plan (paragraph 3.10).
 3. The work of the communications officer to raise the profile of the Devon and Cornwall Criminal Justice Board and present consistent messages (paragraph 4.7).

4. The stakeholder involvement on the domestic violence sub-group, which plays an active part in setting the Board's priorities (paragraph 5.33).
5. The ongoing commitment to Witness Care Units within Devon and Cornwall and the good working relationships between the units and the Witness Service which are used to improve processes (paragraph 6.23).
6. The dedicated senior management resource within the Probation Area to monitor and drive performance (paragraph 8.31).
7. The Probation legal proceedings team managed the prosecution of breaches very effectively. Staff actively analysed problems as they arose and found solutions (paragraph 8.33).

2.36 We found the following aspects for improvement:

1. Devon and Cornwall Criminal Justice Board should increase its communication activity, focusing on reaching the majority of the local population with positive messages of performance and achievement (paragraph 4.7).
2. Devon and Cornwall police should actively monitor the numbers of 'voluntary attenders' at all police stations to ensure that this is the most appropriate method of investigation and that effective systems are put into place to ensure that proper systems are not being bypassed (paragraph 5.12).
3. Devon and Cornwall Criminal Justice Board should satisfy itself that custody cases are being managed through the charging process within the timescale as set out in the Director of Public Prosecutions' guidance, thus ensuring that defendants in custody are dealt with expeditiously (paragraph 5.13).
4. Devon and Cornwall Criminal Justice Board ensure that guidance and training is provided to front line operational police officers about the necessity and importance of identifying vulnerable and intimidated adult witnesses (paragraph 5.25).
5. Devon and Cornwall Criminal Justice Board needs to ensure that awareness at operational levels is improved to identify cases suitable for asset recovery (paragraph 5.51).
6. Devon and Cornwall Criminal Justice Board takes action to ensure that effective joint training between Witness Care Unit staff and CPS staff is undertaken to improve the awareness of CPS processes and the level and type of information required for victims and witnesses (paragraph 6.24).

7. Devon and Cornwall Criminal Justice Board works with HM Courts Service to improve the accommodation offered to victims and witnesses at courthouses (paragraph 6.31).
8. Devon and Cornwall Criminal Justice Board works with the judiciary to consider whether an increase in usage of videolink facilities could reduce the transportation of prisoners, particularly for female and youth prisoners (paragraph 7.8).
9. Devon and Cornwall Criminal Justice Board should raise the issue of accommodation problems identified within the court estate with the relevant agencies to ensure that there are appropriate security measures in place, disabled access is reviewed and health and safety issues addressed (paragraph 7.11).
10. Devon and Cornwall Criminal Justice Board should ensure that communication between the Youth Offending Teams regarding the priorities of the Board is strengthened and clarified (paragraph 8.7).

2.37 We made the following recommendations:

1. Devon and Cornwall Criminal Justice Board:
 - evaluates the pilot of the Plymouth Local Delivery Board and a decision is taken about its future; and
 - revises its sub-group structures to ensure that there is clarity between groups; ensuring that over-laps are reduced; and there is focus on performance improvement (paragraph 3.8).
2. Devon and Cornwall Criminal Justice Board should ensure that there is a more cohesive delivery of its strategic aims as specified in the Delivery Plan. The Board's aims should be reflected as appropriate in individual CJS agency plans and ensure that there is accountability at a local level for delivery, particularly at police Basic Command Unit level (paragraph 3.15).
3. The new police Chief Constable (when appointed) attends the Devon and Cornwall Criminal Justice Board and ensures that there is accountability for delivery within the operational element of the forces remit (paragraph 3.16).
4. Devon and Cornwall Criminal Justice Board ensures that:
 - the operation of the statutory pre-charge scheme is improved to increase the proportion of cases where advice is delivered on a face-to-face basis;
 - systems are put into place to revise and improve case ownership at the front line within the police and CPS; and
 - there is a shared ownership of the scheme and the development of a corporate approach is embedded within the area (paragraph 5.21).

5. Devon and Cornwall Criminal Justice Board develop a cross-cutting timeliness target for all cases in the magistrates' courts. The target should monitor offence to conclusion to support effective trial performance (paragraph 6.5).

3. THE GOVERNANCE AND STRUCTURE OF THE DEVON AND CORNWALL CRIMINAL JUSTICE BOARD

Overview

Devon and Cornwall CJB demonstrate a strong commitment to working in partnership to secure improvement across all aspects of CJS performance. The Board have developed a clear strategic plan and there are a number of key initiatives being driven by it which are considered nationally as good practice. These initiatives focus on working together to deliver joined-up and improved services.

The Board is supported by a number of sub-groups which support the delivery of its business. The piloting of a Plymouth Local Delivery Group, which cuts across the remit of other sub-groups, has caused some operational confusion about where responsibility for delivery rests. Additionally, inspectors found that at the strategic level there was a lack of clarity and uncertainty surrounding local accountability. The absence of clear statutory authority to hold others to account was most obvious when considering how police Basic Command Units adopted (or failed to adopt) Board priorities.

The Board has engaged effectively with partners and has used this to develop its processes to reflect the needs of its customers. The Criminal Justice Office are effective in supporting the Board's business and managing the arrangements for measuring and accounting for performance.

Governance

3.1 The Devon and Cornwall CJB membership comprises representatives from all the principal criminal justice agencies, namely:

- Probation Area Chief Officer - Chair;
- Chief Constable and/or Assistant Chief Constable with criminal justice portfolio (although at the time of the visit the Board was attended by the Acting Chief Constable);
- Chief Superintendent Police Commander Criminal Justice;
- Area Director for Her Majesty's Courts Service (HMCS) in Devon and Cornwall;
- Chief Crown Prosecutor (CPS);
- Governor of Channings Wood Prison; and
- Youth Offending Team manager for Cornwall.

The Chief Executive of Devon Partnership NHS Trust is also a standing member of the Board.

- 3.2 A decision was taken by the Board to limit the number of standing members as there had been a request from Victim Support to also attend. Although there were advantages identified in such a proposal, it was felt that the involvement of Victim Support at sub-group level was more valuable and would have more impact on day-to-day business and process improvement, and that the benefits of inclusion of the Chief Executive of the Devon Partnership NHS fitted more closely with the current strategy. This decision was understandable as the Chair of the victim and witness sub-group was a full member of the Board, although both Chief Executives (Victim Support Devon and Victim Support Cornwall) did question whether there was an effective route of communication to the Board. As a key stakeholder in the CJS inspectors thought that it may be beneficial for the Board to consider whether the needs of victims can be better represented if a more formal route of communication was opened with Victim Support.
- 3.3 The attendance at the Board of the Chief Executive of the Devon Partnership NHS Trust has also assisted to forge links, and develop a relationship/partnership with Primary Care Trusts (PCT) in Devon and Cornwall. Examples of this include;
- Work with the Devon Strategic Partnership (NHS) to target domestic violence as an issue of health and social care concern. This initiative is jointly funded between health, Social Services and the CJS. This includes the sharing of intelligence to help victims and improve the services for those subjected to domestic violence. Statistics show that there has been a reduction in the number of police interventions needed in those cases where early and targeted support is being given.
 - Discussions have also been held about improving the services from within the NHS to victims of rape. It is hoped to secure funding to roll-out examination facilities which will support the gathering of forensic evidence and strengthen the integrity of that evidence.

STRENGTHS

The inclusion of the Chief Executive of the Devon Partnership NHS Trust at Devon and Cornwall Criminal Justice Board level and the development of a structured approach to influencing the health agenda.

- 3.4 The Regional Offender Managers (ROMs) of the National Offender Management Service (NOMs) as commissioners of prison and probation services have a large part to play in the process of offender management within their geographical area. DCCJB needs to consider, together with the ROM for the South West region, how effective links will be made with LCJBs to inform the commissioning of specific services.
- 3.5 There is commitment to the work of the Board, with each member playing an active role in driving CJS business forward. However, there was some concern raised at Board level about the extent to which members can influence the actions of other agencies and therefore hold others to account for delivery. The inspection team do acknowledge

that this issue largely reflects the nature of LCJBs generally, which have neither the legal persona or statutory remit or authority. It is a national issue and has been raised previously. However, the Board is in control of the sub-group structures and it is within its power to challenge and change performance by holding to account those whose poor performance is having an adverse impact.

Structure

- 3.6 The Board is supported by a number of issue-specific sub-groups. This structure supports the strategy and delivery objectives of the Board, in that some groups are responsible for the development of strategy to improve and others are focused on delivering initiatives and accounting for performance. The Local Criminal Justice Operations Group has been effective in monitoring and driving operational performance since the creation of the DCCJB. Each sub-group has been set specific terms of reference.
- 3.7 Whilst each group had specific terms of reference and a number had objectives linked back to the aims and targets outlined in the DCCJB strategic plan, inspectors found that there was a lack of clarity about the remit and aims of some of the groups. A decision taken to pilot a Local Delivery Board in Plymouth (PLDB) to “implement improved performance in the CJS within its area of responsibility” was seen to add an additional level of confusion by those on subject-specific sub-groups. The aim of the PLDB to focus on local issues and ensure effective consultation at a local level with key stakeholders gives clearer local accountability for delivery. Where inspectors found confusion was around the linkage between the PLDB and other strategic sub-groups at Board level. Some of the issues raised to support the running of the pilot, such as the lack of involvement of Crime and Disorder Reduction Partnerships (CDRPs) and Local Strategic Partnerships, are not unique to Plymouth and the Board's involvement with CDRPs is developing. A two-tiered approach to consultation, one at the local level and the other at the strategic level, needs to be rationalised and considered as there is a risk of consultation overload.
- 3.8 Although the structure of sub-groups to develop improved services, share and disseminate best practice and monitor performance delivery seems effective in theory, inspectors have some concerns that in reality the lack of accountability for delivery and authority to challenge is undermining the effectiveness of the structures supporting the Board.

RECOMMENDATION

Devon and Cornwall Criminal Justice Board:

- evaluates the pilot of the Plymouth Local Delivery Board and a decision is taken about its future; and
 - revises its sub-group structures to ensure that there is clarity between groups; ensuring that over-laps are reduced; and there is focus on performance improvement.
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Strategic plan and direction

- 3.9 The Board has set out its priorities and main themes in its strategic plan. It outlines the strategy for 2005-08 and focuses on eight key themes: increasing public confidence and public reassurance; community engagement; narrowing the justice gap; improving services to victims and witnesses; reducing incidences of domestic violence; reducing drug and alcohol-related crime and disorder; supporting young people; and communications. It also encompasses all national targets.
- 3.10 The plan sets out a clear strategy and direction for the themes highlighted, some of which are accompanied by targets and objectives to assess performance. The Board actively sought stakeholder and partnership views which are fed into the planning process and reflected in deliverables. The development of a three year plan, allowing for alignment with CDRP plans and stakeholder consultation (with formal consultation taking place with the Police Authority, Courts Board, Probation Board and Government Office for the South West) was well received.

STRENGTHS

The three year planning cycle and the stakeholder and partnership consultation undertaken to develop the strategic plan.

- 3.11 To ensure its priorities are still in line with national requirements and correctly focused, an informal annual planning review is undertaken by the LCJB Support Team. Arrangements are in place to ensure that there are formal planning events with key stakeholders in the run-up to the development of the next three year plan, and the Board holds a planning day in the autumn each year.
- 3.12 As a vehicle to outline the Board's strategic direction the Delivery Plan is an effective document. Inspectors had some concerns as to how the strategic intent of the plan was turned into operational reality by the sub-groups, and how the Board assured itself that the actions carried out by the sub-groups were driving business to meet its outlined strategic intent.

Accountability

- 3.13 There are a number of initiatives that are being well driven by the Board. As previously stated there is no doubt about the commitment of members to driving CJS business forward and a belief that working in partnership will improve performance and services for Devon and Cornwall. However, the sub-group structure, the lack of Board 'challenge and check' of progress to assess whether its strategic intent was being delivered, and some missed performance results, gave the inspection team cause for concern.

- 3.14 Performance on unexecuted warrants illustrates inspectors' concerns. This is an example of a key performance target reported monthly to the Board, which has consistently been recorded as not achieved (for the past two years). The target relates to the reduction in outstanding warrants by 15%, which in numerical terms represents 300 warrants. Performance in the 2005-06 year remained well above 300, with a low of 400 and high of 476, and an end-of-year performance of 430. The Board consider target performance monthly by exception and we were assured that warrant performance was raised at every LCJB meeting. In line with the strategic intent of the Board plan there is a close link between public confidence and public reassurance and also narrowing the justice gap (offences brought to justice targets). Although executing warrants is a key measure at Board level there was no strategic link made within operational police plans at their Basic Command Unit level.
- 3.15 This matter should have been tackled, with senior officers who attended the Board impressing upon local Commanders the importance of delivering a key Board performance target. This lack of both holding to account and the ability of key players in the criminal justice arena to influence the overall direction of business is of real concern. It is essential that the Board tackle this apparent lack of accountability and ensure that key players within the CJS are all pulling in the same direction.

RECOMMENDATION

Devon and Cornwall Criminal Justice Board should ensure that there is a more cohesive delivery of its strategic aims as specified in the Delivery Plan. The Board's aims should be reflected as appropriate in individual CJS agency plans and ensure that there is accountability at a local level for delivery, particularly at police Basic Command Unit level.

- 3.16 As outlined previously the Board as a whole felt a lack of a clear authority in relation to individual agencies and to hold others to account. There is a need for clarity of what is to be within the gift of the Board and recognition that holding others to account for delivery against this is key to driving business improvement. There needs to be recognition of the statutory accountability that Chief Officers hold and that there can be conflicting demands between statutory requirements and those issues being driven by the Board. At a recent planning day the Board considered a revised structure to bring greater accountability and ensure that there are positive actions taken to identify senior responsible officers for delivery of key aims. Once implemented this change should go some way to allowing the Board to assess the effectiveness of turning its strategy into reality and holding those responsible for making the change to account. In relation to the police structure in Devon and Cornwall it is essential that there is effective senior representation at Board level. Strengthened arrangements for holding Basic Command Units to account for performance will have to be linked to representation at the most senior level. We consider that this is likely to be achievable only through the attendance at the Board of the new Chief Constable (when appointed) so that there is a strong route for holding those involved in the front line delivery of CJS business to account.

RECOMMENDATION

The new police Chief Constable (when appointed) attends the Devon and Cornwall Criminal Justice Board and ensures that there is accountability for delivery within the operational element of the forces remit.

The criminal justice office

- 3.17 The Board is supported by a small secretariat, known locally as the LCJB Support Team. The team is central to the work of the Board and ensures that there is understanding and liaison between the many parts of the system. It comprises a performance and business manager, a communications officer, a policy and research officer and an administration officer. It provides very effective support to both the Board and the performance and business manager, who was described as the 'glue' that kept all the pieces of the Board together. This post holder deals effectively with marshalling action, directing business and ensuring that links across criminal justice (and to other interested parties, for example CDRPs) are made.
- 3.18 The secretariat produces performance packs for consideration by the Board and sub-groups, as well as servicing the majority of sub-groups. Detailed reports enable comparison of performance at individual police station/unit level and allow for the identification of trends. This performance information is widely circulated and accessible at all levels throughout the area. Although there is a wide range of data produced covering both the general targets and detailed performance at supporting indicator levels, there was some evidence that sub-groups could make better use of the information in identifying the causes of less satisfactory outcomes.
- 3.19 The Board is well supported by the significant experience of key players in the secretariat. Much of the Board's business is directed and actioned within the team, although we recognise the difficulty, due to funding, in ensuring that there is a managed contingency in place for all key posts. Some work has been undertaken to widen the experience of all team members. The Board is alert to the risk of over-dependence on key postholders and the DCCJB Risk Register has identified 'staff and systems' as one of its five key risks.

4. IMPROVING PUBLIC CONFIDENCE AND COMMUNITY ENGAGEMENT

Overview

The Devon and Cornwall Criminal Justice Board has worked to improve its public confidence measures, but performance remains close to the 2003 baseline of 44%. We saw good examples of engagement with the wider community as well as minority groups. The Board recognise that there is a need to marshal activity around community engagement and the communications officer is beginning to ensure that there is co-ordinated and pro-active communication. The Board needs to ensure that its activity is complemented by consistent messages emanating from the single CJS agencies.

Work to develop local initiatives across the area play a large part in ensuring that the Board is able to communicate positive messages externally. There is strong activity on this front and the Board need to ensure that they are getting the maximum benefit from this commitment to delivering business improvement and its good performance against targets.

Improving public confidence

- 4.1 The area has struggled to meet the target to increase public confidence in its effectiveness in bring offenders to justice to 48% by March 2007. From a baseline measure of 44.6% in 2003, current performance (for full year 2005-06) remains at 44%. Performance has fluctuated with confidence reaching a high of 52% for the first quarter of 2004-05 and a low of 43% in the third quarter of 2005-06. The area has a target of 48% and has set a local target of 49%. Performance in 2005-06 at 44% was broadly the same as the national average of 44.4%.
- 4.2 The Board have invested a large amount of time and effort into increasing public confidence. There has been the appointment of a dedicated communications officer in November 2004 and the strategic plan contains a communication strategy which is focused on this issue.
- 4.3 Although the area has struggled to meet its target⁴ for increasing public confidence there was extensive evidence of community engagement at various levels. As well as pro-active work by the communications officer to raise the profile of the LCJB, there was extensive Board communication with various local stakeholder groups. We saw examples of good partnership working with the NSPCC, Against Domestic Violence and Abuse in Devon (ADVA), CDRPs and Victim Support. Additionally, the communications officer negotiated that the Western Morning News would run a week-long series of stories to explain the criminal justice system from a user perspective, during Inside Justice Week in 2005.
- 4.4 To increase awareness with local user groups the Board hold a number of their meetings in different venues around the area; using the afternoon to hold consultation events with local interest groups.

⁴ The confidence level in all criminal justice areas is based on the British Crime Survey. In the case of Devon and Cornwall the measure is extrapolated from a survey of 1,034 local members of the public

- 4.5 Devon and Cornwall also have a comprehensive, up-to-date and user-friendly website.
- 4.6 As well as the activity at Board level to raise awareness of the criminal justice agencies and their roles, there was also pro-active and re-active communication at single agency level. Whilst inspectors recognise that this is quite proper, there are often issues that would be better served by having a joined-up message rather than them being dealt with by a single agency. The communications officer identified a number of cases where, in trying to work with other agencies, there was a reluctance to present a Board message. Although the 'science' of improving public confidence measures is not exact, work that is marshalled, presented from a united front and has a consistent message is more likely to increase confidence in criminal justice within the community. Support from all organisations to work with the Board communications officer would ensure that consistent messages can be managed in an effective way.
- 4.7 In other inspections we have noted that public confidence has been improved by simple activity such as leaflets in council-generated correspondence, explaining the role of the LCJB and highlighting successes. DCCJB are in a strong position to market pro-actively the success of its activity and the attainment of targets (excluding its public confidence measure). The Board needs to consider whether its targeted activity with certain stakeholder groups is reaching the majority of the local population.

STRENGTHS

The work of the communications officer to raise the profile of the Devon and Cornwall Criminal Justice Board and present consistent messages.

ASPECTS FOR IMPROVEMENT

Devon and Cornwall Criminal Justice Board should increase its communication activity, focusing on reaching the majority of the local population with positive messages of performance and achievement.

Equality and diversity

- 4.8 The Board has a diversity sub-group whose focus has been on considering casework results, improving processes and sharing best practice. It is also attended by a number of key stakeholders.
- 4.9 The sub-group has established effective working relationships with local Race Equality Councils and other representatives of diversity groups. They are also active in holding individual criminal justice agencies to account ensuring that, where necessary, action is taken to progress initiatives and performance.

- 4.10 The DCCJB has been active in considering diversity matters. Work with the Intercom Trust regarding the local Lesbian, Gay, Bisexual and Trans-gender community (LGBT) resulted in the CJS agencies setting up a support group for LGBT staff, as there was a perception that the handling of LGBT crimes was effective, but more attention needed to be paid to internal staff support mechanisms. The 2005 DCCJB conference “Diversity matters” was attended by over 120 staff and stakeholders from across the area. Issues covered included same sex domestic violence, understanding the travelling community and what implications the London bombings could have for Devon and Cornwall in the context of hate crimes and racist attacks.
- 4.11 To raise the profile of diversity within the area the Board took a decision to pilot and fund a diversity officer post to act as a focal point for diversity matters and ensure that plans and targets were developed in line with equality and diversity needs. However, due to the large number of stakeholders and geographical size of the area, the scope of the work was too large for one person to service. After a short evaluation of the pilot it was felt that using the money to fund directed case-specific scrutiny would be more valuable. The Board therefore took the decision to commission a scrutiny panel to consider performance and handling of race crimes.
- 4.12 There are obvious benefits in focusing activity on one specific element of work and external scrutiny will highlight process issues that may require improvement. External review needs to be managed to ensure that process improvement activity is not wholly driven by stakeholders and that there are safeguards in place to ensure that the expectations of those carrying out external scrutiny is managed. Inspectors also found that there was a great deal of single agency activity surrounding diversity; for instance, police diversity staff were employed in a number of the Basic Command Units. The sub-group acts a conduit and structure to ensure that there is consistency across the area and that good practice is shared. Inspectors felt that some of the single agency work was not effectively reported and that there was activity whom could be of benefit across the whole area not being identified, for example the “white-gold” project (a self-development scheme for young people, some of which have been diverted from the criminal justice system) and a dedicated police leaflet/booklet for travellers/visitors to the area.

Strategic partnerships

- 4.13 The Board has developed a number of initiatives linked to improving and developing services within criminal justice. These have been driven at Board level (in some cases by one member with the support of all) and demonstrate the keenness of the Board to focus its activity on change and development. The piloting and introduction of Community Advice and Support Services (CASS) in Bodmin and Plymouth – which link courts to their communities – ably demonstrates this drive as part of the wider Courts and Community Justice project.

- 4.14 Other aspects of the project include the provision of four Senior Attendance Centres for young adult offenders and an unpaid fines work project. As part of this suite of measures it is hoped that through help and advice - provided by staff and volunteers from the Prison Advice and Care Trust (PACT) - defendants at court, charged with less serious offences, can be diverted from the criminal justice system by accessing services in the community. Access to CASS also helps those considering the range of sentencing options available. Advice given will include: benefit and debt management; accommodation advice; statement of means development; employment and education; drugs and alcohol; and advice about prisons and visiting.
- 4.15 The pilot will be evaluated as part of the project and the Department for Constitutional Affairs (DCA) are taking a keen interest and are considering an application to extend funding to increase coverage across the area. The Office for Criminal Justice Reform (OCJR) and the DCA have expressed the view that the work being developed and piloted in Devon and Cornwall under the direction of the Board is 'best practice' and consideration is being given to piloting it further, prior to developing it nationally.
- 4.16 The inspection team were impressed with the customer and reduction of re-offending focus of CASS. There were obvious advantages to offering help to try and prevent re-offending by providing support and advice on access to other parts of the system, which can appear unco-ordinated. A formal evaluation of the project will ensure that outcomes can be assessed and a baseline established prior to any further roll-out.
- 4.17 Part of the objectives and aims in the Community Justice project will allow the Criminal Justice Board to work more closely with Crime and Disorder Reduction Partnerships. Part of the goal is to allow local people to influence local priorities and solutions and to give offenders and their families access to services and activities that can change behaviours. As part of this the Board have worked to develop strong links to CDRPs.
- 4.18 Formal links and supporting processes have been developed between the Board and CDRPs to ensure that there is a synergy between their respective remits, with the planning cycle of the Board being moved onto a three year footing to specifically help these links. Inspectors found that there were strong foundations for good working relationships at co-ordinator level and that this was in some cases re-inforced by effective communication at Board level through stakeholder events. In an area as large as Devon and Cornwall, with 16 CDRPs, it is accepted that relationships and active partnerships can take some time to develop. There is evidence of a strong joint commitment to work together to deliver improvement, although concerns were expressed about remit and contradictory national drivers.

5. BRINGING OFFENDERS TO JUSTICE

Overview

Devon and Cornwall has met and exceeded the 2005-06 target for offences brought to justice and is currently exceeding its target for 2006-07. However, the conversion of offences brought to justice into sanction detections is below target. Analysis by the Local Criminal Justice Operations Group has identified problems in some police Basic Command Units and action has been taken to target detailed improvements. Performance trends are improving.

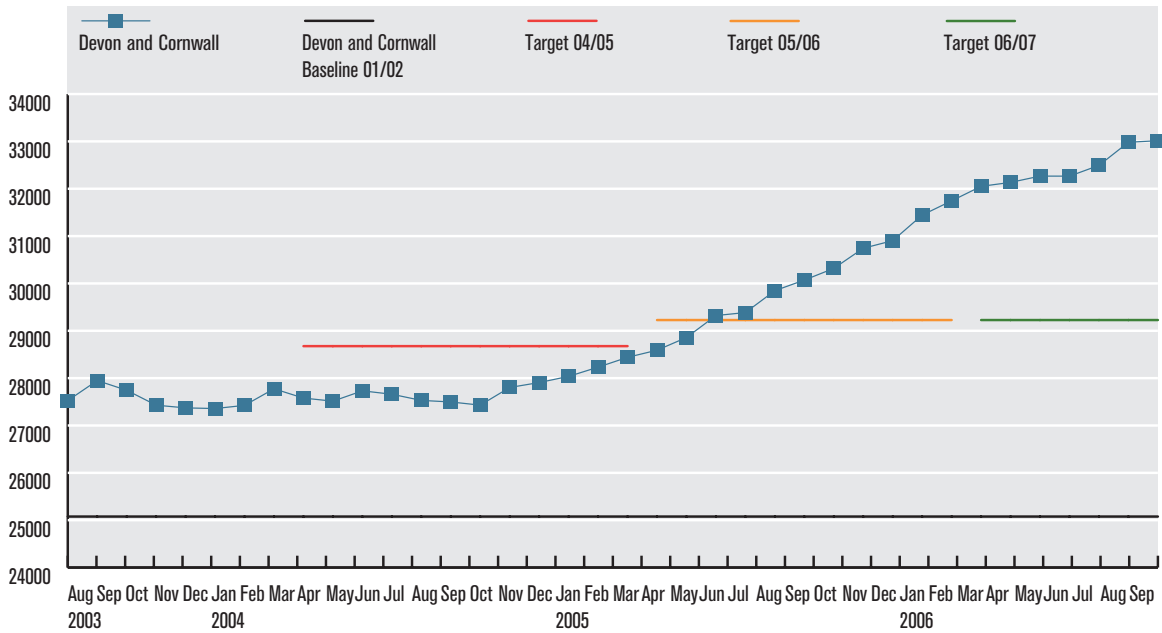
Some key aspects of the pre-charge decision scheme needed to be improved to increase its effectiveness. In particular there was a need to increase the amount of face-to-face advice provided and strengthen case 'ownership'. Whilst there was a commitment to the scheme at a senior level, this needed to be pushed down to an operational level through increasing the level of face-to-face advice. Assurance has to be sought that, following CPS advice, the police are carrying out the actions necessary to make a charge viable, or are notifying the CPS that they have concluded that this not possible and they do not seek to pursue a prosecution. There needs to be greater liaison between the bail management teams, police case reviewers and duty lawyers. We found cases in which there was delay in police investigation which was compounded by the police proceeding by way of summons rather than charge.

There are good examples of working with stakeholders to develop systems and processes for specialist and sensitive cases, which are generally well managed. Awareness at a force operational level of CPS lawyer specialists needs to be increased and asset recovery performance needs to be improved.

Offences brought to justice

- 5.1 The area met and exceeded its 2005-06 target and performance remains on course to exceed the 2006-07 target as illustrated in the graph below. The proportion of penalty notices for disorder (PNDs) within the make-up of the offences brought to justice⁵ overall figure is 12%, which is 3% more than the national average and is also in excess of other 'like' forces. The Board need to ensure that the focus and make-up of the offences brought to justice target is sustainable.

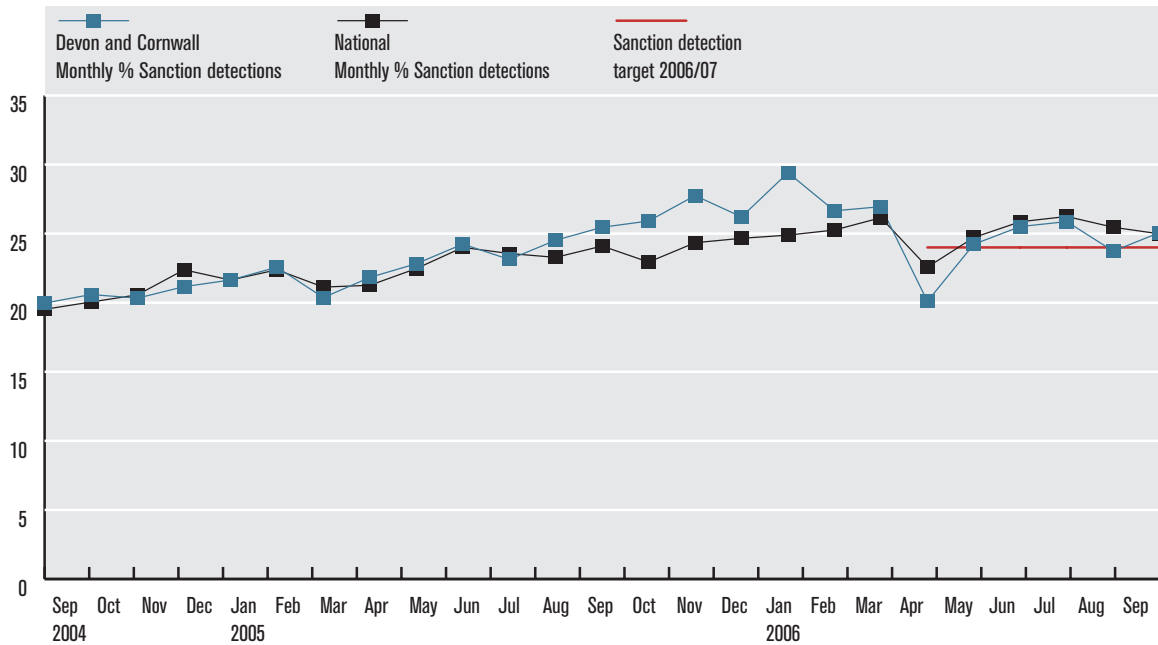
⁵ An offence brought to justice is a successful outcome to the investigation of an offence and comprise five categories: convictions; cautions; fixed penalty notices (FPNs); offences taken into consideration (TICs) and formal warnings



Sanction detections

5.2 Devon and Cornwall has set a local sanction detection rate of 27% which is 3% more than the national target of 24%. As the graph below shows performance has been inconsistent. As well as setting a 'stretch' target the force is tackling this issue by introducing frontline police officer training, and Detective Inspectors monitor investigations and detections to ensure that they are correctly identified and recorded. It was apparent during the course of the inspection that the focus at the frontline was often on 'recording crime' and the finalisation of the cases within the system for target purposes was being missed. This was having a consequence on the ability of the area to meet its sanction detection⁶ rates. Devon and Cornwall CJB are close to meeting the national target on a monthly basis, although performance remains short of the local stretch target. Detailed analysis of BCU performance by the local criminal justice operations group identified those parts of the force where the trend was most acute. The area has implemented police action teams to ensure that, in cases where detections have taken place, they are formally recorded. This is driving up performance and there is a trend of improvement.

⁶ Sanction detections are recorded offences that were detected where an offender has been: charged; reported for summons; cautioned; given a formal warning for possession of cannabis; issued with the fixed penalty notice for certain offences or asked for an offence to be taken into consideration at court



Pre-charge advice and decision-making scheme

5.3 Devon and Cornwall migrated from the shadow scheme to the statutory charging⁷ scheme in April 2006. This change over needs to be recognised as a significant achievement as the HMCPSI overall performance assessment (OPA), carried out in July 2005, had expressed serious concerns about the area's readiness to migrate to the statutory scheme.

5.4 Significant improvements to the project management of the implementation of the statutory scheme, with the investment of dedicated resources at a senior level within the CPS (mirroring arrangements that had already existed in the police structures), ensured that there was a focus on delivery, based on sound relationships at a strategic level.

The structure of the statutory charging scheme

5.5 CPS lawyers attend four of the seven police charging centres, Camborne, Exeter, Plymouth and Torbay. Advice in respect of cases originating from the Barnstaple charging centre are dealt with from Exeter, and those from Launceston and Newquay are handled by a duty lawyer based at the CPS Truro office. At the time of our inspection the police and the CPS were planning to make face-to-face advice available at Newquay, which would also cover Launceston.

5.6 Cover is provided from 9am to 5pm with an out-of-hours service provided by CPS Direct. Those charging centres where face-to-face coverage is not available have to fax case papers to the appropriate centre for advice to be given on the basis of the evidence. It is also possible for those officers who do not have the benefit of face-to-face advice to make arrangements to see a duty lawyer at a CPS office, although take-up of this is rare and was not well understood by operational officers.

⁷ The Criminal Justice Act 2003 amended Section 37 of the Police and Criminal Evidence Act 1984 to make provision for crown prosecutors to take over from the police the responsibility for charging decisions. Under the Director of Public Prosecutions' guidance this applies in more serious cases and those cases likely to be contested

- 5.7 The arrangements for lunchtime coverage by the Exeter and Torbay charging centres needed to be clarified as it was apparent that they were not clearly understood. This misunderstanding was leading to a perception that pre-charge advice could not be obtained during lunchtime and was a cause of some tension.
- 5.8 Our observations at charging centres indicated that there was a particular imbalance in workloads between Exeter and Torbay. As part of the post-implementation review of the scheme the joint statutory charging project steering group is planning to undertake an assessment of the effectiveness of its operation. This review will need to include an assessment of whether the level of coverage currently provided across Devon and Cornwall best meets the business needs of the CPS and the police and whether lawyer resources are correctly balanced to caseload and need.

The operation of the scheme

- 5.9 We visited each of the charging centres at least once during the course of our inspection. We were concerned to note that, with the exception of Exeter, there was in practice very little face-to-face advice being given to police officers. Generally the police only sought face-to-face advice when the suspect was in custody. In those cases where the police had bailed the suspect to obtain further evidence before submitting the file to the CPS, or where the file was re-submitted following earlier CPS advice, it was rare for there to be face-to-face discussion.
- 5.10 Before cases reach the duty lawyer they go through a police case reviewer, who may also act as the officer in the case if the original arresting officer is not available. The case reviewers filter out cases that should not be going to the duty lawyer because they are outside the scheme and also identify where further evidence is needed before a pre-charge decision (PCD) can be made. They do not provide 24 hour coverage and this was putting pressure on custody sergeants who had to undertake the role out-of-hours. There was also a concern expressed that the case review process could be adding delays to the charging process.
- 5.11 Inspectors found evidence that in some cases, to avoid the delays in custody suites officers were not arresting suspects but 'inviting' them to attend at police stations as 'voluntary attenders', thus circumventing the custody process in order to 'speed up' the investigative process, and then proceeding by way of summons. This causes concern as a suspect who has not been arrested is not required to provide various evidential samples and this can inhibit and add delays to other investigative actions.
- 5.12 Access to custody suites by police officers and staff is operated in a manner that means custody sergeants and Inspectors may not be aware that a 'voluntary attender' is present in the custody suite. This presents a risk regarding supervision and this course of action is not acceptable. At the time of the inspection, monitoring systems were not operating and the force were unable to tell how many 'voluntary attenders' were passing through police stations.

ASPECTS FOR IMPROVEMENT

Devon and Cornwall police should actively monitor the numbers of 'voluntary attenders' at all police stations to ensure that this is the most appropriate method of investigation and that effective systems are put into place to ensure that proper systems are not being bypassed.

- 5.13 To assess the validity of this concern we examined the charging process while on-site, to consider the timeliness of the provision of PCD in cases where the suspect was in custody. It was difficult to assess this accurately as we could not always ascertain when the custody sergeant passed the case to the police case reviewer for consideration prior to advice being sought from the duty prosecutor. Where we could make an assessment we found that it took between two-four hours. For some of this time the case papers would be with the police case reviewer. There is an expectation (set out in the Director of Public Prosecutions' guidance) that advice should be given in less than three hours. Police and CPS managers will therefore want to satisfy themselves that the processes allow for advice to be given within this period and that custody cases are prioritised.
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ASPECTS FOR IMPROVEMENT

Devon and Cornwall Criminal Justice Board should satisfy itself that custody cases are being managed through the charging process within the timescale as set out in the Director of Public Prosecutions' guidance, thus ensuring that defendants in custody are dealt with expeditiously.

- 5.14 It was apparent that some police officers preferred to get advice from CPS Direct (which provides out-of-hours pre-charge decisions) because they were perceived to be more willing to advise prosecution and also because officers preferred to speak directly with the advising lawyer. The CPS Direct caseload for Devon and Cornwall, when compared with the PCDs provided by the CPS Area's lawyers, suggests that this perception was not actually a reality, but it re-inforces the need for the CPS and the police to work together to increase the provision of face-to-face advice.
- 5.15 The provision of face-to-face advice is important to the success of the scheme. It gives the prosecutor the opportunity to explore with the officer the circumstances surrounding the case and enables clarity about what further evidence may need to be obtained to progress and build the most effective case. It is also a positive method of building better working relationships between the CPS and police, breaking down any cultural barriers or misconceptions and promoting a prosecution team ethos. This aspect of the scheme needs to be developed and would be assisted by a structured appointments system across the area.
- 5.16 The form MG3, which is used to record the lawyer's decision, contains an action plan on which the further evidence or information required should be set out. In many cases the action plan was too vague, merely indicating that a witness statement needed to

be taken or forensic evidence obtained. They did not set out clearly what evidence the prosecutor wanted, what points needed to be covered by that evidence, or how the evidence would strengthen the case. A clear action plan is important in all cases, but particularly where there has been no face-to-face discussion or where the officer in the case is inexperienced.

- 5.17 There was also a need to strengthen case ownership by both the police and the CPS. Whilst each PCD case went through a police case reviewer before being seen by the duty lawyer, there was a lack of police ownership of cases, which was leading to confusion about who was responsible for obtaining the evidence or information set out in the action plan. This lack of ownership was also contributing to difficulties at later stages in the process, for example when a full file was required for committal to the Crown Court. Part of the confusion lay with different officers performing different roles in the same case, for example the arresting officer would not be the interviewing officer, who might not be the officer who dealt with further queries. It was therefore difficult to determine who was the officer in the case with overall responsibility.
- 5.18 Similarly there was a lack of CPS case ownership, with the result that the lawyer who made the PCD might not be allocated the case once the defendant had been charged. The case could then be allocated to another lawyer if it was committed to the Crown Court. These issues need to be addressed at an operational level both within the police and CPS. The Board should ensure that there is increased accountability for case ownership as this is central to its strategy of protecting the rights of victims and improving community confidence.

Case management

- 5.19 We examined reports for each CPS office, produced using the CPS case management system, which identified the number of PCD cases where there had been no activity for at least eight weeks. There were over 140 outstanding cases at Exeter (covering the Barnstaple, Exeter and Torbay charging centres) and 320 at Truro (covering the Camborne, Launceston and Newquay charging centres), although the position appeared satisfactory at Plymouth. These reports contained a mix of cases including where the advice had been to charge or re-submit the file once further evidence has been obtained. The police and the CPS need to actively manage these cases to ensure that:
- where directed, further evidence is being obtained;
 - the file is closed off if the police cannot obtain the evidence; and
 - where advised, the defendant is charged promptly.
- 5.20 There is some discussion of performance data (although until recently this data has not been reliable) at Prosecution Team Performance Meetings (PTPMs), but not yet consistently across the area. The PTPM reports are very large because of the number of unique reference number (URN) identifiers used by the Devon and Cornwall Constabulary. This data would be a more useful indicator of performance if presented on a charging centre basis. We understand that agreement has been reached to reduce the number of URN identifiers which should assist performance management.

5.21 There is a need to strengthen some aspects of performance, for example, cases where the police systems result in no further action being undertaken, those cases where the CPS advise no prosecution, and the bail management of cases on CPS inactivity lists. At a local level there was a need for a more structured method of discussing issues that arose between custody sergeants, police case reviewers and duty lawyers.

RECOMMENDATION

Devon and Cornwall Criminal Justice Board ensures that:

- the operation of the statutory pre-charge scheme is improved to increase the proportion of cases where advice is delivered on a face-to-face basis;
- systems are put into place to revise and improve case ownership at the front line within the police and CPS; and
- there is a shared ownership of the scheme and the development of a corporate approach is embedded within the area.

Realising the benefits

5.22 Devon and Cornwall's performance around the key measures of charging have been improving. The discontinuance rates both in the magistrates' courts and the Crown Court have reduced since 2005-06, but the magistrates' courts' performance remains poorer than the national average. The attrition rate target of PCD cases in the magistrates' courts and the Crown Court has been met consistently and the guilty plea rate in both jurisdictions is better than target and the national average for the latest quarter (second quarter of 2006-07).

MAGISTRATES' COURTS CASES

Discontinuance rate			Guilty plea rate			Attrition rate		
National Target	National Performance	Area Performance	National Target	National Performance	Area Performance	National Target	National Performance	Area Performance
Mar 2007	2005-06	2005-06	Mar 2007	2005-06	2005-06	Mar 2007	2005-06	2005-06
11%	16.6%	18.1%	52%	67.5%	66.8%	31%	23.5%	22.9%
Mar 2007	Q2 2006-07	Q2 2006-07	Mar 2007	Q2 2006-07	Q2 2006-07	Mar 2007	Q2 2006-07	Q2 2006-07
11%	15.9%	17.5%	52%	69.6%	72.1%	31%	21.8%	20.1%

CROWN COURT CASES

Discontinuance rate			Guilty plea rate			Attrition rate		
National Target	National Performance	Area Performance	National Target	National Performance	Area Performance	National Target	National Performance	Area Performance
Mar 2007	2005-06	2005-06	Mar 2007	2005-06	2005-06	Mar 2007	2005-06	2005-06
11%	13.9%	12.7%	68%	65.3%	64.9%	23%	23.2%	20.0%
Mar 2007	Q2 2006-07	Q2 2006-07	Mar 2007	Q2 2006-07	Q2 2006-07	Mar 2007	Q2 2006-07	Q2 2006-07
11%	13.1%	7.4%	68%	66.7%	67.4%	23%	22.6%	18.9%

Specialist and sensitive casework

- 5.23 Devon and Cornwall has a well developed set of protocols covering relationships between parties where there is a necessity to deal with, identify and manage cases defined as sensitive and specialist. These protocols are formally reviewed on an annual basis and there is good stakeholder involvement in the review to ensure that actions contained meet the needs of those covered by the protocol. There are protocols in place at LCJB level for actions between the parties of the CJS and also Victim Support and the Witness Service. There are a number of bi-lateral and single agency protocols also managed in the area.
- 5.24 The processes for identifying sensitive cases and hate crimes are effective. Cases were flagged on the police file and on the CPS case management system. In terms of numbers of cases, in the three months to March 2006 the CPS recorded 441 hate crimes against an annual caseload of just over 30,000. Specifically there were 43 race and religious hate crimes recorded and four cases of homophobic incidents. Although the cases were flagged on police and CPS systems, we found that the early identification of cases with vulnerable and intimidated adult witnesses needed to be improved. Police officers were not identifying these issues when cases were submitted for a PCD and duty lawyers were not pro-active in seeking further information at this stage.
- 5.25 The failure to identify at an early stage cases where special measures⁸ for adults might be appropriate was leading to late applications, often only after the Witness Care Unit (WCU) had made contact with the victim or witness. This lack of awareness at the early stages of a case of the need to identify and manage vulnerable and intimidated adult witnesses could have an adverse impact on both public confidence and the final outcome of a case, particularly where witness attendance at court was central to the case. This lack of awareness needs to be tackled by the Board.

ASPECTS FOR IMPROVEMENT

Devon and Cornwall Criminal Justice Board ensure that guidance and training is provided to front line operational police officers about the necessity and importance of identifying vulnerable and intimidated adult witnesses.

- 5.26 We also identified that there was a natural inclination when applying for special measures applications for adult witnesses to distance them from the process, through video links. We believe that lawyers need to make more informed assessment about what was the most appropriate measure to obtain justice for the victim. Understandably, and rightly, lawyers want to ensure the victim or witness' trauma in giving evidence is reduced as far as possible. Distancing them from the process, through video links, is often perceived as the best way of achieving this aim. However, the overall aim is to achieve justice for the victim through conviction of the guilty. There is a danger that a blanket approach of applying for video links may not result in the best solution in every case. Lawyers need to make timely and informed decisions about whether in some cases the remoteness of the victim, whilst reducing the trauma, may not assist to achieve justice.

⁸ Special measures are arrangements which can be put into place to provide protection and/or anonymity to a witness, for example a screen separating them from the accused or the use of video link facility

- 5.27 We were also told of cases where victims, having been told of all the options, made the informed choice that they wanted to be in court, although behind screens. The Board may want to consider whether using the processes of witness needs' assessments can be reviewed to capture and identify the type of special measures that are most appropriate for that particular witness.
- 5.28 We were also told that, after some initial problems, effective systems have been developed to ensure that vulnerable and intimidated witnesses are informed promptly of the results of case hearings. The WCUs have worked with the magistrates' courts and the Crown Court to develop a process to ensure the results of hearings are promptly notified to these victims and witnesses.
- 5.29 During interviews with operational police officers it was apparent that, although there are systems in place to identify and flag specialist cases, there was a lack of awareness of which lawyers within the CPS were nominated 'champions' for specific hate crime types. There was evidence that this information was regularly shared between the police and CPS and this was communicated internally within the police by the criminal justice department. It was therefore disappointing that operational officers were not aware of their counterpart experts in the CPS. The Board will want to address this apparent information blockage.
- 5.30 It would also be helpful if the liaison between the CPS sensitive and hate crime Champions and their counterparts in the police was developed on a formal basis. Whilst hate crime data was analysed at the LCJB level (at the diversity sub-group), the interface at an operational level was not embedded.

Domestic violence/domestic abuse

- 5.31 There is special domestic violence court at Exeter Magistrates' Court, which sits once a week. Defendants in cases involving allegations of domestic violence are bailed to this court. It was unclear how the success of this court was being measured and an evaluation was still to take place. Although this was not initially a Board-sponsored initiative, the DCCJB domestic violence sub-group has recently started to consider what role it can play to monitor and progress the initiative. A liaison role has been established and part of the responsibilities of the post was to inform victims quickly of the outcome of hearings.
- 5.32 We saw, however, that cases were being transferred out of this court into general courts, which defeats the object of the scheme. Care needs to be taken to ensure that the work scheduled for that court is such that it can be dealt with in the time allocated. We note that the court has recently changed its starting time to 12 noon to give more sitting time, as it had previously sat from 2pm. Generally, the specialist domestic violence court did not seem to operate in a manner which was different to normal.

5.33 The Board and the domestic violence sub-group has forged good working relationships with local domestic violence stakeholder groups, in the main ADVA and Women's Aid. Stakeholders have been active in helping the Board set its priorities for addressing and improving its systems and processes when dealing with domestic violence and abuse. As well as helping set the agenda, the sub-group are active in ensuring that good practice is shared and developed across the area. Although the Board were not the initial sponsors of the special domestic violence court at Exeter (or initially involved in the proposed pilot at Plymouth) the inspection team would expect to see the remit of the domestic violence sub-group widened to cover this initiative which has obvious consequences on the CJS and its resources.

STRENGTHS

The stakeholder involvement on the domestic violence sub-group, which plays an active part in setting the Board's priorities.

5.34 To improve the quality of evidence gathering the police were introducing, in Plymouth, an initiative where domestic violence officers would attend incidents with head cameras to enable them to record evidence contemporaneously, for example injuries to the victim and the demeanour of the parties. This method of evidence gathering has been used successfully in respect of public order incidents. The police and the CPS were developing procedures to ensure that this evidence could be produced effectively at court.

5.35 As part of the concurrent HMCPSI inspection of CPS Devon and Cornwall, a number of cases of domestic violence were examined. Overall these cases were handled well, although in some more information should have been sought before deciding whether the proceedings should continue, where the victim had indicated a wish not to proceed. It was also noted that there could be a delay awaiting information from the police domestic violence officers.

Child abuse

5.36 There was a good working relationship between lawyers and child protection team officers. To ensure that sufficient time was available for lawyers to view the video recording of the child's evidence a protocol had been agreed, whereby these cases were sent to the CPS office as opposed to being dealt with at a charging centre.

5.37 This protocol was effective, although an examination of CPS files showed that it was not always evidenced on the file that the lawyer had viewed the video before deciding whether the case should proceed.

5.38 Applications for special measures for child witnesses were timely and prepared at the time of transfer to the Crown Court. The Board had also developed a very effective partnership with the NSPCC across the area. Facilities are in place in Exeter to allow child victims and witnesses to give video evidence from NSPCC offices, removing the additional trauma of attending court. These facilities have also been used in cases of domestic violence where both parent and child have been required to give evidence.

5.39 The Board have also been supportive in working with the NSPCC in attempting to secure funding to extend the service for children in Cornwall. In an area as geographically large as Devon and Cornwall it is disappointing that this service is only available in part of Devon. We are aware that the Board and the NSPCC have worked hard to secure additional central funding to roll-out this service further, but to no avail. As victims and witnesses are at the heart of an effective criminal justice system we would support any further case that may be submitted to extend the service.

5.40 There was a protocol covering the disclosure of third party material in child abuse cases, which usually relates to material held by the Social Services. Generally this protocol was working well.

Racially and religiously aggravated offences

5.41 The HMCPSI file sample indicated that racially and religiously aggravated cases are dealt with appropriately at the relevant stages of the proceedings, although they need to be identified correctly and flagged at the PCD stage.

5.42 The Board diversity sub-group undertake an analysis of measures that are captured within the individual CJS agencies relating to race and religious hate crimes. The group also considers case outcomes and assesses trends at Basic Command Unit level to determine whether best practice or improvement can be targeted. As outlined in Chapter 4, work is under way to consider how case management panels can be used to develop this further by including representatives from local interest groups.

Young offenders

5.43 In 1999 the Government set a national target of 71 days from the arrest to sentence of persistent young offenders (PYOs). The out-turns have been as follows:

	Devon and Cornwall (days)	National (days)
2000	60	93
2001	60	76
2002	55	68
2003	52	66
2004	51	69
2005	56	68
2006	69	71

- 5.44 Youth offenders generally were dealt with effectively and within time targets. The target time of hearing trials in the youth court in 176 days from charge was met in 94% of cases, compared with 87% nationally.
- 5.45 Youth cases in the Crown Court were prioritised, including those where the youth was jointly charged with an adult.
- 5.46 For the period April-June 2006 the average processing period from arrest to sentence for all PYO cases (ie both magistrates' courts and the Crown Court) was 69 days compared with 71 days nationally. Whilst this was still within the Government target of 71 days, performance had slipped from 51 days for the period November 05–January 06. In magistrates' courts' cases performance had declined from 48 days to 59 days, although remaining clearly within target.
- 5.47 It was clear that cases from the police's Basic Command Unit in Plymouth were having a significant impact on the overall criminal justice area performance, taking on average 90 days. We examined a sample of contested PYO cases dealt with in the Plymouth Magistrates' Court and found that each took at least 90 days from arrest to sentence.
- 5.48 This issue needs to be addressed urgently in the joint agency youth case progression groups, which meet regularly to consider PYO performance. We also understand that the LCJB intends to look at ways of improving performance across the area.
- 5.49 Applications for Anti-Social Behaviour Orders (ASBOs) upon conviction were dealt with effectively, and there was some liaison between the CPS and Community Safety Partnerships in respect of applications for civil ASBOs. There was a need to clarify the remit of the CPS in respect of ASBOs to ensure that the expectations of other agencies were either met, or that they were clear about the limits of the CPS's role.

Asset recovery

- 5.50 There was a need to improve area performance in relation to proceedings where the defendant's assets were liable to confiscation. There were 24 confiscation orders made against a target of 26 in 2005-06, with seizures totalling £916,240 against a target of £986,403. The target for 2006-07 is 26 orders and the seizure of £1,531,178. Performance to date suggests that the area is unlikely to meet the target, although we recognise that some of the factors which influence performance are outside the control of the prosecution team, in that attainment of the target can be influenced by criminal activity and crime type.
- 5.51 However, the police and the CPS can contribute to achieving the targets by ensuring that asset recovery cases are identified at the PCD stage and restraint orders applied for where appropriate. The Board recognises this, and there are plans in place to raise awareness of asset recovery at operational police officer and lawyer level.

ASPECTS FOR IMPROVEMENT

Devon and Cornwall Criminal Justice Board needs to ensure that awareness at operational levels is improved to identify cases suitable for asset recovery.

- 5.52 The area's performance in fine enforcement is very good with a 91.1% payment rate compared to the national rate of 86.4%. In cases involving confiscation orders there was a national target in 2005-06 to reduce the outstanding balances of Proceeds of Crime Act (POCA) orders by 50% and in 2006-07 to reduce it by 25%. Area performance in 2005-06 was 20% and year-to-date performance in 2006-07 is 8%. To date in the area has collected £28,532 against POCA orders (May 2006); in 2005-06 it collected £209,082.

Persistent and priority offending

- 5.53 There is a focus on persistent and priority offender (PPO) activity through the persistent and priority offender sub-group of the DCCJB. Protocols are in place with the various Crime and Disorder Reduction Partnerships (CDRPs) and Community Safety Partnerships (CSPs). These ensure that wherever possible DCCJB generated PPO actions are complementary to the work undertaken by the CDRPs, although there was some concern expressed by the Board that there is a confused national picture on where the accountability of LCJBs and CDRPs rest when managing and working with PPOs. The Board have worked to overcome this by engaging with both CDRPs and CSPs at the local level, although this consultation can compete with local activity at the police Basic Command Unit level. The Board need to ensure that the PPO sub-group are given the authority to hold local CJS agencies to account for delivery as well as playing an active part in the development of any local strategy with partners to ensure that there is effective management of PPOs.

6. REDUCING THE LEVEL OF INEFFECTIVE TRIALS

Overview

Ineffective and effective trial performance

Area performance is significantly better than that found nationally. In the magistrates' courts the area met its target in the final quarter of 2005-06 and has continued this positive trend in the first quarter of 2006-07. There are effective processes in place to support improvement activity around the handling of cracked and ineffective trials; cross-criminal justice agency meetings are used to consider reasons, identify trends and implement improvement.

Case progression has been hindered by the loss of two of the three CPS case progression officer posts in Exeter. HM Courts Service has worked hard to ensure that there are effective processes in place to aid case progression and trial readiness checks are used as a means to improve compliance with court directions and ensure effective hearings.

There was evidence of inefficient pre-trial preparation. The police, CPS and courts all have a part in this; police file preparation could be improved, CPS summary trial preparation could be substantially better, and the courts' practice of listing pre-trial reviews in all not guilty plea cases is impacting on resources.

The treatment of victim and witnesses

The quality of the treatment of victims and witnesses is crucial to the effectiveness of the criminal justice system. During our interviews with victims and witnesses there was a general feeling that those in the criminal justice agencies had treated them well. There has been an ongoing commitment to Witness Care Units and this has been demonstrated by a recent increase in resource, wholly funded by the police. WCU processes are developing and relationships with the Witness Service are strong. A better understanding of the CPS systems and needs would be of benefit.

The inclusion of Victim Support representation at sub-group level demonstrates a willingness to learn from the user perspective, although concerns were expressed about the ability of the sub-group to influence the overall Board strategy.

Concerns were expressed about the limitation of the court estate to meet the needs of victims and witnesses, with some specific issues raised about safety and security.

Preparing for effective hearings

- 6.1 During the inspection we found that in a number of cases there was not effective case preparation. In the HMCPSI file sample summary trial preparation in the magistrates' courts was timely in only 60% of cases. In some cases the late receipt of a full file of evidence from the police contributed to the delay, but in many instances it was accepted that delays were occurring due to last minute reviews by the CPS.

- 6.2 These delays were also causing problems in committals for trial, as it was common for the papers to be served on the morning of the hearing, thus causing adjournment and ineffective hearings.
- 6.3 Inspectors also noted that there was a practice, in practically every case where a defendant pleads not guilty, to adjourn for a pre-trial review (PTR)⁹ hearing, which will be between five and six weeks after the not guilty plea was entered. Although within the HM Courts Service protocol this practice is not stated to be compulsory in every case. We observed PTRs where the allegation was of a minor motoring nature and all the prosecution evidence was to be served on the defendant by way of written statements, with no witnesses being called to give evidence in person. We also noted similar cases in our file sample. We do not consider that a PTR hearing is necessary in cases of this type, which could be adjourned straight to a trial date. This would reduce both the number of hearings and the amount of preparation necessary for PTR courts by the CPS.
- 6.4 Whilst Devon and Cornwall has a better than average effective trial rate performance in the magistrates' courts and an ineffective trial rate that is meeting target, inefficiencies or ineffective hearings on the way to trial can be costly both in terms of court and lawyer resource. A recent National Audit Office report¹⁰ estimated that nationally 28% of all pre-trial hearings are ineffective.
- 6.5 The CPS needs to ensure that lawyers come to hearings fully prepared and that papers have been issued to the defence in time to ensure that hearings can be effective. The blanket approach to holding PTRs needs to be reconsidered. Police file building needs to be reviewed and case ownership improved (see Chapter 5). This has a significant impact on the efficient use of criminal justice agency resources within the area. Good performance results for ineffective trials must be viewed against a picture of a high level of ineffective pre-trial hearings. This lack of preparation means that cases are having a number of ineffective hearings prior to trial, which has the effect that some cases are taking too long, although the area has good performance results for ineffective trials. DCCJB need to understand the impacts that this delay could be causing.

RECOMMENDATION

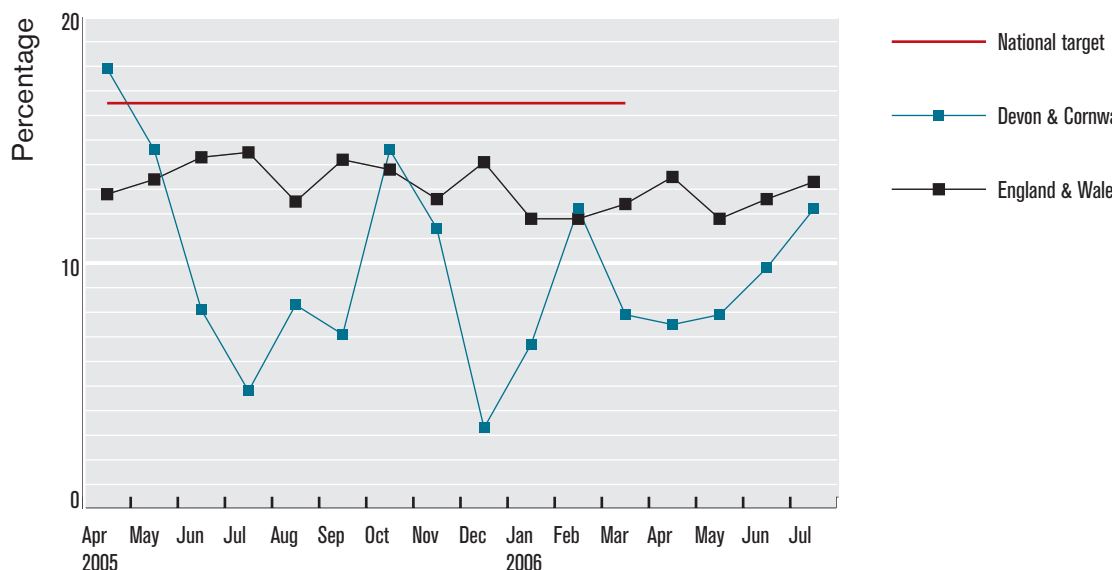
Devon and Cornwall Criminal Justice Board develop a cross-cutting timeliness target for all cases in the magistrates' courts. The target should monitor offence to conclusion to support effective trial performance.

⁹ A magistrates' court pre-trial review takes place in advance of a trial and gives directions to both the prosecution and defence to ensure that the trial can progress on the fixed date

¹⁰ National Audit Office – Crown Prosecution Service Effective use of magistrates' court hearings – Report by the Comptroller and Auditor General HC 798 Session 2005-2006 15 February 2006

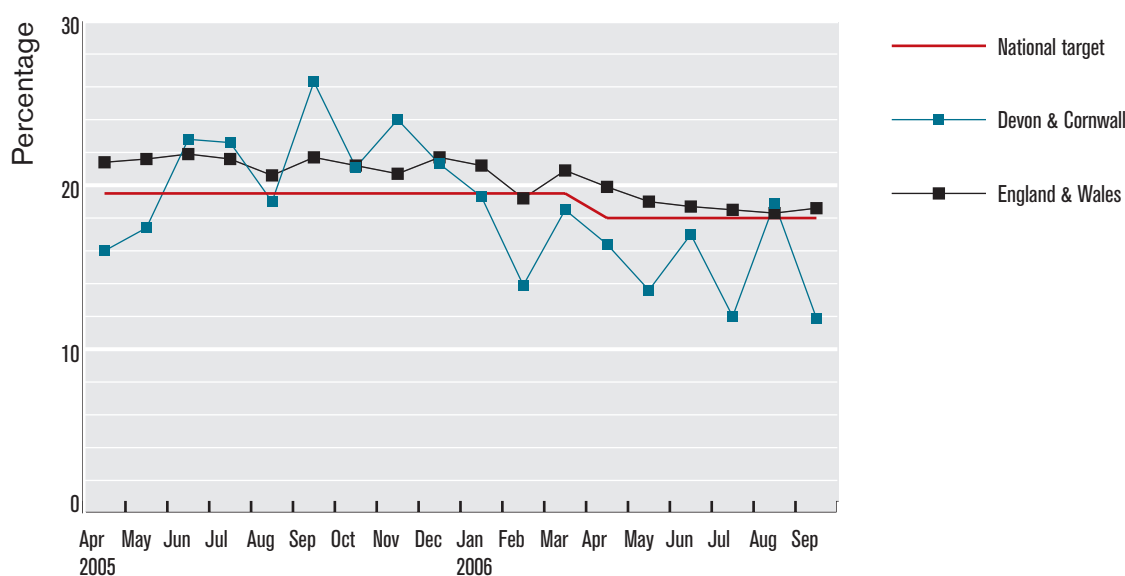
Ineffective trials: Crown Court performance

6.6 The Crown Court ineffective trial¹¹ performance in 2005-06 was quite volatile from month-to-month, although always being better than target, recognising that relatively small numbers can skew percentages. Since April 2006 performance trends indicate an increase in the ineffective rate (see graph). Performance in July 2006, at 12.2%, was 0.2% better than national average.



Ineffective trials: magistrates' courts' performance

6.7 Magistrates' courts' ineffective trial performance in 2005-06 improved in the final quarter of the year and was better than the national average and target. Although performance has fluctuated in 2006, the area has only failed to meet target in August and it remains on course to meet the overall 2006-07 target.



¹¹ An ineffective trial is where, on the date of the trial, expected progress is not made due to action or inaction by one or more of the prosecution, defence or the court and a further listing to hear the trial is required

Trial management

- 6.8 There are well developed protocols at Board level which outline expectations of others within the criminal justice system. These protocols are used to manage cases through the courts and also, at a high level, indicate action that is expected and required.
- 6.9 In the Crown Court there was evidence of good awareness of the value of monitoring ineffective trials or where there is an adverse case¹² result. Court User Groups within the area meet on a regular basis at each of the Crown Court centres and there are also regular meetings to discuss cracked¹³ and ineffective outcomes. These meetings look at individual cases and work to identify trends and process improvements. The attendance of the WCU manager ensures that issues surrounding witness attendance and care can be fed into WCU processes.
- 6.10 To support the drive to reduce ineffective trials within the magistrates' courts there are six cracked and ineffective trial groups across the area, who scrutinise the reasons for every cracked and ineffective trial. As in the Crown Court, using this method allows trends to be identified and learning points to be implemented within the process. These meetings also consider performance against LCJB targets at the local level.
- 6.11 The Courts Service (HMCS) has also introduced a trial readiness check system. In all cases (involving a trial) a trial readiness check form should be completed and sent to the magistrates' court to confirm that all the necessary actions have been undertaken. This process involves the defence, CPS and courts. We were presented with statistics during our inspection which indicated that initial compliance with the system was poor. Efforts are being made to address this aspect of performance in respect of both prosecution and defence compliance.
- 6.12 The adoption and success of this system should improve the effectiveness of pre-trial hearings and, as such, will go some way to meeting our concerns outlined above. Data collated by HMCS indicates that in August 2006, 50% of forms were returned by the prosecution, which was a significantly better performance than in the preceding month and was on a par with the defence. However, this is still a low response rate. This is an issue where DCCJB could drive improvement; Board structures should be used to compel partner agencies to improve performance and account for non-compliance.

12 Adverse cases. In the magistrates' courts these take the form of "no case to answer" in summary trials whereby cases are dismissed at the end of the prosecution case. In the Crown Court adverse cases are "judge ordered acquittals", which are those trials where the Judge orders an acquittal prior to the start of the trial, and "judge directed acquittals" where the Judge directs an acquittal after the start of the trial

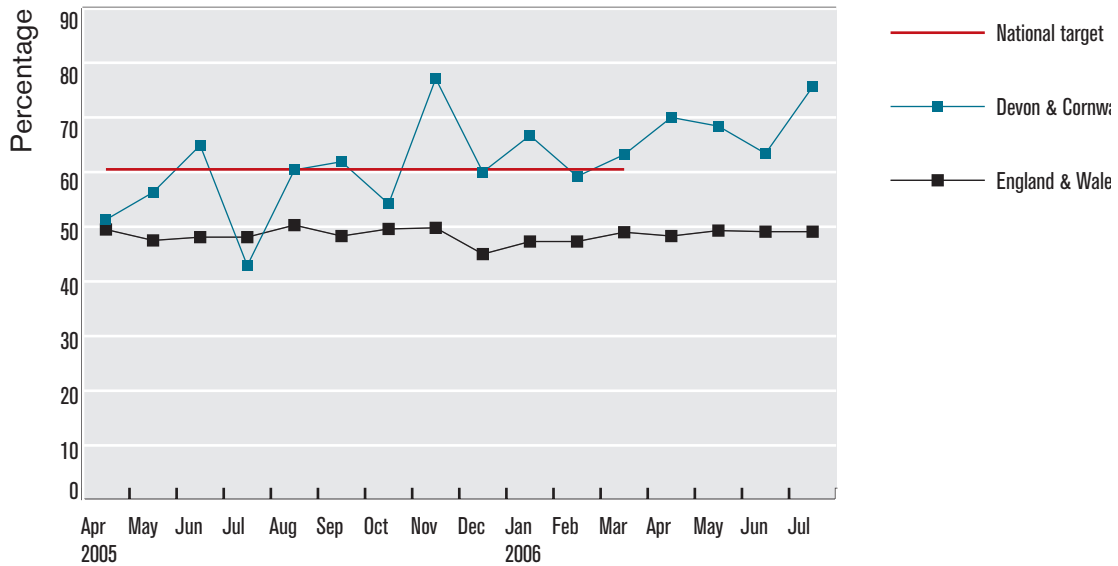
13 Cracked trials are those where a plea is accepted on the day which means that the trial does not need to be heard in court

Case progression

- 6.13 As part of the Effective Trial Management Programme, case progression officers (CPOs) should be appointed within HMCS and the CPS. HMCS has dedicated case progression staff throughout the area and the CPS has appointed a dedicated CPO in each office for magistrates' courts' work, although the Truro post was vacant at the time of our inspection. There had been three CPOs at Exeter (which deals with approximately 50% of the area's magistrates' courts' caseload) but two posts were not maintained when the period of additional Office of Criminal Justice Reform (OCJR) funding ended.
- 6.14 The CPS's CPOs work closely with their counterparts in HMCS and endeavour to ensure that the necessary actions are undertaken to progress cases to trial. We found, however, that in many cases there was delay while they waited for the prosecutor allocated to the case to answer queries relating to witness availability or to confirm that the case was trial ready. Additionally the reduction in dedicated staff within the CPS meant that the effectiveness of the process was further diminished.
- 6.15 Our observations indicated that there was an urgent need to re-assess the roles and responsibilities of the CPOs in the CPS and, in particular, we considered that they could be empowered to take more decisions without first referring the case to a prosecutor. The CPS had recognised this need and had commenced a review of systems and processes which included a review of the CPO role. The outcome of the review needs to ensure that any proposed change should have the benefit of reducing the burden on lawyers and also assist in reducing those cases where the trial was vacated very close to the trial date.
- 6.16 Progression of cases in the Crown Court remains with the individual CPS caseworkers. This can cause problems when there are caseworker absences. Equally it is another duty that has to be carried out over and above other allocated duties.
- 6.17 HMCS has worked with the CPS to improve the scheduling of cases in the magistrates' courts, with adjustments made to take account of the changing workload. This has been a good demonstration of effective joint working. To improve efficiency, available court time has been increased for trials and PTRs in an attempt to free up CPS resources to concentrate on preparatory and case management work. This means that those involved in the court process can allocate resources in a cost effective manner.

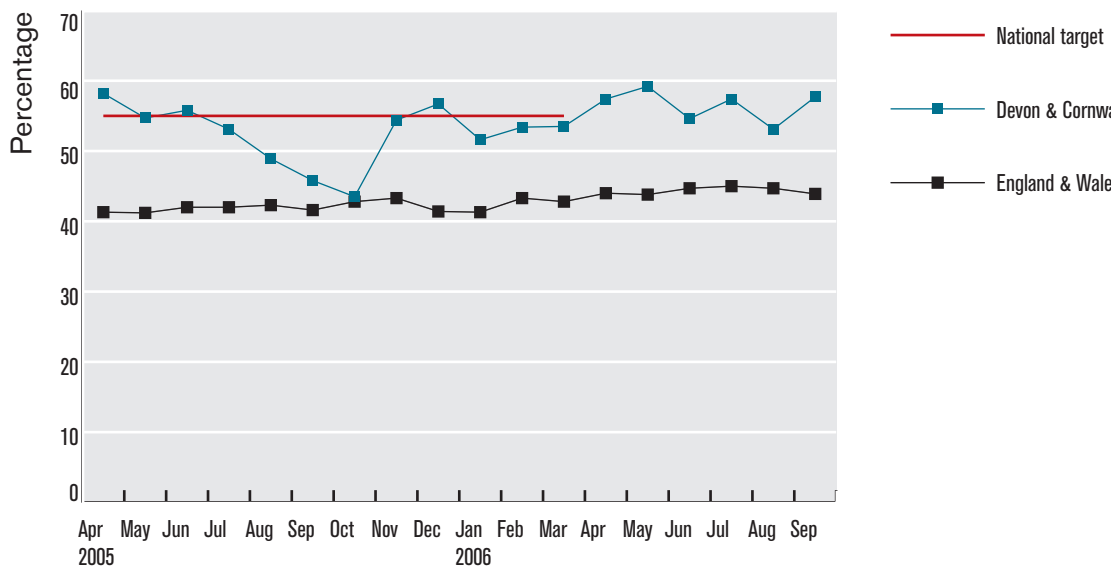
Effective trial performance: Crown Court

6.18 A better indicator of performance can be the effective trial rate. As the graph below demonstrates, the effective trial rate in the Crown Court shows a trend of improvement in 2005-06, continuing for the first quarter of 2006-07.



Effective trial performance: magistrates' courts

6.19 The effective trial rate performance in the magistrates' courts has constantly out-performed the national average, although it has only recently achieved national target performance.



Witness Care Units

- 6.20 As part of the Government's No Witness, No Justice initiative the area has introduced three WCUs at Camborne, Exeter and Plymouth. They deal with all the relevant magistrates' courts and Crown Court cases. It was planned to increase the number of units to six by separating the magistrates' courts and Crown Court work. The three additional units would be based at the Crown Court centres (Exeter, Plymouth and Truro).
- 6.21 Almost all the staff in the WCUs are police employees, out of a complement of 60 only three are CPS employees (one at each current unit). The commitment of Devon and Cornwall police to the success of WCUs has recently been reconfirmed by a commitment to fund 11 new posts. To establish the resources for this work the Police Commander Criminal Justice has made a decision to switch a funding priority from file building to witness care. During interviews we were told of examples where witnesses were extremely satisfied of the support received. In one case a witness we interviewed wanted it recorded that:
- "I wouldn't have been able to get through the trial without the support of these two ladies – one from the Witness Care Unit and the other from Witness Service."*
- 6.22 The inspection found that the processes in place to support victims and witnesses through the process were in the main effective. There had been some concern over the links for Victim Support referrals, but this matter had been addressed at sub-group level with the necessary operational changes implemented. For cases in Devon, WCUs would issue witness warning letters along with an information pack, including a Witness Service introductory letter and information leaflet. Due to difficulties during the setting up of the units, the Witness Service in Cornwall sent their letters and leaflets separately. These difficulties had since been resolved, although the Witness Service in Cornwall had decided to continue the practice. The DCCJB victim and witness sub-group may want to explore whether this differing approach is creating any difficulties, as it seems somewhat at odds now that the initial problem has been resolved.
- 6.23 Good liaison between the WCUs and the Witness Service demonstrated that process improvement was being implemented due to the experience of the system being offered to victims and witnesses. Some witness needs' assessments had not always identified the personal needs of witnesses. These seemed to be in cases where, once the victim or witness had attended a pre-trial visit to familiarise themselves with the court, it became apparent that there was a problem with their ability to read. As this impacted on the ability of others to communicate with them a process of notification has been established and additional help is offered. The use of letters in such circumstances may be of little value.

STRENGTHS

The ongoing commitment to Witness Care Units within Devon and Cornwall and the good working relationships between the units and the Witness Service which are used to improve processes.

- 6.24 During the course of the inspection we identified a number of issues where the limited awareness of CPS processes within the WCU was impacting on the operational effectiveness of cases. It is apparent that the lack of CPS-trained resources within the unit is hindering the spreading of knowledge and awareness of CPS processes. This has led to misunderstandings about the level and type of information that CPS lawyers need to make informed decisions on cases, which in turn lead to delays in considering whether applications should be made to vacate trials when there were witness difficulties.

ASPECTS FOR IMPROVEMENT

Devon and Cornwall Criminal Justice Board takes action to ensure that effective joint training between Witness Care Unit staff and CPS staff is undertaken to improve the awareness of CPS processes and the level and type of information required for victims and witnesses.

Treatment of victims and witnesses

- 6.25 Victim and witnesses were generally positive about their treatment by the criminal justice agencies, although there were a number of individual cases within our focus group where personal concerns were expressed. Most victims and witnesses interviewed praised aspects of responsiveness and care in their cases. For some reliving the incident was so traumatic they considered the systems to provide support and advice to help them through the process should be provided automatically. In a small number of cases we were told that the poor service offered by criminal justice agencies had compounded the trauma experienced.
- 6.26 In a number of cases we were told by victims and witnesses that they had difficulty in contacting the police officers involved in their case and there was a frustration in trying to secure an explanation about a perceived lack of activity in relation to ongoing investigations. This experience was confirmed by a number of Victim Support staff we interviewed. Apart from officers in the case not keeping victims and witnesses informed, there is also the risk that valuable case information could be missed.
- 6.27 The victim and witness sub-group manages and monitors performance across a wide range of those services that impact on victim and witness matters. The sub-group has been central to a number of improvements offered to victims and witnesses within the area. Some concerns were expressed that, although the sub-group had been successful in raising the profile of victim and witness issues within the criminal justice agencies and given a voice to these issues, there had been a lack of consideration given to introducing joint performance measures and targets and this was an aspect which should be considered. There was a feeling expressed by Victim Support both in Devon and Cornwall that victims and witnesses had yet to become an integral part of the LCJB planning process and whether the sub-group was able to effect change or influence the strategy at Board level. The group have also been central to developing and agreeing a cross-agency service level agreement for all agencies to deliver the new Victims Code of Practice¹⁴, although there was still some evidence of a lack of awareness at the frontline within the police and CPS.

¹⁴ Victims Code of Practice – The Domestic Violence, Crime and Victims Bill received Royal Assent on 15 November 2004. It provides for a code of practice (outlined in the Bill at section 13), binding all criminal justice agencies, so that all victims receive the support, protection, information and advice they need. The Code of Practice was implemented on 3 April 2006

- 6.28 There was evidence that there was a clear understanding of the of roles and responsibilities for each agency. Links between the WCU and Witness Service are well developed and there is regular bi-lateral liaison and mutually supportive communication and case consideration across the area. The demarcation and understanding of roles is helped by well developed and effective protocols and service level agreements. Interviews with staff indicated that close personal communication supported the smooth implementation of service delivery by each agency.
- 6.29 The approach to witness care in the courts was appropriate. We saw examples of good liaison with victims and witnesses by lawyers, court staff and volunteers.
- 6.30 The quality and availability of accommodation for victims and witnesses varied across the court estate. In Plymouth Crown Court witnesses had to be escorted across a public area to access toilet facilities. This raised issues not only of privacy for the witnesses but for safety and security for staff and volunteers of the Witness Service. Additionally, in Plymouth Crown Court neither the witness waiting area nor Witness Service office had access to water to make refreshments, which again raised safety issues. HMCS for the past two years have carried out an annual witness standards survey which has highlighted the physical constraints that exist in some courthouses. Whilst we recognise that where it has been possible to take action and improve facilities within the constraints of the estate these have been made, we still had concerns that witness privacy and safety were an issue.
- 6.31 Only Truro Crown Court has a separate waiting room available for defence witnesses. In other courts ad hoc arrangements were in place, for example the Witness Service were able to make use of interview rooms. However, in some courts no separate accommodation was available for defence witnesses and some element of privacy and comfort had to be created within the court public waiting areas.

ASPECTS FOR IMPROVEMENT

Devon and Cornwall Criminal Justice Board works with HM Courts Service to improve the accommodation offered to victims and witnesses at courthouses.

- 6.32 In most courts the Witness Service had been able to facilitate arrangements for using an alternative entrance to the court if the victim or witness was intimidated. Court buildings generally had good facilities in place for access by court users with limited mobility, with ramps or lifts being available.
- 6.33 Witness Service staff suggested more use of video links could be made for out-of-county witnesses. For example, in one case a child witness was called from Hertfordshire to give video evidence in the court. Two adults accompanied the child and needed overnight accommodation and travel costs. The same quality of evidence could have been achieved by evidence given from a facility in Hertfordshire.

7. THE TREATMENT AND RIGHTS OF DEFENDANTS

Overview

The treatment and rights of defendants are generally respected within Devon and Cornwall. We found evidence of good systems to provide psychiatric and health services. The inclusion of the Chief Executive of the Devon Partnership NHS trust as a member of Devon and Cornwall Criminal Justice Board is helpful in ensuring that these services are consistently applied across the area.

A number of concerns were identified about court cell accommodation at Exeter Crown Court. In court defendants are treated with courtesy and respect, although local practices around the handcuffing of defendants and accommodation security raise specific issues.

The rights of defendants

- 7.1 Arrangements for dealing with defendants in police custody are appropriate, although as outlined in Chapter 5 the Board needs to ensure that those in custody are dealt with as efficiently as possible, and not held unnecessarily, due to internal system problems.

Strategic issues

- 7.2 The attendance at the Board of the Chief Executive of the Devon Partnership NHS Trust has also assisted to forge links, and develop the Board's relationship and partnership working with the Primary Care Trusts (PCTs) in Devon and Cornwall. Many of these relationships are in their early stages but there is a clear strategy for improvement across the area. As in other areas of the country much of this work is dependent on PCT resources. Funding has recently been secured to work on safety suites across Devon and Cornwall with four suites being rolled-out: Torbay, Exeter, Plymouth and one in Cornwall (site to be decided). Strong police lobbying and the bringing together of the area strategy for mentally disordered offenders was critical to the success of this work.

Custody facilities

- 7.3 At Exeter Magistrates' Court (where the three court custody cells formed part of the police custody suite) we spoke to a custody nurse practitioner. He was one of ten health practitioners across the area based in police custody suites to assist police (and the courts where relevant) with assessing the physical and mental health needs of detainees and defendants. These arrangements had replaced previous court diversion schemes which had proved to be resource-intensive. Nurses linked with other practitioners in the health and drug services to ensure that there was an effective system in place to meet the physical and mental needs of detainees and defendants.

Prisoner availability

- 7.4 During the course of the inspection we found that the arrival of prisoners did not generally delay court proceedings. Agreed delivery times had to take account of the long distances that female and young offenders, in particular, had to travel from holding prisons. On one day of the inspection business at Plymouth Crown Court was delayed due to the late arrival of prisoners, but custody managers told us this was not a regular occurrence.

- 7.5 The area has tried to mitigate some of the problems associated with the long travelling distances that affect female and juvenile prisoners in particular. Home Office funding had been secured to set up two police cells at Charles Cross Police Station, Plymouth, to hold prisoners during trials. This facility had been used to lodge a female prisoner during her murder trial. We were told that, although this had taken some negotiating, it had worked well and would be worth replicating.
- 7.6 Steps had also been taken to ensure that there was effective use of video links across the court estate; they were available at Barnstaple, Bodmin, Exeter, Plymouth and Truro Magistrates' Courts. In general, the facilities were used quite extensively with the main demand being in respect of adult male prisoners. Exeter prison had one video link to court which was available on Tuesday-Friday inclusive; it was not routinely staffed on Monday, but was being extended to defence representative and probation interviews on request.
- 7.7 We found that due to the various demands on court and prison schedules, the video link was only really available for two hours each morning and afternoon. Out of a potential 325 'sittings' per month, the video link to Exeter prison averaged between 80 and 90. This meant there was clearly more capacity, but the Prisoner Escort and Contracting Service (PECS) were content with the scheme's level of usage and Devon and Cornwall was described as 'low down the list of areas we would be worried about'.
- 7.8 The main concern was the proportionately low use for female and juvenile/young adult prisoners, even though video link facilities existed in Ashfield YOI and HMP Eastwood Park prisons. Eastwood Park said Plymouth Magistrates' Court had occasionally used the link, but the use by other courts was so rare they were unsure which courts actually had video link facilities. PECS suggested that greater use could be made of existing video link facilities if court staff were willing to consider using the link other than on the court's allocated day and if it would be possible to relocate hearings to buildings that had the facilities.

ASPECTS FOR IMPROVEMENT

Devon and Cornwall Criminal Justice Board works with the judiciary to consider whether an increase in usage of videolink facilities could reduce the transportation of prisoners, particularly for female and youth prisoners.

- 7.9 According to the Reliance custody managers we spoke to, court staff did take account of defendants in custody when listing times for hearings. However given issues such as the distribution of work between courts, it was not always possible to prioritise custody cases. We had some concerns that even if the court dealt with the case promptly and Reliance escort staff left the court early, female and young male prisoners travelling from holding prisons in Gloucestershire had long journeys at each end of the court day. It was not unusual for female prisoners to be leaving HMP Eastwood Park at 7am and not returning until 10pm. Increasing the use of video facilities could reduce some of the necessity for travel.

Defendants' rights

- 7.10 In court defendants are treated courteously and respectfully. Generally, good explanations are given about why cases are being adjourned. There are systems in place to manage the security and safety of defendants in custody, although some custody facilities within the courts make segregation and the implementation of risk assessments difficult. We have concerns over security in the cell area of Exeter Crown Court, which have been brought to the attention of the DCCJB. Hence, when out of the holding cells, all prisoners had to be handcuffed. This is unacceptable and adds an additional burden to custody staff. We also made the Board aware of a number of issues of concern about the secure dock in Exeter Crown Court. We also note that it is area practice to take prisoners into the dock in handcuffs. This practice is inappropriate and prisoners should have their handcuffs removed before entering the dock, unless a handcuffing order has been granted.
- 7.11 There were also some additional accommodation concerns identified surrounding the disembarking of prisoners and the routes to and from court rooms. With the exception of Exeter Crown Court, no courts had lifts from custody suites and, in most cases, the secure routes included steep and sometimes long flights of stairs. We were told that prisoners in wheelchairs or with limited mobility would be escorted around the outside of the building and through the main court entrance – which meant being visible to the public. We noted that in Plymouth Magistrates' Court prisoners had been disembarked on a side street (opposite a popular tourist attraction and public house/café) as the secure van dock was too low for escort vans to enter. We also noted that juveniles in handcuffs could be seen from public areas as they were escorted to Exeter Youth Court; this is inappropriate.

ASPECTS FOR IMPROVEMENT

Devon and Cornwall Criminal Justice Board should raise the issue of accommodation problems identified within the court estate with the relevant agencies to ensure that there are appropriate security measures in place, disabled access is reviewed and health and safety issues addressed.

8. THE ENFORCEMENT OF COMMUNITY SENTENCES

Overview

Devon and Cornwall Probation Area and the four Youth Offending Teams (YOTs) are working well to achieve the nationally set targets for the enforcement of community sentences. For the period of April-July 2006 breach proceedings in Devon and Cornwall took an average of 34 days to be resolved (within the 35 day national target) and 61% of cases were resolved in 25 working days (against a 50% national target).

Performance for 2005-06 had been better than the targets set. Nationally the Area's performance is in the top quartile.

During the inspection we found that there was a lack of clarity in the YOTs about when an offender's absence from a required activity under an order should be marked as unacceptable. There was also evidence that the prioritisation and execution of warrants when offenders fail to answer bail needed to be improved.

Background

- 8.1 Targets for the enforcement of community penalties were introduced in 2005-06. Performance against the targets is measured by a bespoke HMCS administered database known as COMET.
- 8.2 The national targets are that all community penalty breach proceedings should take an average of 35 working days from breach to resolution, and that 50% of all breach proceedings be resolved within 25 days of relevant failure to comply. COMET tracks the performance of the breach of all adult and youth community penalties where breach occurred after 1 April 2005. Nationally, performance data was available from November 2005.
- 8.3 In addition to the LCJB target, there are various single agency targets concerning enforcement, such as the Youth Justice Board (YJB) and National Probation Service (NPS) targets to initiate breach proceedings within a defined number of working days, and magistrates' courts' targets for the enforcement of community penalty breach warrants.
- 8.4 The Devon and Cornwall CJB has received regular performance reports on progress against the enforcement targets since October 2005.
- 8.5 Performance against the two enforcement targets, as measured by COMET, for the period April-July 2006 showed that breach proceedings took an average of 34 working days to be resolved and that 61% of cases were resolved in 25 working days. Performance for the year 2005-06 had been consistently better than the targets set and, nationally, the area's performance is in the top quartile.

- 8.6 The Devon and Cornwall CJB had set up a multi-agency sub-group to agree protocols for community penalty enforcement shortly after the targets were announced. Developing and agreeing a protocol had been problematic as there had been some misunderstandings by the Youth Offending Team representative. These misunderstandings were compounded by the inability of the YOTs to regularly attend meetings and explain their objections. The protocol was signed as soon as face-to-face discussions took place.
- 8.7 Although one YOT manager attended the Board on behalf of all the areas' teams, communication between that representative and the other YOTs had not led to a proper understanding of the priorities and targets.

ASPECTS FOR IMPROVEMENT

Devon and Cornwall Criminal Justice Board should ensure that communication between the Youth Offending Teams regarding the priorities of the Board is strengthened and clarified.

- 8.8 A further End to End Enforcement group was established in May 2006 when the Director of Operations for the Probation Area took responsibility for the targets on behalf of the Board. This group established an action plan to ensure good performance was maintained and improved.
- 8.9 The performance data available to the Board had only been presented as aggregate data for adults and youths until June 2006 which limited the usefulness of the information. The End to End Enforcement group had put in place a plan for the data to be disaggregated to enhance performance management.

Diversity monitoring

- 8.10 Although data from COMET cannot provide information on diversity, the parallel monitoring undertaken by Probation on adult cases was able to provide this information. The proportion of offenders from black and minority ethnic (BME) communities is relatively small in the overall offending population, and no particular trends were apparent.

End to End Enforcement performance

The inspection sample

- 8.11 A sample of 60 cases was identified for inspection purposes and an analysis was undertaken on 57 of these. The results are shown separately for the 20 YOT and 37 Probation cases.

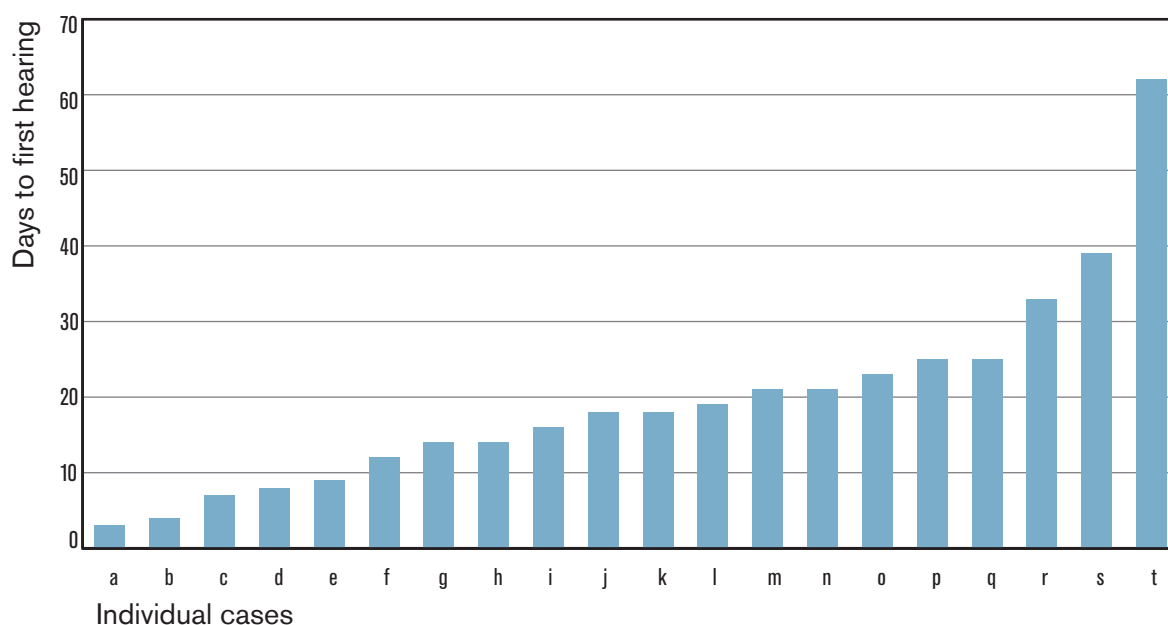
An analysis of the time taken from the relevant unacceptable absence to the conclusion of breach proceedings

Youth Offending Team cases

Average number of working days to first hearing	20	
% of cases dealt with at first hearing	50%	
Average end-to-end time (working days)	25	Target less than 35
% of cases concluded in 25 days	70%	Target at least 50%

8.12 This analysis shows that the sample of YOT cases inspected comfortably met the targets for the average number of days for end-to-end enforcement and for the percentage of cases concluded in 25 days. This is a very strong performance for the youth cases.

NUMBER OF DAYS TO FIRST HEARING OF YOUTH CASES

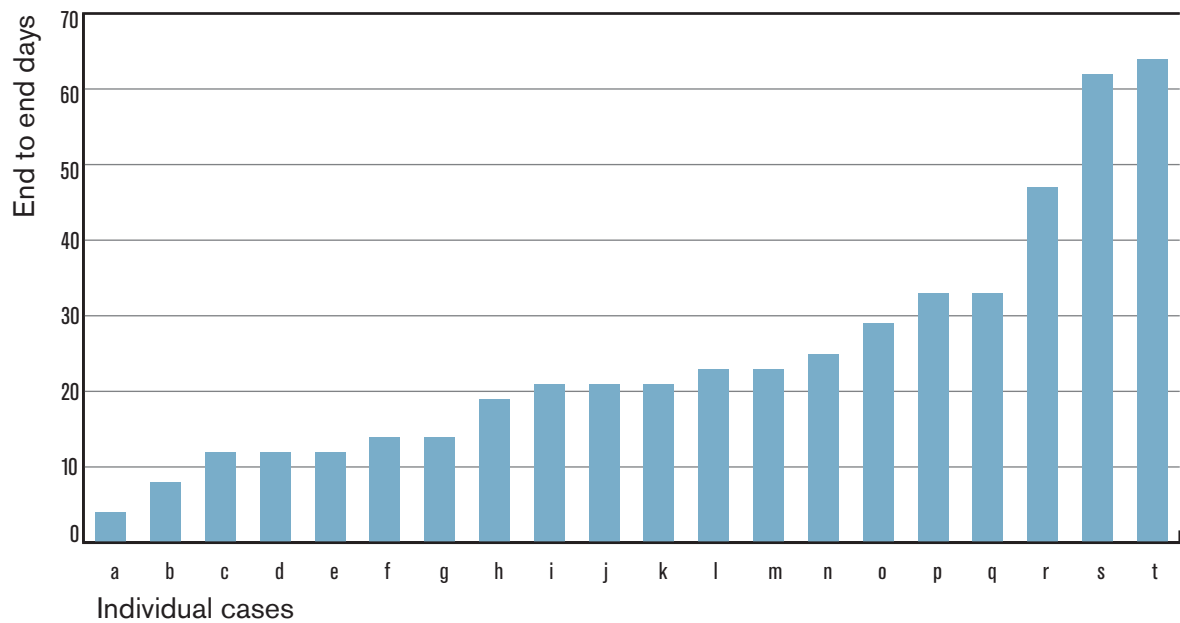


8.13 Once a decision to breach is taken, court dates are arranged swiftly - all but three cases were scheduled to attend court within 25 days. These three cases were from three different YOTs and analysis showed that there was no common reason for the delays.

8.14 Half of YOT cases are resolved at the first hearing. Only one case took more than two hearings to conclude and was dealt with at the third. In this case, the second hearing was not conclusive due to the absence of the young person's solicitor.

8.15 Only three cases were not concluded within 35 days. In two of these there had been a delay in arranging the first hearing and the third case was the only one in the sample to require three hearings, as described above.

NUMBER OF DAYS TO COMPLETION OF YOUTH CASES



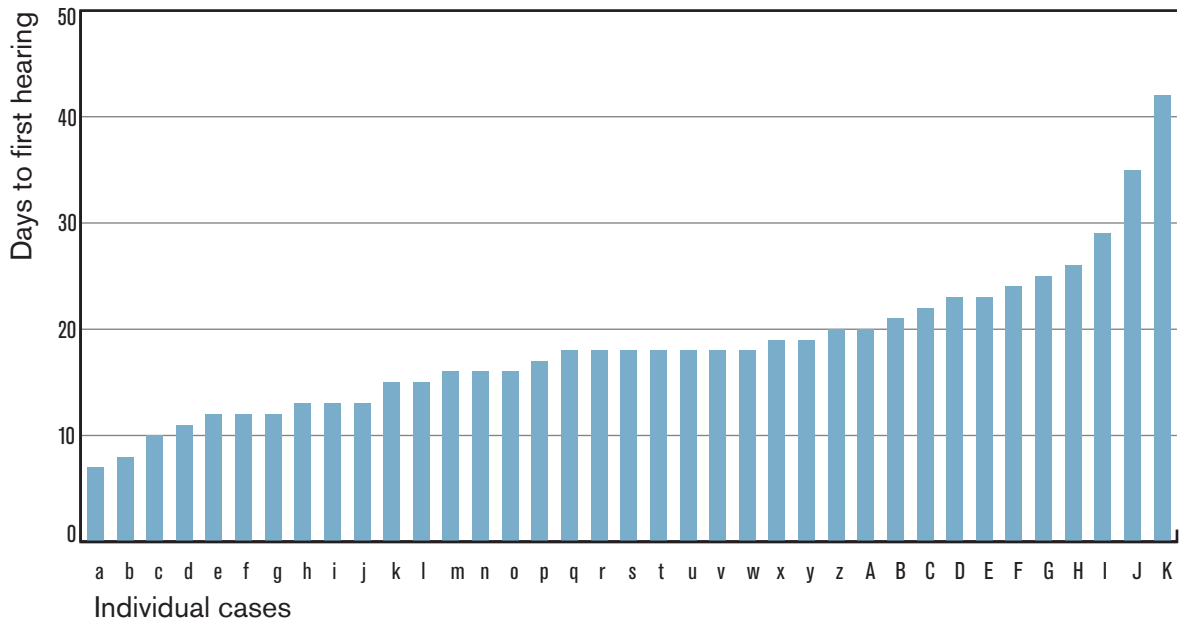
Probation cases

Average number of working days to first hearing	18	
% of cases dealt with at first hearing	43%	
Average end-to-end time (working days)	36	Target less than 35
% of cases concluded in 25 working days	43%	Target at least 50%

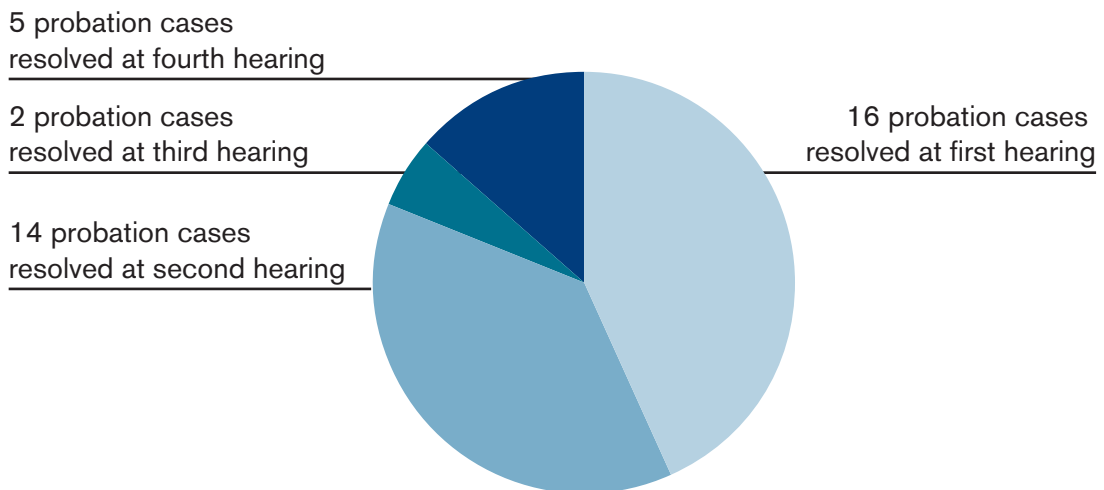
8.16 This analysis shows that the sample of Probation cases inspected narrowly missed the 35 day target and was also below the 50% target.

8.17 Although this performance is slightly poorer than that indicated by the overall COMET figure, it is broadly consistent, given that the YOT performance is better than the targets for the two measures.

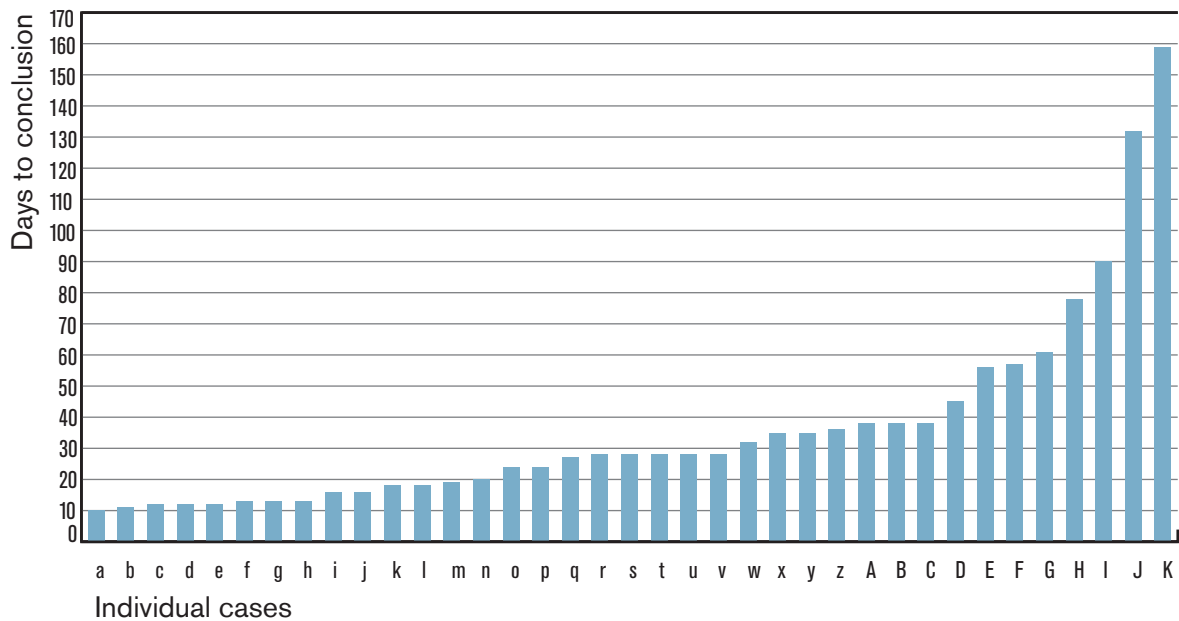
NUMBER OF DAYS TO FIRST HEARING OF PROBATION CASES



8.18 33 of the 37 cases had their first hearing within 25 days and the average number of days to first hearing was 18. This is a strong performance, indicating that in general arrangements for commencing breach proceedings and for the prompt provision of court dates were good. Sixteen of the 37 Probation cases (43%) were resolved at the first hearing and seven took three or more hearings to conclude. Reasons for this are analysed below.



NUMBER OF DAYS TO CONCLUSION OF PROBATION CASES



8.19 One third of cases took in excess of 35 days. There was a combination of reasons for this as analysed below.

8.20 Two cases, each of which had more than three court hearings, took in excess of 100 days. In one case the breach had not been commenced promptly and the defendant failed to surrender to court for the second hearing, leading to a warrant without bail. On his arrest and return to court, he was further remanded for a Pre-Sentence Report. In the other long running case, proceedings had been commenced promptly, although the case was adjourned for a pre-trial review, then for a Pre-Sentence Report prior to being committed to Crown Court on other matters.

Analysis of the enforcement process

Management of cases prior to the relevant unacceptable absence

8.21 *Securing compliance to community orders:* both Probation and YOTs took appropriate measures to manage the attendance of offenders under their supervision.

8.22 In 84% of YOT cases inspected, sufficient steps had been taken to ensure that the young person fully understood the requirements of the order and the consequences of any failures to comply. There was evidence of the young person signing a copy of the order or other document setting out the requirements of the sentence in 79% of cases.

8.23 In 86% of Probation cases there was a signed copy of the licence or other document setting out expectations on the file.

- 8.24 Generally, reasonable efforts were made to secure compliance, including offering appointments at regular times each week in most cases. Where work was being undertaken with other service providers there was evidence of good liaison with multiple appointments on the same day with partnership agencies. There was evidence of good motivational work by Probation and YOT staff.
- 8.25 Good use was made of telephone or text reminders by some YOTs. Family members were used to remind and encourage young offenders of their appointments and obligations. In appropriate cases some young offenders were escorted to appointments by volunteers in the early stages of their orders to establish a positive pattern of reporting.
- 8.26 There were good examples of missed appointments being swiftly followed up by unannounced home visits, re-enforcing the consequences of non-compliance. Some YOTs also made good use of pre-breach meetings, designed to underline the importance of compliance and the consequences of breach.
- 8.27 *Managing initial failures:* YOT cases inspected indicated that in only 68% of those where there was an absence did the officer record whether the reason for it was acceptable or unacceptable. This indicates a lack of clarity over when breach should be instigated. A more rigorous approach may lead to an increase in the number of cases requiring breach action. The equivalent figure for Probation was 92%.
- 8.28 For YOTs, where breach actions had been commenced, this had been achieved within the Youth Justice Board national standard time limit in 63% of cases. The equivalent figure for Probation was 73%. This figure is significantly below that reported in the recent Probation area inspection and the National Probation Directorate performance figures, this may be as a result of the relatively small sample.
- 8.29 Operational managers within the YOTs were responsible for the oversight of enforcement practice on a case-by-case basis, although there were no regular performance reports. Most had little or no awareness of the LCJB targets or their teams' performance against them.
- 8.30 Most YOT staff interviewed were aware of the Youth Justice Board target. Few were aware of the 35 day average target, and none the 50% of cases to be resolved in 25 days target, despite the achievement of these targets as outlined earlier.
- 8.31 Devon and Cornwall Probation Area had maintained an internal focus on enforcement for many years. Nearly all staff had a good understanding of the requirement to commence breach proceedings within national standards and most were aware of the LCJB 35 day target, although few were aware of the 50% in 25 day target.

STRENGTHS

The dedicated senior management resource within the Probation Area to monitor and drive performance.

The management of cases through the court process

- 8.32 *Young offenders:* in all the YOTs there were clear procedures for staff to follow, with the offender's supervisor taking direct responsibility for the enforcement of orders. The number of cases breached was relatively small in each YOT. Once action had been commenced there was an appropriate focus on getting the case concluded.
- 8.33 *Adult offenders:* the breach of adult orders was a frequent occurrence, with approximately 150 cases a month being concluded. Probation had a long established legal proceedings team with staff based in each of the area's divisions. This small team was responsible for ensuring that offender managers provided the required information for a successful outcome and the prosecution of the breach. The team had established their own database to track cases and provide management information. This had been used to identify the points within the breach process that caused delay and enabled the team to look at individual cases to learn where delays in processing were happening. The team had undertaken ad hoc investigations into the reasons for delays that had informed the allocation of resources.

STRENGTHS

The Probation legal proceedings team managed the prosecution of breaches very effectively. Staff actively analysed problems as they arose and found solutions.

- 8.34 Because of the distances between courts, it was difficult for the legal proceedings team to cover for each other in times of unplanned staff absences. This had been a problem in the Cornwall division in the current year, leading to a dip in performance.
- 8.35 The legal proceedings officers were confident in their roles and able to manage the court processes well. They were able to mount effective prosecutions in the event of not guilty pleas. Relations with the court staff were very good. Information was prepared and made available at the point of conviction to minimise the possibility of the court requiring an adjournment for a Pre-Sentence Report.

8.36 The reasons for adjournments in adult cases are listed below:

Reason for adjournment	First hearing	Second hearing	Third hearing	Total
Warrant no bail due to non-attendance	10	3	1	14
PSR request	-	1	1	2
Defence request	-	-	1	1
To tie in with other matters	-	-	1	1
To test motivation	1	2	-	3
Following a plea of not guilty/PTR	3	-	1	4
Problems with summons	2	-	-	2
Not known/unclear	5	-	-	5
TOTAL	21	6	5	32

- 8.37 Within the sample inspected, there were 32 examples of court hearings that did not conclude the case.
- 8.38 As shown in the table the most common reason for an inconclusive hearing was that the defendant failed to appear and a warrant without bail was issued. Nearly a third of all first hearings result in a warrant without bail.
- 8.39 Defendants in a number of cases that are adjourned for other reasons subsequently fail to attend and have warrants without bail issued.
- 8.40 All FTA and breach of community penalty warrants are managed by the police in the DCCJB area. There were no arrangements with local police to prioritise community penalty breach warrants. Within the sample of 14 adult cases where a warrant without bail was issued, the average amount of time a warrant was outstanding was 21 working days, with the range between three and 78 days.
- 8.41 A small number of cases have multiple adjournments to tie up with other sentencing matters or to further test compliance. A further small number of cases were also adjourned for the preparation of reports after the breach had been proved.

ANNEX A LIST OF LOCAL REPRESENTATIVES OF CRIMINAL JUSTICE AGENCIES, ORGANISATIONS AND INDIVIDUALS WHO ASSISTED IN OUR INSPECTION

Crown Court

His Honour Judge Gilbert QC

His Honour Judge Rucker

Magistrates' Courts

District Judge Farmer

Mrs Gorman JP, Chair of Plymouth District Magistrates' Court Committee

Mrs C Hodgson JP, Chair of Barnstaple Magistrates' Court Committee

Mrs C Martyn JP, Chair of West Cornwall Magistrates' Court Committee

Mr J Mills JP, Chair of South Devon Magistrates' Court Committee

Mrs Seaton JP, Chair of Central Devon Magistrates' Court Committee

Mr D Stevens JP, Chair of East Cornwall Magistrates' Court Committee

Her Majesty's Courts Service

Mr D Gentry, Area Director

Mr A Mimmack, Justices' Clerk Central and North Devon

Mr N Lord, Justices' Clerk East and West Cornwall

Mr T Smith, Justices' Clerk Plymouth and South Devon

Mr D Frankham, Plymouth District Legal Team Manager

Mr S Roveri, South Devon Legal Team Manager

Mr P Vincent, Central and North Devon Legal Team Manager

Mr D Ashbee, Plymouth Magistrates' Court

Ms R Bellamy, Central Devon Magistrates' Court

Ms A Blacker, Plymouth Crown Court

Ms D Bolt, Central Devon Magistrates' Court

Mr J Crocker, Central Devon Court

Ms S Davies, Plymouth Crown Court

Mrs L Dove, Manager, Truro Crown Court

Ms J Gallie, Truro Magistrates' Court

Ms T Gaunt, Central Devon Magistrates' Court

Ms A May, Chair of Area Listing Forum

Ms G Taylor, East Cornwall Magistrates' Court

Police

Acting Chief Constable N Arnold

Assistant Chief Constable C Winter

Chief Superintendent A Bibey

Chief Superintendent A Clarke

Chief Superintendent Cooper

Chief Superintendent C Terry

Superintendent E Webb

Detective Chief Inspector J Clements
Inspector M Cooper
Acting Inspector S Weare
Camborne Custody Sergeants
Exeter Custody Sergeants
Plymouth Custody Sergeants
Torquay Custody Sergeants
Devon and Cornwall Domestic Violence and Hate Crime Officers
Mr B Tapley, Witness Care Unit Manager

CPS

R Coe-Salazar
E Hulme
C Taylor
C Bennett
A Randell
J Herbert
C Bennett
C Hoyte

Defence Solicitors

Ms A Bellchambers
Ms V Francis
Mr A Harris
Ms M McCarthy
Mr A Morrison
Mr S Nunn
Mr D Teague
Mr S Walker

Counsel

Mr M Meeke QC
Mr M Edmunds
Mr I Fenny
Mr R Taylor

Probation Service

Ms M McFarlane, Chief Probation Officer

Witness Service

Ms J Baker
Mr C Broom
Ms A Molloy
Ms C Senior

Victim Support

Ms F Busby
Ms S Piper

NSPCC

Ms S Allum

Local Crime and Disorder Reduction Partnerships

Mr P Dale, Safer South Hams Community Safety Partnership
Mr D George, Restormel Crime and Disorder Reduction Partnership
Mr M Miller, Exeter Community Safety Partnership
Mr G Moore, East and Mid Devon Community Safety Partnership
Mrs A Palmer, Safer North Devon
Ms K Passmore, Torbay Community Safety Manager
Mr A Thomas, Isles of Scilly Community Safety Partnership
Mrs A Ward, North Cornwall Community Safety Partnership

Youth Offending Teams

Mr J Cousins, Truro
Mrs B Shoker, Plymouth

Community Groups

Mrs A Williams, Cornwall Deaf Association
Ms M Smeaton, South Western Ambulance Service
Mrs R Martin, Devon County Council Domestic Violence Prevention Co-ordinator
Mr S Stanislaus, TORPATT

Members of Parliament

Mr C Breed MP
Mr G Streeter MP
Other Members of Parliament with constituencies in Devon and Cornwall were invited to contribute.

Other Contributors

Mr S Hill, Gay Police Association
Ms A Jefferies

We should also like to thank those victims and witnesses and CPS staff who gave of their time by contributing to group discussions.

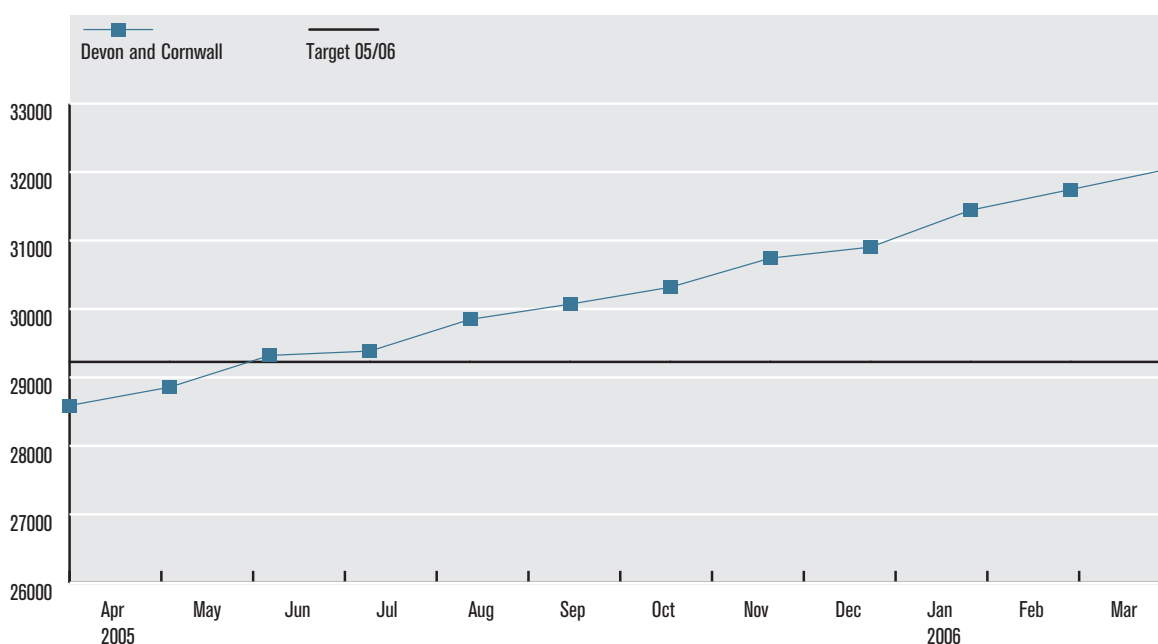
ANNEX B KEY PERFORMANCE RESULTS

In line with other Criminal Justice Boards Devon and Cornwall agreed key performance targets with the National Criminal Justice Board (NCJB) for 2006-07. They are based on two of the Public Sector Agreement (PSA) objectives and are set out below:

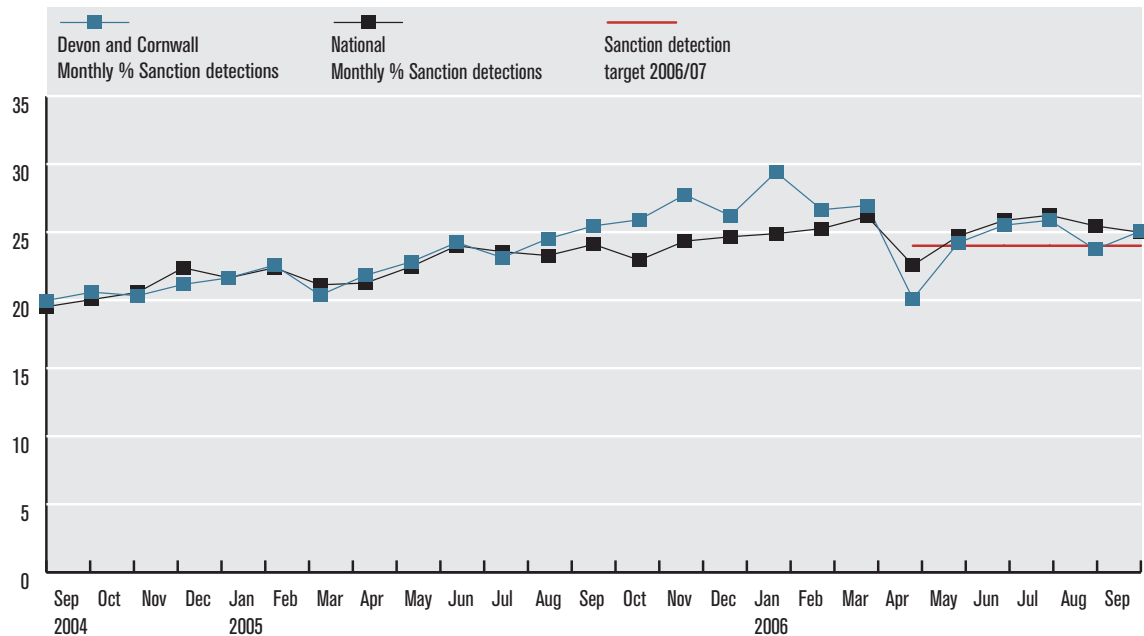
- To bring 29,227 offences to justice by March 2007 – this target is supported by a number of supporting indicators including:
 - To attain a sanction detection rate of 24.4%.
 - To achieve a guilty plea rate (in cases which have been subject to pre-charge decision making by the CPS) in the magistrates' courts of 76% and Crown Court of 65%.
 - To reduce the discontinuance rate (in cases which have been subject to pre-charge) in the magistrates' courts to 15% and Crown Court to 19%.
 - Reduce ineffective trial rates in the magistrates' courts to 18% and in the Crown Court to 12%.
- To reach a public confidence level of 48% in the effectiveness of the CJS in bringing offenders to justice.

Narrowing the justice gap

The objective of increasing the number of offences brought to justice is also known as narrowing the justice gap. Devon and Cornwall were set the target to bring 29,227 offences to justice for 2005-06 year, this has remained the same for 2006-07. In 2005-06 Devon and Cornwall brought 31,356 offences to justice. As in many CJS areas, there was a significant number of offences dealt with by the way of formal warnings and fixed penalty notices.



Devon and Cornwall have also exceeded its 2005-06 target for sanction detections at 25.3% against a 22.1% target. The graph below shows performance which is currently 24.1% (missing the LCJB target by 0.4% and police target by 2.9%).



Guilty plea rates and discontinuance rates in pre-charge cases

In line with the supporting indicators to the offences brought to justice target outlined above, Devon and Cornwall's current performance (for the period April-September 2006 and the first two quarters of 2006-07) stands at:

Guilty plea rates

	Target	Apr-Sep 2006 actual
Magistrates' courts	76%	72.9%
Crown Court	65%	65.3%

Discontinuance rates

	Target	Apr-Sep 2006 actual
Magistrates' courts	15%	16.5%
Crown Court	19%	9.2%

Reducing ineffective trials

Ineffective trial performance across both the magistrates' courts and the Crown Court are within target for the year-to-date. The tables below show that there has been improvement in ineffective trial rates since 2004-05 in the Crown Court, with performance being significantly better than target; however, performance in the magistrates' courts 2004-05 and 2005-06 deteriorated and was worse than target.

Magistrates' courts performance and targets

	2004-05	2005-06	2006 to date
Target	23%	19.5%	18%
Outturn	20%	20.3%	15%

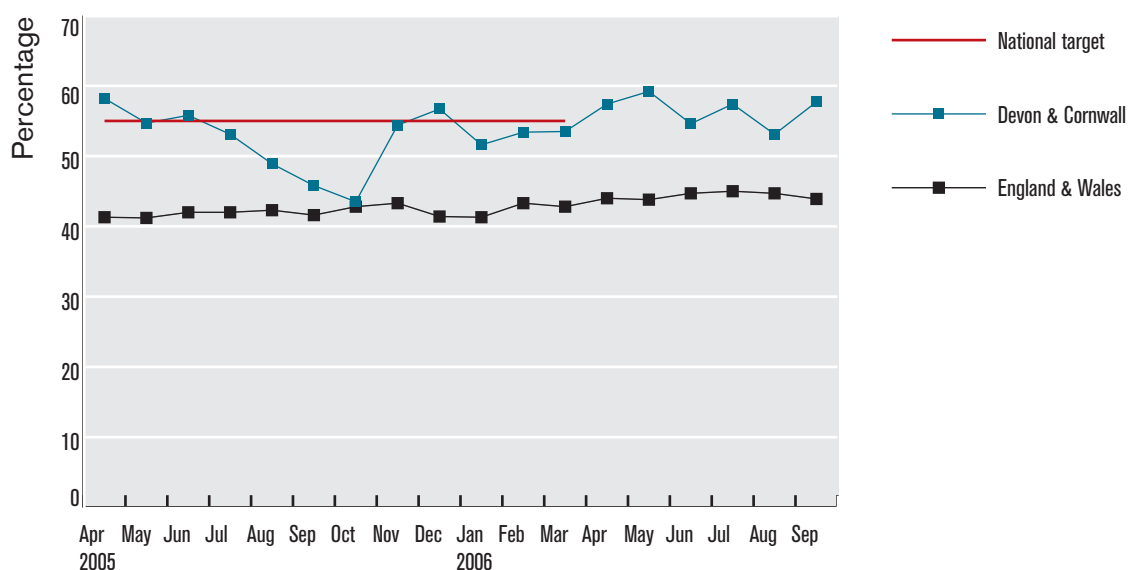
Crown Court performance and targets

	2004-05	2005-06	2006 to date
Target	19%	16.5%	12%
Outturn	11.9%	10%	9%

Effective trial performance

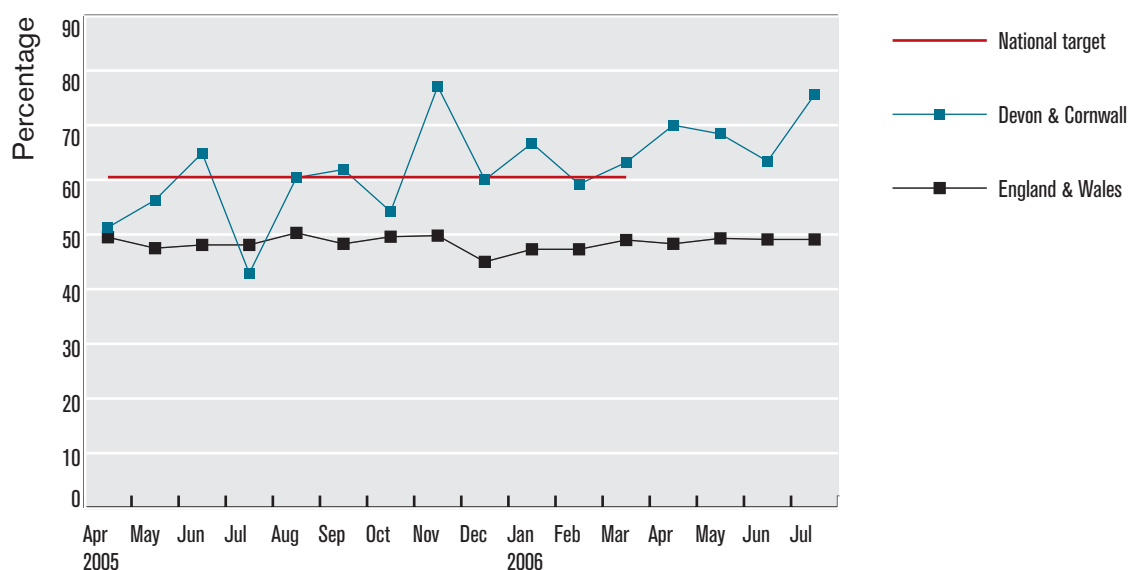
Effective trial¹⁵ performance can be a better indicator of actual area performance. The effective trial rate in the magistrates' courts has remained above national average since April 2005, and since April 2006 has been better than national target (see tables below). In the Crown Court performance has been constantly better than national average since August 2005 and has exceeded target since November 2005.

Magistrates' courts effective trial rate



15 Effective trials are those that proceed to trial on the first date that they are listed for trial

Crown Court effective trial rate



Timeliness of handling persistent young offenders

In 1999 a national target of 71 days was set from the arrest to disposal of cases involving persistent young offenders (PYOs). The outturns have been as follows:

	Devon and Cornwall (days)	National (days)
2000	60	93
2001	60	76
2002	55	68
2003	52	66
2004	51	69
2005	56	68

Improving public confidence

The area has struggled to improve performance in the measure of public confidence in being effective in bringing offenders to justice. From a baseline measure of 44.6% in 2003 the current performance (2005-06) remains at 44%. Performance has fluctuated with confidence reaching a high of 52% for the first quarter of 2004-05 and a low of 43% in the third quarter of 2005-06. The area has a target of 48% and has set a local target of 49%. Performance in 2005-06 was slightly worse than the national average of 44.4%.

ANNEX C GLOSSARY

ACC

Assistant Chief Constable

BCU

Basic Command Unit

BME

Black and Minority Ethnic

CDRP

Crime and Disorder Reduction Partnerships

CJB

Criminal Justice Board

CJS

Criminal Justice System

COMET

Community Enforcement Tracker

CPO

Case Progression Officer

CPS

Crown Prosecution Service

CRO

Case Review Officers

DCCJB

Devon and Cornwall Criminal Justice Board

EAH

Early Administrative Hearings

ETMP

Effective Trial Management Programme

HMCS

Her Majesty's Courts Service

HMCPsi

Her Majesty's Crown Prosecution Inspectorate

HMIC

Her Majesty's Inspectorate of Constabulary

HMICA

Her Majesty's Inspectorate of Court Administration

LCJB

Local Criminal Justice Board

NCJB

National Criminal Justice Board

NPS

National Probation Service

NWNJ

No Witness No Justice

OBtJ

Offences Brought to Justice

OCJR

Office for Criminal Justice Reform

POCA

Proceeds of Crime Act 2002

PPO

Prolific and other Priority Offenders

PSA

Public Service Agreement

PTPM

Prosecution Team Performance Management

PYO

Persistent Young Offender

WCU

Witness Care Unit

YOT

Youth Offending Teams

YJB

Youth Justice Board



HM Inspectorate of Constabulary
Ground Floor, Ashley House, 2 Monck Street, London SW1P 2BQ
Tel: 020 7035 2177, Fax: 020 7035 2176
www.inspectorates.homeoffice.gov.uk/hmic



HM Crown Prosecution Service Inspectorate
26 - 28 Old Queen Street, London SW1H 9HP
Tel: 020 7210 1197, Fax: 020 7210 1195
Email: office@hmcpsi.gov.uk
www.hmcpsi.gov.uk



HM Inspectorate of Court Administration
8th Floor, Millbank Tower, Millbank, London SW1P 4QP
Tel: 020 7217 4343, Fax: 020 7217 4357
www.hmica.gov.uk



HM Inspectorate of Prisons
First Floor, Ashley House, 2 Monck Street, London SW1P 2BQ
Tel: 020 7035 2136, Fax: 020 7035 2141
www.inspectorates.homeoffice.gov.uk/hmiprisons



HM Inspectorate of Probation
Second Floor, Ashley House, 2 Monck Street, London SW1P 2BQ
Tel: 020 7035 2207, Fax: 020 7035 2237
Email: HMIPenquiries@homeoffice.gsi.gov.uk
www.inspectorates.homeoffice.gov.uk/hmiprobation

