

HM CROWN PROSECUTION SERVICE INSPECTORATE

GETTING ON THE RIGHT TRACK

A REVIEW OF CROWN PROSECUTION SERVICE HANDLING OF BRITISH TRANSPORT POLICE CASEWORK

EXECUTIVE SUMMARY

Introduction

1. This is the report of HM Crown Prosecution Service Inspectorate about Crown Prosecution Service (CPS) handling of casework coming from British Transport Police (BTP). The work of the CPS in relation to BTP cases had been identified as likely to warrant a thematic review for three main reasons: first, it is a discrete body of work of not inconsiderable volume, but because it is spread across England and Wales, its importance can easily be understated; secondly, there have from time to time been some expressions of concern (albeit anecdotal) that these cases do not always receive the care and attention within the CPS that they deserve; thirdly, the fact that BTP is a national police force whereas the CPS is organised in 42 Areas means that the processes for handling such cases (and the attendant communication) do not always operate as well as the parties might wish.
2. In assessing the overall performance of the CPS, we examined not only the systems, practice and procedure to deal with these cases in place at a number of CPS offices, but also the levels and adequacy of liaison arrangements between the CPS and BTP, both at local and national levels. We also examined some wider issues, such as the quality of service provided to witnesses and victims in BTP cases.

CPS and BTP Structure

3. The CPS is a national service, but operates on a decentralised basis with each of the 42 Areas managed by a Chief Crown Prosecutor (CCP) who has substantial autonomy within the terms of a framework document governing relationships between CPS Headquarters and the Areas. Each of the 42 CPS Areas is aligned to an individual regional police force (apart from CPS London which covers the areas covered by both the Metropolitan and City of London Police).
4. BTP, however, is a national police service responsible for policing the railways, London Underground system, Docklands Light Railway, Midland Metro Tram System and Croydon Tramlink, providing a policing service to the operators, their staff and passengers throughout England, Wales and Scotland.

5. In 2002-3, BTP had 2,206 police officers and 667 support staff. Within England and Wales, it is divided into seven basic command units and four administrative areas, namely North West, North East, Western and London and the South East (including London Underground) areas.
6. BTP initiates a substantial number of cases for the CPS as a whole to deal with, although the impact on individual CPS Areas will vary greatly depending on the number of cases received. The majority of cases fall within the low to medium level of seriousness. However, the nature of offending is precisely the sort that causes anxiety to the public and can undermine confidence in the criminal justice system (CJS) if not dealt with firmly.
7. Each of the BTP Areas has an Administration of Justice Unit (AJU) that is responsible for the preparation and management of prosecution cases within its Area. The Western Area has an AJU in Birmingham, together with another at Bristol. The officer in charge of the Birmingham AJU is also responsible for the Bristol AJU, although on a day-to-day basis they manage their cases separately. The remaining BTP Areas each have a single AJU (at Liverpool, Newcastle and London (where it is referred to as a CJU)).
8. Each AJU is responsible for the day-to-day management of its Area cases, and is the point of contact between BTP and other criminal justice agencies, particularly the CPS, in relation to those cases. Whilst in practice having one point of contact can be a considerable advantage, and assist in ensuring the efficient running of cases, there is the potential for difficulties when, in some cases, the AJU may be sited some considerable distance geographically from the CPS Area involved, as well as the BTP officer in the case.
9. This review has examined in particular how the CPS deals with these geographically stretched lines of communication, and what steps are taken or need to be taken to ensure that BTP cases are properly and effectively managed at all stages.
10. Additionally, the CPS and other agencies within the CJS are developing strategies to deal with a number of national initiatives designed to improve the efficiency and effectiveness of the system as whole. To be successful each strategy requires that the agencies involved work together in partnership.
11. We have therefore also examined the extent to which the CPS liaises with BTP, and involves it in the planning and decision-making relating to the implementation of these major initiatives.

Main findings of the Inspectorate

12. There is currently a strong drive to increase joined-up working across the criminal justice agencies, with a strong emphasis on partnership. BTP has not been engaged in these partnerships at national or local levels, although it is clear that they affect its work and operations: nor are its interests represented by the other agencies. Further, it is clear from our enquiries with both BTP and the CPS, that there is a lack of any communication strategy or structure at a national level between them. This impacts both on the strategic CJS partnerships as well as liaison at local levels. Where efforts are made to include BTP in liaison, this is frustrated by the structural differences between the agencies. This increases the need for a central lead and guidance.

13. Local liaison is ad hoc, with varying standards and effectiveness, with no one having an overview as to the overall quality. Where we found systems or staff specifically dealing with BTP cases there was better understanding and fewer casework issues. A more structured engagement strategy is desirable at all levels. We see as **good practice** consideration of the use of dedicated prosecutors to deal with BTP cases.
14. There has been a lack of national engagement with BTP on the introduction of the shadow charging scheme, but steps are now being taken to establish a more formal arrangement in London and an initial minute has been issued to CCPs. There has been a presumption that BTP officers will use those charging centres already established with local police forces but more guidance will be needed.
15. We found no evidence to suggest that BTP cases are handled any differently from those of regional police forces and there was no general issue about the quality of decision-making. Equally, the service offered by individual officers is not overall different from that provided by regional officers. However, at each stage of the casework process issues arise as to timeliness, content and quality. The concern is the lack of comprehensive or cohesive mechanisms, such as joint performance management, to deal with these issues.
16. There is a drive within the CJS to improve the standard of care given to victims and witnesses. The issue of timely warning of witnesses and accurate routing of witness requirement notices is important, particularly where they may be widely dispersed, as occurs with BTP cases. Accurate and timely information on the progress of a case, particularly where a case is dropped or charges substantially altered, also needs to be provided to BTP. Victims will often approach the officer in the case in the first instance and public confidence is undermined when the officer is unable to give accurate information.
17. There has been no joint training between the agencies as there has with other police forces e.g. on the handling of unused material, even on the recent introduction of new joint operational instructions (JOPI). There is a need to identify and deal with training issues. Such would have wider communication benefits for both agencies.

Specific findings

Communication and liaison

18. There is a clear mandate from Government for increased joined-up working across the CJS, with a strong emphasis on partnership. This approach is underpinned by targets established under the Public Service Agreement (PSA) for the CJS. In this context, the CPS is at the forefront of various initiatives, designed with this in mind, to achieve more effective and efficient procedures for handling criminal cases. The primary partnership is the National Criminal Justice Board established in April 2003, tasked with setting an agenda to meet the public service agreement targets, with Local Criminal Justice Boards responding to that body. Parties to these Boards are the police, probation, prisons, CPS and the courts. BTP is not represented directly or indirectly.

19. BTP has not been engaged in these partnerships at national or local levels, although it is clear that they affect its work and operations: nor are its interests represented by the other agencies, for instance the other constabularies. Further, there is no clear mechanism by which BTP may remain abreast of developments or be integrated into them. It is precluded from potentially useful contribution to the debate.
20. There is a lack of any communication strategy or structure at national level between the CPS and BTP. This impacts both on the strategic CJS partnerships as well as liaison at local levels. The exception to this is the very recent engagement about implementation of charging schemes, where negotiation is now underway with a view to a charging centre being established in London and resourced by CPS staff.
21. We are of the view that a national liaison structure should be established to make the link between CJS partnership structures and local liaison. This could be structured so that logistical needs, such as the numbers of those involved and the number of meetings, would not place an unnecessary burden on either of the agencies.
22. There is a very varied picture of liaison at local level, both as between CPS Areas and BTP, or between individual CPS units and BTP. We found no examples of liaison at senior management levels. There was no consistent knowledge of contact names or telephone numbers in relation to day-to-day handling of cases and certainly no widespread formal communication structure to deal with local issues. BTP personnel similarly lacked assurance about their respective CPS contact or liaison points.
23. We did find instances of BTP “champions” and of individuals or teams who specifically dealt with the BTP cases. We regard this as **good practice**. There were also examples where firm contacts had been established and liaison took place on a regular, if not frequent, basis. Where this occurred, there was better understanding and, significantly, usually correspondingly fewer casework issues. The most serious and high profile BTP cases, such as “rail disasters” where corporate manslaughter might be under consideration, are dealt with in one of the CPS Headquarters’ Casework Branches. Here there are clear lines of communication and good liaison, with, again, correspondingly good feedback on the quality of service provided by either side.
24. The main reasons for the lack of structured liaison at all levels are readily understandable. BTP is a national police force whose administrative units are split into four main arms, which cover very wide geographical areas. All their caseload flows into and out from these units. Conversely, they have to deal with a CPS and, indeed, a CJS structure, which is largely based on 42 areas. In addition, the caseload for the individual CPS Areas is, relative to their other work, small even in those with a higher proportion of BTP work.
25. Nevertheless, it is our view that, in order to increase public confidence and help to narrow the justice gap, these communication issues need to be addressed.

Casework

26. There is a wide mix of type of casework from public order, criminal damage, assaults (particularly on staff) and street crime to offending more particularly associated with railways, such as trespass, fare evasion (although the majority of these are dealt with by the train operating companies themselves), ticket touting, begging and byelaw offences. The range of offences also includes serious robberies and sexual assaults.

27. One key consequence of the difference in geographic and management structure between the two organisations is the convoluted and lengthy means used to transport files and relay communications. There can be a considerable lapse of time before a file reaches the CPS. This can have an impact on the timeliness and efficiency of file handling, even to the extent that it may preclude the institution of alternative summary proceedings, because of the six-month time limit on starting proceedings.
28. The routing of BTP cases varies between CPS Areas. We received some anecdotal evidence of problems with routing, including non-receipt of files by CPS or of charge sheets not reaching the magistrates' court. Whilst we received a picture of files going astray from both sides, the reasons seemed unknown and we were not made aware of any pro-active steps being taken to identify the causes and rectify the situation. This is a performance management issue.
29. No particular concerns were raised with regard to review and the application of either the evidential or public interest tests of the Code for Crown Prosecutors. Formal pre-charge advice is sought infrequently. As BTP cases are embraced within the shadow charging scheme, the numbers of cases submitted direct to the CPS should increase, thereby driving up file quality, bringing more offenders to justice and correspondingly reducing the number of cases that are later discontinued. These are main planks of PSA targets.
30. There were varying perceptions as to the quality of Narey files. Our consideration of first time files at court confirmed deficiencies indicating the need for effective communication about file content and presentation; raising some possible training and joint performance issues.
31. Figures given to us indicate that about two thirds of BTP cases commence by summons. This derogates from the principal of getting cases to court at the earliest opportunity that is the principle behind the Narey scheme. However, there will be scope to address this through new procedures which will become available under sections 24 to 26 of the Criminal Justice Act 2003.
32. The combined effect of this and the shadow charging scheme should increase charging in suitable cases and the early disposal of cases.
33. To a large extent the casework management and handling of full files builds on the issue of communication. By virtue of current systems, BTP representatives told us of frequent instances where requests for full files are taking a working week or more to reach them. It then becomes understandable that the CPS equally perceives that it is receiving full files late with the consequent effect that this has in terms of trial or committal readiness.
34. Some CPS units had found ways to expedite matters, but we did not find in any Area consideration of the use of e-mail facilities, or even discussion in this regard, with BTP.
35. Discontinuance was an aspect of case management where we received contradictory information. Those CPS Areas we visited were confident that, in appropriate cases and where time allowed, notices of proposed discontinuance (DP1s) were sent to the relevant AJUs. However, the BTP AJUs did not feel they were being consulted in the majority of cases, or that the DP1s were being received in sufficient time for them to be able to make an effective response. This could give the impression that the consultation process was not a genuine one.

36. In addition, where cases are dropped at court, the court will inform BTP of a case result but not the reason for it. This can mean that BTP has no knowledge as to why a case may have been dropped. This can cause frustration and inhibit learning from experience for BTP officers, as well as having an adverse impact on witnesses, whose first enquiry as to the result of a case is often still with the police.
37. There is common ground between the CPS and BTP that criticism made of the standard of handling of unused material by BTP officers is valid and accepted. This is an aspect where most CPS Areas found fault and further training would be helpful to officers. There has been no joint training with the CPS as there was with other police forces when the Criminal Procedure and Investigations Act 1996 was introduced. This does not seem to have been remedied in the most recent round of training for the introduction of revised joint operational instructions between CPS and regional police.
38. There is a Government target, introduced in 1996, to halve the average time (that then existed) for dealing with persistent young offenders from arrest to sentence, from 142 to 71 days. For all quarters between April 2002 and March 2003, the BTP figures have been higher than its counterparts, although the variation for the most part has been small. We received no evidence to indicate that BTP is involved or represented in Case Progression Groups designed to facilitate the throughput of youth cases on a local level.

Performance management

39. Various aspects of case management and handling, discussed above, raise performance issues. Responses from the two agencies indicate that they are dealt with on a case-by-case basis, usually by minutes being sent via the DX system (a form of courier). This will nearly always be a retrospective approach, with no wider learning from experience.
40. Joint performance management (JPM) is the standard tool used by the CPS and regional police forces to monitor and assess the quality and timeliness of police files. Most CPS Areas recognised the fact that in respect of BTP, JPM is not used; nor are alternative structured performance measures in place. There was not any structure to use the information from the nationally adopted forms that might be gathered, in order to improve file timeliness and quality.
41. Despite the logistical difficulties which exist, and which we acknowledge, and the relatively small numbers of cases involved for each CPS unit, we are of the view that proper mechanisms need to be put in place with BTP to address the various file preparation and quality issues that exist at each stage of file submission. This links in to communication generally and training.

Witnesses and victims

42. Both the CPS and BTP are aware of the drive to improve the standard of care afforded to both witnesses and victims in all cases.
43. Two points arise. First is the timely provision of witnesses' dates to avoid so that a trial can be fixed quickly and on a suitable date. We understand that submission of this information to CPS is inconsistent. Second, it is essential to ensure that BTP is advised at the earliest stage of the witnesses required to attend court, so that it has sufficient time to locate and warn them of the date.

44. In addition, care needs to be taken to ensure that witness warnings are correctly sent to BTP and not the local police force. CPS and BTP also need to address the issue of accurate witness information being provided, to avoid the practice of “block” warnings, where witnesses might not be required.
45. The CPS nationally has, since September 2002, been engaged in an initiative to ensure that individual victims are kept informed of any decisions to substantially amend or discontinue any of the charges in the case affecting them. The initiative is referred to as Direct Communication with Victims (DCV). In the majority of cases, the victims would be informed of such decisions by letter.
46. A letter sent to a victim under the DCV initiative comes from the CPS and should clearly state that any queries should be addressed to a named member of the CPS staff. Nevertheless, many victims have only had contact with the police at that stage, and quite understandably will, if they have any concerns, approach the officer in the case in the first instance.
47. If when approached by the victim, that officer is unaware of the reasons for the decision or even unaware of the decision, he will clearly be unable to give any meaningful assistance to the victim. More importantly perhaps, it may be apparent to the victim that the officer has no knowledge of the circumstances and can give rise to mixed messages being given to the victim. Far from building confidence in the CJS as a unified organisation putting the needs of victims and witnesses at its heart, the image will be one of distinct agencies working in isolation from one another.
48. We are also of the view that in communicating directly with witnesses where cases are discontinued, or charges substantially altered, BTP is kept informed of developments in its cases, and, where victims are notified of decisions, BTP is also notified. There can then be no misunderstanding as to the information given to the victim.

Training

49. Staff from CPS Areas provide training to the police, principally in respect of those issues where improvement in the service provided by the police enables the CPS to increase its own efficiency and effectiveness. However, from what we were able to ascertain, any drive for joint training appears, in practice, to be confined to the local police forces serving the CPS Area providing the training.
50. Area training strategies do not incorporate the BTP, despite the fact that there were a number of issues raised with us, by both CPS and police representatives, where it was felt that BTP officers, like their local counterparts, would benefit from further training. There may also be potential for BTP to provide training for CPS staff.
51. There are difficulties, because of its structure, with BTP officers being stationed in relatively small numbers across England and Wales, which can lead to logistical problems in arranging such training sessions, but these are not insurmountable.
52. There is a need for the CPS, as part of an overall closer engagement strategy, to consider with the BTP the issues that would benefit from joint training, and how it might be implemented.

Recommendations

53. Inspectors made the following six recommendations:

1. The CPS should:
 - a. In conjunction with other CJS agencies, ensure that BTP is appropriately and adequately engaged and consulted in national CJS initiatives;
 - b. Agree with BTP a national communication structure and policy to provide informed guidance to all CPS Areas; and
 - c. Ensure that each CPS Area has appropriate and effective channels of communication between its units and its corresponding BTP AJU, including consideration of designating members of staff as Area liaison and unit contact officers.
2. CPS Areas should ensure that mechanisms are in place for the proper and effective operation of the CPS policy on discontinuance.
3. The CPS should engage with BTP in a joint training initiative in relation to the CPIA and JOPI.
4. The CPS should engage in a formal joint performance management structure with BTP.
5. In all cases where a decision is made to alter substantially or to discontinue any of the charges (whether the charges are discontinued before or at court) the CPS should ensure that BTP is advised of the decision, and the reasons for the decision, in a timely manner.
6. The CPS, through national or local liaison structures, should consider a joint training strategy with BTP.

The full text of the report may be obtained from the Corporate Services Group at HMCPS Inspectorate (telephone 020 7210 1197) and is also available at www.hmepsi.gov.uk.

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