



GETTING ON THE RIGHT TRACK

A Thematic Review of CPS Handling of British Transport Police Casework

March 2004

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1 INTRODUCTION

The basis of the review

- 1.1 Her Majesty's Chief Inspector of the Crown Prosecution Service decided to undertake this review of how the Crown Prosecution Service (CPS) deals with cases originating from the British Transport Police (BTP), following consultation with the Director of Public Prosecutions, and with the agreement of the Law Officers. We also sought the views of the Chief Constable of the British Transport Police who positively welcomed the proposal for this review.
- 1.2 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 the whole country, its importance can easily be understated; secondly, there have, from time to time, been some expressions of concern (sometimes 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 including Scotland, whereas the CPS is organised in 42 Areas, covering only England and Wales, means that the ordinary processes for handling such cases (and the attendant communication) do not always operate as well as the parties might wish.
- 1.3 The purpose of this review has therefore been to examine these issues, evaluate the performance of the CPS and identify those aspects that are dealt with well, which may provide assistance to other CPS Areas, and those aspects that are capable of improvement.
- 1.4 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

- 1.5 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.
- 1.6 Each of the 42 CPS Areas is aligned to an individual regional police force (CPS London covers the areas covered by both the Metropolitan and the City of London Police). Increasingly, other agencies within the criminal justice system (CJS), including the Magistrates' Courts Service and the National Probation Service, are moving to structures that reflect these areas.
- 1.7 BTP, however, is a national police service which includes the whole of England and Wales. Whilst this is not unique, this lack of structural alignment is clearly capable of having an impact on communication issues and the quality of case management generally. (BTP also covers Scotland, although that aspect of their jurisdiction is outside the remit of this review.)

- 1.8 BTP is 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.
- 1.9 To carry out these duties BTP had 2,206 police officers, together with 667 support staff in 2002-03¹. BTP, within England and Wales, is divided into seven basic command units and four administrative areas, namely the North West, North East, Western and London and South East (including London Underground) Areas. The large Western Area was formed as a result of an amalgamation of the South West and the Midlands Areas on 1 April 2003.

Other national police forces

- 1.10 BTP is not the only national police force within the United Kingdom: there are also the Ministry of Defence Police (MoDP) and the United Kingdom Atomic Energy Authority Constabulary (UKAEAC). Nevertheless, the issues relating to these police services can be distinguished from those relating to BTP.
- 1.11 In numbers, the MoDP, with around 3,800 police officers, is larger than BTP, but does not initiate as many cases to be dealt with by the CPS. In any event, there is a propensity for such cases to arise in specific CPS Areas where there is a large military presence, for example, from the ‘garrison towns’ in the Aldershot area. In practice, those individual CPS Areas who deal with MoDP cases in any number, are dealing with MoDP officers who are based locally and are thus able to maintain effective lines of communication.
- 1.12 UKAEAC is a smaller body of around 500 officers, with a specific statutory remit to protect nuclear material² both on United Kingdom Atomic Energy Authority sites³ and in transit. As a result, few, if any, cases are passed to the CPS.
- 1.13 BTP, in contrast, 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. In Kendal, we were told, only one or two BTP cases are received each month, whereas in Birmingham the figure is around 40-50, although the actual number fluctuates between months.

BTP case management structure

- 1.14 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)).

¹ BTP Statistical Bulletin 2002-03.

² Atomic Energy Authority Act 1954.

³ Subsequent legislation extended this remit to British Nuclear Fuels Limited and Urenco sites when these bodies were created.

- 1.15 Although each of the AJUs is managed by a BTP police officer, the internal structure varies between locations. Some have police officers working within the AJU, whereas others are staffed entirely by administrative support staff.
- 1.16 Nevertheless, 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. For example, CPS staff in Lincoln have to liaise with an AJU in Newcastle in relation to their BTP cases.
- 1.17 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.
- 1.18 Each of the BTP Areas covers a number of individual CPS Areas and details can be found in **Annex 1**. The following table shows the number of cases involving notifiable offences⁴ prosecuted by BTP during the year 2002-03:

BTP Area	Number of charges	Number of summonses	Total
London - Adults	3,891	222	4,113
London - Youths	756	28	784
North East - Adults	821	132	953
North East - Youths	48	28	76
North West - Adults	676	131	807
North West - Youths	112	53	165
Western - Adults	1,046	207	1,253
Western - Youths	82	38	120
Total	7,432	839	8,271

⁴ These figures cover 'notifiable' offences recorded by BTP. This does not mean all criminal offences, as almost all the more minor summary offences are excluded. The significance of the term 'notifiable' is that all these offences are notified to the Home Office, and they are collectively known as 'recorded crime'.

1.19 The following table shows caseload estimates for 2002:

	Cases with Offenders Prosecuted by Charging File to CPS	Cases with Offenders Summoned Not Guilty File to CPS
Tottenham Court Road (London)	3,390	223
Newcastle	649	64
Birmingham	461	119
Liverpool	724	263
Bristol	391	24
TOTAL	5,615	693

1.20 The range of cases handled by BTP is wide. As well as offences found generally, such as public order, assault and theft, there are those that are more particular to BTP, such as some fare evasion, trespass on the railways, endangering the safety of passengers and ticket touting. The great majority of fare evasion cases are dealt with by the train operating companies rather BTP.

1.21 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 CJS if not dealt with firmly.

Developments in the CJS

1.22 This review is specifically looking at the quality of all aspects of the management of BTP cases by the CPS, and this can be affected not only by local practices and procedures, but also by wider-reaching national initiatives and protocols.

1.23 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 a whole.

1.24 We deal with specific initiatives in the report, but to be successful each strategy requires that the agencies involved work together in partnership. It follows, therefore, that each of the agencies that will affect - or be affected - by these new initiatives, needs to be involved in the decision-making relating to the creation of systems and processes to support them.

1.25 We have therefore 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.

Methodology

- 1.26 The review commenced on 11 August 2003.
- 1.27 The necessity of having an understanding of the structure of BTP, and an awareness of any concerns on its part, was clear at an early stage. In order to meet this, information was initially sought from the senior management of BTP, followed by visits to each of the AJUs (including Bristol).
- 1.28 When visiting the AJUs, we were able to speak to a number of BTP officers and support staff, who were able to provide us with considerable assistance in relation to the practices and procedures used by both BTP and the CPS, and in relation to aspects of performance of the CPS in respect of BTP cases.
- 1.29 In order to obtain an overview of the practices and procedures across the CPS, each of the 42 CCPs was asked to complete a questionnaire as to how their Areas dealt with BTP cases, for details of the systems in place, and for them to identify any issues that needed to be addressed.
- 1.30 Subsequently, we selected a number of CPS offices to visit, where we were able to interview a variety of CPS staff, who had particular experience or responsibility in these cases. They provided us with a considerable amount of information. The visits also gave us the opportunity to observe relevant office systems and practices.
- 1.31 Limited court observation was carried out at one site, Horseferry Road Magistrates' Court (in London) which provided some opportunity to see the Narey scheme and conduct of live files.
- 1.32 The CPS offices visited ranged from those serving densely populated, urban areas to those in more rural situations. The proportion and number of BTP cases dealt with by the offices varied accordingly.
- 1.33 The offices visited were as follows:

Office location	CPS Area	Appropriate BTP AJU
Birmingham	West Midlands	Birmingham
Bristol	Avon and Somerset	Bristol
Eastbourne	Sussex	London
Kendal	Cumbria	Liverpool
Leamington Spa	Warwickshire	Birmingham
Leeds	West Yorkshire	Newcastle
Manchester	Greater Manchester	Liverpool
Sheffield	South Yorkshire	Newcastle
Westminster	London	London

- 1.34 In addition to interviewing staff and observing office systems, we took the opportunity to examine a number of current BTP files in the CPS offices. The examination of these files enabled us to examine the quality and timeliness of case management by the CPS. We also examined the quality of decision-making, although this was not a major issue in this review. In any event, every CPS Area has the quality of decision-making examined during the course of Area inspections and, apart from one or two issues that we deal with in the report, we found nothing to suggest that the quality of decision-making in BTP cases was any different from the quality of decision-making in other cases.
- 1.35 There were a number of advantages to calling for files whilst at the offices, rather than asking for a sample of files that had been concluded. These included:
- (a) by calling for the files whilst on site we were able to observe how readily CPS staff were able to identify and locate BTP files (as opposed to files originating from their local constabulary); and
 - (b) the files would, by definition, relate to on-going cases, thus we were assured of being able to examine contemporary files, rather than examining completed files which might be more historical.
- 1.36 During the course of the review we also interviewed staff from CPS Headquarters, so that we were able to ascertain the extent and the effectiveness of liaison at national level, as well as the extent and effectiveness of any guidance given to CPS Areas relating specifically to BTP issues.
- 1.37 The Chief Inspector would like to thank all of the people who assisted with this review, whether CPS staff or representatives of BTP, for the time and valuable information that they afforded us. A list of the BTP staff who assisted us can be found in **Annex 2**.

2 SUMMARY OF INSPECTION FINDINGS & RECOMMENDATIONS

- 2.1 The CPS is a national service, but operates on a decentralised basis, with each of the 42 Areas managed by a CCP. Each of the 42 CPS Areas is aligned to an individual regional police force. The BTP, however, is a national police service covering the whole of England and Wales. This lack of structural alignment is clearly capable of having an impact on communication issues and the quality of case management generally.
- 2.2 There is currently a drive for increasing 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 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.
- 2.3 We do not suggest that BTP is deliberately excluded from planning and strategy, but due to the relatively small number of cases that individual Areas deal with, it is overlooked. 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.
- 2.4 The lack of a strategic and pro-active approach has an impact on performance and could impinge on the ability of the agencies to meet public service agreement (PSA) targets. This is not confined to major strategic initiatives such as charging centres, but includes the day-to-day case management of files and their timeliness and quality.
- 2.5 Local liaison is ad hoc, with varying standards and effectiveness and no one has 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.
- 2.6 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. This would not be onerous in individual CPS units, but would create contact points and engagement. It would also give a consistent overview to enable steps to be taken to improve performance.
- 2.7 Casework systems are in place to identify BTP cases from those of regional forces, although there are still some case tracking issues, and Areas are not generally able to quantify the work emanating from BTP. A wide mix of casework is undertaken but little that requires specific specialist knowledge. Major cases e.g. “rail disasters” are dealt with in one of the CPS Headquarters’ Branches.
- 2.8 The routing of files - which are mainly submitted through the document exchange (DX) system - can be convoluted, and the extended lines of communication can cause delays at each stage of file submission. There is a lack of pro-activity in identifying causes for files going astray and rectifying the situation.

- 2.9 Formal advice pre-charge is not sought frequently. 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.
- 2.10 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.
- 2.11 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. Importantly, there are also no vehicles by which either side may learn from experience. Rather, there is a retrospective case-by-case approach.
- 2.12 There is a drive within the CJS to improve the standard of care given to victims and witnesses. Although not a major concern, 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. Timely provision of appropriate statements by BTP is also needed, so that statements may be agreed where possible and the unnecessary attendance of witnesses avoided.
- 2.13 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.
- 2.14 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.

Recommendations

- 2.15 We make recommendations about the steps necessary to address significant weaknesses to important aspects of performance, which we consider to merit the highest priority.
- 2.16 We have made six recommendations to help to improve the handling of BTP casework by the CPS that will, in turn, support the drive to improve the performance of the CJS as a whole.
- 2.17 We have also suggested models for national and local liaison at **Annexes 3 and 4**. These illustrate the need for the CPS to identify, both nationally and locally, individuals who will assume responsibility for co-ordinating and delivering a coherent response to the issues raised in the recommendations in this report.

Communication and liaison

1. The CPS should:
 - in conjunction with other CJS agencies, ensure that BTP is appropriately and adequately engaged and consulted in national CJS initiatives;
 - agree with BTP a national communication structure and policy to ensure awareness and consistency of approach by CPS Areas to BTP issues; and
 - 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.

Casework

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 Criminal Procedure and Investigations Act and JOPI.

Performance management

4. The CPS should engage in a formal joint performance management structure with BTP.

Dealing with victims

5. In all cases where a decision is made to alter substantially the charges in a case, 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.

Training

6. The CPS, through national or local liaison structures, should consider a joint training strategy with BTP.

3 COMMUNICATION

CJS partnership

- 3.1 There is currently a clear mandate from Government for increased joined-up working across the CJS, with a strong emphasis on partnership. The Home Office has set targets under the PSA to which the various agencies, including the police, CPS and courts, are committed. 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.
- 3.2 The primary partnership is the newly established National Criminal Justice Board, tasked with setting an agenda to meet the PSA 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.
- 3.3 Initiatives and pilots include a street crime initiative, aimed at the swift processing of certain categories of offending, such as robbery; early charging advice⁵, discussed in more detail later in this report; visual interviewing with suspects; a case preparation project for directing cases through the court process; and a victims and witnesses project aimed at improving the information and service provided to them. The CPS, in consultation with the police, is also embarking on an information case management system (Compass) for tracking cases. At a local level, court user groups have long been established. Also well established are case progression groups designed to monitor and progress persistent youth offender cases through the courts, in accordance with time targets set by the Government.
- 3.4 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. This is recognised by BTP, which would welcome a platform for change.
- 3.5 As will be identified in this report, it is necessary for BTP to be included in these partnerships to enable it to function efficiently and in line with the rest of the CJS. It would also enable CPS to deal more efficiently with BTP issues.

Liaison at national level

- 3.6 It is clear from the evidence received, from both BTP and CPS, that there is a lack of any communication strategy or structure at this level between them. This impacts on the strategic CJS partnerships as well as liaison at local levels.

⁵ Early charging advice is given in a charging pilot initiative introduced following recommendations in the Review of Criminal Courts of England and Wales by the Rt Hon Lord Justice Auld, published in September 2001.

- 3.7 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. This is likely to be at the Tottenham Court Road BTP Station, and would encompass all BTP cases dealt with by the three London sectors of the CPS that fall within the scheme. We understand that this centre may, in fact, have a remit beyond London cases in due course.
- 3.8 It has yet to be determined which cases BTP will continue to charge under the statutory scheme and those for which the CPS will be responsible. However, we found no ready knowledge of this proposed scheme beyond those directly involved; rather an assumption elsewhere that BTP would have to take its early charging cases to existing charging centres established between the CPS and local police. Again, it was not clear how this presumed arrangement was being communicated to, or agreed by, BTP at national level.
- 3.9 Any issues dealt with at a national level do not appear to have any great drive behind them. One example was a BTP initiative to produce a short video to raise awareness of the effects and dangers of railway crime, which was promulgated by CPS Headquarters. There appeared to be only limited awareness of the existence of this video among the CPS Areas. Similarly, another BTP initiative is the production of an Evidence and Action pocket report book. The book is designed so that, when completed by officers, it creates in essence a first time file, providing sufficient information for any proceedings at the initial stages. Rather than a national consideration of this book with a controlled introduction or piloting of its use, it has been left to individual BTP senior administrators to “persuade” CCPs of its use, with a consequent mixed response or, indeed, no response at all.
- 3.10 Again, individual steps are being undertaken between CPS South Wales and Bristol BTP AJU to establish a local service level agreement. The BTP AJU managers at Bristol then hope to promulgate the agreement with other CPS Areas with whom they deal, although this will be on an ad hoc basis.
- 3.11 We are of the view that a national liaison structure should be established to make the link between CJS partnership structures and local liaison. We anticipate 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.

Liaison at local level

- 3.12 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.
- 3.13 There is a lack of clarity in the CPS as to the administrative structure of BTP, or to whom it should relate. Indeed, there was ignorance within some CPS Areas as to which of the BTP AJUs corresponded with them, and with whom CPS staff should be communicating. 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.

- 3.14 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. This is discussed in the next chapter.
- 3.15 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.
- 3.16 The main reasons for the lack of structured liaison at all levels are readily understandable. As discussed in the introduction, 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. It is not an easy mix and a situation that will have inherent communication difficulties. 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. There is therefore less motivation to create a communication structure for what might be seen as a hammer to crack a nut basis.
- 3.17 Nevertheless, the overall volume of BTP work is significant and the nature of the work can have a high public profile. The offences involved are often of a kind which cause real concern to the public because they relate to personal safety, security and good order on a public transport system that people use daily.
- 3.18 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. We put forward suggestions as to possible models to cover both national and local liaison at **Annexes 3 and 4**.

RECOMMENDATION

The CPS should:

- * **in conjunction with other CJS agencies, ensure that BTP is appropriately and adequately engaged and consulted in national CJS initiatives;**
- * **agree with BTP a national communication structure and policy to ensure awareness and consistency of approach by CPS Areas to BTP issues; and**
- * **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.**

Aspects for improvement

- * Consideration of a national service level agreement between the CPS and BTP.**
- * Consideration of local service level agreements between CPS Areas and BTP AJUs based on the national framework.**

4 CASEWORK

Casework systems

File identification

- 4.1 BTP files are identified by various means to distinguish them from those of regional police forces. Although there is no uniform system, the different methods are thought, by and large, to work satisfactorily.
- 4.2 All BTP cases have a distinct unique reference number, starting with the number 93. Additionally, BTP cases are usually sent to the CPS under cover of correspondence that is clearly marked as originating from BTP, and in the case of Newcastle AJU, yellow header sheets attached to each file.
- 4.3 Over and above this, CPS Areas use a number of different means to differentiate BTP files from local police files. These include using different coloured file jackets, stickers on file fronts, or writing or stamping “BTP” on the front of files.
- 4.4 Some consideration may need to be given to file identification and file tracking resulting from co-location⁶ under the Glidewell Review and the adoption of the Compass computerised case tracking system. In Avon and Somerset, where a single file system has been adopted as part of the implementation of the recommendations of the Glidewell review, the administration of files is dealt with by police staff, but this does not include files emanating from other prosecuting bodies like BTP.
- 4.5 This has resulted in a separate database being developed at Bristol CPS Criminal Justice Unit (CJU) where two designated caseworkers (DCWs) are responsible for the handling of all BTP files through this system, both administratively and, where appropriate, for review purposes. BTP cases are therefore registered and tracked separately from other police files, which in terms of routing, case identification and case handling has, in fact, proved beneficial. It has also led to a closer working relationship between these two DCWs and Bristol BTP AJU, which deals with Bristol CJU’s work.
- 4.6 We received contradictory information about the effectiveness of tracking BTP cases on the new Compass system, adopted by the CPS in negotiation with regional police. Some Areas indicated that they could, at any time, readily identify and quantify cases with which they were dealing, with minimal information. However, in one Area we were told that it was not possible to do a search of the system for BTP files unless the full individual file reference number was known, rather than using simply the BTP prefix alone. Thus it could not say which, or how many, current files it had on its system, with consequent potential location difficulties. These may be teething troubles with the introduction of the system, that individual Areas will need to address or seek guidance upon.

⁶ This follows recommendations contained in the Review of the Crown Prosecution Service, by the Rt Hon Sir Iain Glidewell, published in June 1998.

- 4.7 Whilst BTP is able to produce figures of cases handled, it was difficult to ascertain the casework distribution between CPS Areas. At the moment, not all CPS Areas have been equipped with the new Compass system, and do not readily know the numbers of cases they are handling. We were given widely varying estimates of numbers handled, but the average is thought to be about 100 per Area per year.
- 4.8 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, ticket touting, begging and byelaw offences. The range of offences also includes serious robberies and sexual assaults.
- 4.9 There may be some lack of familiarity with railway byelaw offences by prosecutors, nevertheless, little arises that cannot be dealt with in CPS units or that requires specialist knowledge as such, given the standard nature of most offences handled by BTP. Areas are confident that, where unusual or specialist cases do arise, they are referred to appropriately experienced prosecutors, eg Special Casework Lawyers. As mentioned, certain major cases are handled exclusively by CPS Headquarters (London Branch 1).

Routing of files

- 4.10 A 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.
- 4.11 The primary method used for submission of a file, at its different stages, is the DX. This is effectively a courier system whereby the customer, on payment of an annual fee (dependant on the extent of the service used), has its material collected from, and delivered to, another subscriber. The collection and delivery points may be at the customer's premises or it may "share" such points with other customers. Unlike regional police, BTP does not use its own drivers to take and deliver files from CPS offices. Given the widespread areas and the amount of material involved, this is not viable, logistically or economically.
- 4.12 This means that, where criminal proceedings are commenced by way of summons (which is in the majority of cases), an officer compiles a preliminary file at his own nearest station and then sends it by DX to the BTP AJU for the responsible CPS Area. The AJU will issue the process, send the necessary papers to the relevant magistrates' court and check that the file is in order before forwarding it, similarly by DX, to the CPS office.
- 4.13 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*⁷ preclude the institution of alternative summary proceedings, because of the six-month time limit on starting proceedings.

⁷ An information can be amended after the expiry of the limitation period, even to allege a different offence, provided the two offences arise out of the same, or substantially the same, facts *R v Scunthorpe Justices ex parte M&G 1998 162 JP 635*.

- 4.14 We looked at a small and random sample of live files in the course of our visits to CPS Areas and noted instances of this, and of delays between the commission of offences and issue of summonses, which were not readily explicable. Such delays had not always been challenged or queried by the CPS. This can have an impact on the effectiveness of the Narey scheme⁸, which we refer to in more detail below.
- 4.15 There does not appear to be any particular issue about receipt of these files in sufficient time to conduct an initial review. Whilst some concern was expressed about the preponderant use of the summons procedure, and the potential delays in getting proceedings to court this creates, this was not reflected in those files we saw, where charging procedures were used in appropriate cases.
- 4.16 Where proceedings are commenced by way of charge, BTP officers are expected to avail themselves of the nearest local police station that has charging facilities, as its own number of police stations with these facilities is limited. In general terms it works satisfactorily, but we received a mixed picture of the success of this.
- 4.17 Where defendants are charged, under the Narey scheme the file should proceed to an early administrative hearing (EAH) - if it is anticipated that there will be a guilty plea - or to an early first hearing (EFH) in other cases. In both cases, the files, or copies of them, need to be forwarded to the CPS to enable prosecutors to prepare and review them. The routing of BTP cases varies between CPS Areas. It can range from being sent with local police files to the CPS in accordance with local systems; to being sent by the officer to the responsible AJU for transmission to the CPS for review the day before court; to being sent direct to the court concerned on the morning of the first hearing.
- 4.18 We received some anecdotal evidence of problems with routing at this stage, including non-receipt of files by the CPS, or of charge sheets not reaching the magistrates' court. Our own court observation confirmed receipt of Narey files at court late on the morning of the hearing and, in one instance, of a case for which no file was received at all. Whilst we received a picture of files going astray at this stage 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.
- 4.19 This is a performance management issue in relation to which we make a recommendation at the end of Chapter 5.

⁸ This is a reference to case handling systems introduced following the Review of Delay in the Criminal Justice System, by Martin Narey, published December 1997.

Specific casework issues

Review

- 4.20 We have referred to the fact that only a small number of files were seen whilst we were on site. Reviews were appropriate and present in all but two of the files seen. In those two cases, which were Narey files delivered on the morning of court, warrants were issued for the non-appearance of the defendants. We were given to understand that the review would be endorsed after court.
- 4.21 Our findings were endorsed in interviews; those BTP personnel we saw raised no particular issue with us as to the application of the evidential or public interest tests under the Code for Crown Prosecutors. The prosecutors we spoke to were alive to concerns regarding, for example, trespass on the railways and the public interest in prosecuting such cases.
- 4.22 Mode of trial considerations were appropriately applied and endorsed.
- 4.23 Issues arising in relation to discontinuance are discussed later in this chapter.

Pre-charge advice

- 4.24 Advice pre-charge or summons in the commonly accepted sense is generally thought to be sought infrequently. Formal arrangements do not exist. Where it does occur, it is by telephone or submission of a file.
- 4.25 Those cases handled by the CPS Casework Directorate at Headquarters are nearly all submitted as full pre-charge advice files. The London and South East Area CJU has the benefit of its own in-house lawyer and legal executives to whom officers will generally refer for such advice. That person will on occasion speak, in turn, to CPS London prosecutors and this may have a “sifting” effect on cases in the system.
- 4.26 Care is needed, however, to ensure no conflict arises. Our court observation included two cases where BTP had initially been minded to caution the defendant. The CPS lawyers took a robustly opposing view, raising enquiry into the circumstances in which the cautions were considered or offered. In both instances, the reviewing lawyer added racially aggravated offences to those existing. In both, the defence indicated that abuse of process arguments would be pursued. In the event, one defendant pleaded to the offences put by the CPS, but the other matter was adjourned for legal argument before a trial date would be fixed.

Early charging and shadow-charging schemes

- 4.27 We discuss in the previous chapter the lack of early engagement with BTP in establishing the early charging pilot and then shadow-charging schemes, which would establish a system for routine early advice. These schemes are designed to involve the CPS at an early and influential stage in a case, 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.

- 4.28 Under these schemes, the CPS provides a lawyer resource at designated police charging centres. Officers refer cases that fall within certain criteria for advice as to charging and taking a case forward. As BTP cases are embraced within this, the numbers of cases submitted direct to the CPS should increase.
- 4.29 Some CPS Areas are alive to getting BTP “on board” and are starting discussions, but these are on an ad hoc basis. An initial minute relating to the scheme and expected contact from BTP officers was sent to each of the CPS Areas by CPS Headquarters in September 2003, after the issue had been raised by the inspection team, but further and more detailed guidance will be needed.

Narey files

- 4.30 As discussed above, BTP files that are commenced by way of charge and are going to an EAH or an EFH, may reach the CPS by different routes. The effectiveness and timeliness is variable, although it was not raised with us as a particular issue.
- 4.31 There were varying perceptions as to the quality of Narey files. The task of the BTP AJUs is primarily administrative, and consequently there is a mixed input to the quality of files. There are endeavours on their part to assess and, where circumstances allow, improve file quality, but some see themselves as having a greater case building role than others.
- 4.32 We were told of deficiencies including material needed for advance disclosure to the defence not being routinely provided on the files. Some letters dealing with advance disclosure were present in the files that we examined, but in one case this was of little value since there were no key statements with the file.
- 4.33 Our consideration of first time files at court showed:
- photocopied handwritten statements and summaries that were difficult to read;
 - summaries that did not address the salient points (in one complex fraud case there was no summary on the file);
 - a lack of important information (we saw two cases which had to be, or had been, adjourned to obtain copies of the appropriate byelaw); and
 - use of photocopies rather than original coloured forms, negating the purpose of ready identification and access by virtue of the colouring.
- 4.34 The nature of these issues indicates the need for effective communication about file content and presentation; raising some possible training and joint performance issues which we discuss at Chapters 5 and 7.
- 4.35 Figures given to us indicate that about two thirds of cases commence by summons. This derogates from the principle of getting cases to court at the earliest opportunity which underlies the Narey scheme. The manning levels and distribution of BTP officers, together with the geographical spread of work and lack of ready access to charging facilities, have been the reasons propounded by BTP.

- 4.36 In addition, a large proportion of BTP cases relate to byelaw offences, or other summary matters, where it is appropriate to proceed by way of summons, although this does not detract from the principle that informations should be laid and summonses preferred at the earliest opportunity.
- 4.37 Pursuant to sections 24-26 of the Criminal Justice Act 2003, by which criminal proceedings may be instituted by issuing a “written charge”, work is being developed in CPS Headquarters (Charging Division) to put this into effect. This is with a view to abolition of the summons procedure as such, proceeding instead by reporting for prosecution and sending the written charge and “requisition” to attend court by post. The system will require the service of statements so that cases can be proved in absence upon proof of service. Subsequent lack of response by the defendant could lead to a warrant being issued (removing the requirement for substantiating an information on oath).
- 4.38 The six-month time limit will still apply to these summary cases and, if it is one that falls within the criteria, the file will need to be submitted pre-charge to the CPS for a charging decision.
- 4.39 As BTP hopefully becomes formally engaged in the shadow charging scheme, the combined effect of these two schemes should increase charging in suitable cases and the early disposal of cases.

Full files

- 4.40 To a large extent, the casework management and handling of full files builds on the issue of communication.
- 4.41 In most CPS Areas where a full file is needed from BTP because, for example, a defendant has pleaded not guilty, or the case is to be committed to the Crown Court, it is the practice to return the initial files to the CPS CJU after court. The files will then be updated on the local case tracking system and a written request for a full file will be forwarded by DX to the BTP AJU.
- 4.42 If the compilation of the full file (which is typed and put together in the AJU) requires additional statements or information, this will mean referral by the AJU back to the officer in the case. The process then has to be reversed for the file to reach the CPS.
- 4.43 BTP representatives told us of frequent instances where such requests 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.
- 4.44 Some CPS units had found ways to expedite matters; lawyers from the Westminster CJU are required to stay at court after the end of the list to complete follow up work required on files. This would include preparing minutes to the BTP CJU. A supporting administrative officer then faxes these from the court on the day of hearing.

- 4.45 We did not find in any Area consideration of the use of e-mail facilities, or even discussion in this regard, with BTP. BTP is on the police national network e-mail system accessible to CPS Areas. Contact lists within the system can be created and there can be communication between the agencies. Given the standard nature of the majority of communications, we are of the view that this is a speedy form of communication that should be considered.
- 4.46 Linked to this is the question of quality. There was no uniform picture, with a wide variation in quality reported. Some CPS Areas were happy that there were no issues about either the quality or timeliness of full files, rather that the standard of BTP files was better than its regional counterparts. Other Areas were critical of both the quality and timeliness of these files.
- 4.47 However, where there was criticism, only limited efforts were being made to take steps to engage with BTP in an effort to improve the quality or timeliness of the files. With extended lines of communication, it becomes all the more important that good quality management is in place. We discuss this below at Chapter 5 and it is the subject of a recommendation.

Aspects for improvement

- * **Expedition of communication concerning case preparation.**

Charging standards

- 4.48 We encountered a little friction between CPS and BTP on charging standards, or more particularly, levels of charging generally. On the one hand, we were told of the tendency for officers to prefer more offences than were necessary to present the case in a clear and simple way and give the court adequate sentencing powers. On the other, we saw instances where serious matters were proposed by BTP to be dealt with by way of caution (two cases mentioned earlier). We agreed with the reviewing lawyers' views taken in each case that the matters required prosecution in the public interest.
- 4.49 The issue here is not the fact that charges need amending in themselves, but the lack of liaison to ensure that both parties have a common understanding about the level and number of charges. Retrospective feedback on a case-by-case basis is unlikely to succeed, and without appropriate learning mechanisms there can be little prospect of improvement to the mutual satisfaction of CPS and BTP. This, again, is part of good communication in performance management, which we deal with in more detail at Chapter 5.

Discontinuance

- 4.50 The CPS has a standard policy to consult with the police when it is proposed to discontinue a case on either or both limbs of the Code for Crown Prosecutors; that is that there is not enough evidence to be satisfied of a realistic prospect of conviction and/or it is not in the public interest to proceed.

- 4.51 The formal agreed method for this consultation is the use of a form notifying proposed discontinuance and the grounds for it (DP1); or, where this has not been possible, e.g. due to insufficient time, notification of the discontinuance once it has taken place (DN1).
- 4.52 This was another aspect of case management where we received contradictory information.
- 4.53 Those CPS Areas we visited were confident that, in appropriate cases and where time allowed, DP1s were sent to the relevant AJUs. Usually a timescale of one week was allowed for response or comments. Given the stretched lines of communication, this might not be an optimum timescale, but in view of the limited time available to both agencies to deal with these issues, it is accepted as being a realistic one.
- 4.54 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.
- 4.55 In addition, a real concern was the lack of information received by BTP where cases are dropped at court. We have mentioned the impact of charging practice on this above.
- 4.56 BTP relies on the courts to provide the results of cases, but this will not, for example, provide details of the reasons as to why a case was withdrawn or why no evidence was offered. This can mean that BTP has no knowledge as to why a case may have been dropped, particularly where the CPS does not send a DN1 after the event.
- 4.57 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.
- 4.58 It may remain with BTP to initiate an enquiry with the CPS as to the outcome, often by telephone, which does not always elicit a satisfactory or timely response. Poor operation of the CPS policy on discontinuance will detract from narrowing the justice gap and increasing public confidence.
- 4.59 We make a recommendation later in respect of joint performance management, but in view of the impact upon key aspects of delivery that discontinuance has, we are of the view that this merits a specific recommendation to deal with the issue.

RECOMMENDATION

CPS Areas should ensure that mechanisms are in place for the proper and effective operation of the CPS policy on discontinuance.

Unused material

- 4.60 Most of the files seen were at a stage prior to dealing with primary disclosure by the CPS. We noted that unused material schedules were generally present on files at initial submission but, as previously mentioned, were photocopies and not coloured originals, making ready identification more difficult in relation to schedules of sensitive material. It is good practice for unused material to be kept separate from the remainder of the file by the CPS, and this, coupled with the fact that the unused material may relate to sensitive material, means such ready identification is important.
- 4.61 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 weaknesses and further training would be helpful to officers. It is perhaps not surprising that their knowledge and experience of this aspect of case management will be less than their counterparts in other forces.
- 4.62 It is not clear what, or how, training has been delivered, but there has been no joint training with the CPS as there was with other police forces when the Criminal Procedure and Investigations Act 1996 (CPIA) was introduced. Indeed, this does not seem to have been remedied in the most recent round of training for the introduction of revised Joint Operational Instructions (JOPI) between the CPS and regional police; BTP has, once again, been left out of the loop.
- 4.63 We make a general recommendation about training at the end of Chapter 7, but we are of the view that this is an aspect of casework management that would readily benefit from a joint training initiative, drawing from that already promulgated between the CPS and local police. It would also have wider communication benefits for both agencies.

RECOMMENDATION

The CPS should engage with BTP in a joint training initiative in relation to the CPIA and JOPI.

Persistent young offenders

- 4.64 There is a Government target, introduced in 1996, to halve the average time (that then existed) for dealing with persistent young offenders (PYOs) from arrest to sentence, from 142 to 71 days.
- 4.65 The average time period for cases dealt with in the magistrates' courts for 2002 shows 73 days for BTP cases, as against 61 for other regional police cases. 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. There are one or two noticeable exceptions; in October to December 2002 the BTP figure was 82 days as against 61, and from January to March 2003 this was 93 days as against 63.

- 4.66 Given the lower numbers of cases involved, it may well be that this swing may be caused by a very small number of “rogue” cases. Indeed, the April to June 2003 figure shows BTP to have an average of 50 days against 56 nationally. Nevertheless, these figures will have an impact on the overall figure when taken together in the statistics published by the Department of Constitutional Affairs.
- 4.67 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. Whilst we recognise that individual Areas are dealing with limited numbers of youth cases, the figures rehearsed above indicate that this is a situation that may need to be addressed in some, depending on the volume of PYO cases.

5 PERFORMANCE MANAGEMENT

- 5.1 It will be apparent from the previous chapter that various aspects of case management and handling raise performance issues. We sought evidence from the CPS Area questionnaire responses, and our interviews with personnel at the BTP AJUs and CPS units that we visited, as to what mechanisms, formal or otherwise, are in place to manage performance between the agencies.
- 5.2 Almost universally, the response received was that issues are dealt with on a case-by-case basis, usually by minutes being sent via the DX system. This will nearly always be a retrospective approach, with no wider learning from experience. The communication issues discussed early in this report also affect the impact of this approach. The reasons are the same as those for lack of structured liaison generally, i.e. the stretched lines of communication and difficulties for BTP AJU staff in dealing with an intensive local meetings programme.
- 5.3 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. This involves the completion of a form by prosecutors (TQ1) indicating whether or not a submitted file reaches standards of being fully satisfactory, sufficient to proceed or unsatisfactory. Compilation of this data should give evidence for informed, rather than anecdotal, discussion between the CPS and police, and indicate aspects for attention that may then be addressed by both agencies.
- 5.4 Most CPS Areas recognised the fact that, in respect of BTP, JPM is not used; nor are alternative structured performance measures in place. In London we did see evidence of the monitoring forms being present on files at the initial stage, albeit not completed. We were told that it was the practice to complete them and that they were collected in the office and sent on to the police in the usual way. There was not, however, any structure thereafter to use the information that might be gathered in order to improve file timeliness and quality. There are meetings on a six-week basis with the Metropolitan Police where JPM figures are available and discontinuance rates, attrition, discharged committals and trends are discussed. Similar arrangements exist elsewhere across the country with local police forces.
- 5.5 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.
- 5.6 This could be done, for instance, by having a lead CPS Unit Head representing a CPS family group, all of which correspond to one BTP AJU. This lead could act as a conduit for the issues raised by the different CPS Areas, discuss the assimilated JPM data with BTP and agree steps to improve performance. An illustration of this possible proposal can be found at **Annex 4**.

RECOMMENDATION

The CPS should engage in a formal joint performance management structure with BTP.

6 WITNESSES AND VICTIMS

Dealing with witnesses

- 6.1 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. We therefore looked at the practice and procedures in place to deal with the needs of witnesses and victims in BTP cases.

Witness warning

- 6.2 Where cases are to proceed to trial, whether in the magistrates' courts or the Crown Court, it is the practice for the CPS to advise the police of the witnesses who are required to attend court to give evidence. It is the current practice in BTP cases for those witnesses to be warned to attend court by BTP.
- 6.3 There can be inherent difficulties for BTP in carrying out this responsibility in some of their cases, particularly, for example, in relation to cases involving alleged offences committed on moving trains. This is simply because the witnesses on, say, a train travelling from the West Country to Scotland may be dispersed across the UK.
- 6.4 Nevertheless, although our attention was drawn to this difficulty, it was not raised as a major cause for concern by representatives of the CPS or BTP. Two points do, however, 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.
- 6.5 This not only eases the burden on BTP, and allows it the opportunity to deal with this issue more efficiently, but also facilitates witnesses being given appropriate and timely notice to attend court and will minimise disruption to them. This is important, as some greater distances than usual may be involved for the witnesses to get to court, for the reasons mentioned above.
- 6.6 We have also commented earlier in this report on the possibility of some written communications to BTP being inadvertently sent to local police forces. Clearly, if the written communication is an advice of witnesses required to attend court, this will inevitably cause delay in the warning of witnesses where the local force then forwards the requirement on to BTP. Confusion can be caused in those instances where local police, in fact, act upon the witness warning. Not only can it bemuse the witness who has had no connection with local police, but BTP can remain ignorant of the fact that the warning has taken place, and its systems to ensure acknowledgment by witnesses and, where necessary, "chase up" systems to assure attendance, will not be activated. Any arrangements necessary for the support of the witnesses may also be affected.

‘Block’ warning of witnesses

- 6.7 We were told that, in some cases, the CPS advise that all the witnesses in a case need to attend the trial, without apparently considering whether their evidence can be agreed, particularly where it is not contentious, under the provisions of section 9, Criminal Justice Act 1967.
- 6.8 Under this procedure, copies of the statements of witnesses can be served on the defence and, if no objection is raised, the witnesses’ evidence can be read to the court, and the witnesses do not have to attend court. There are time constraints on this procedure.
- 6.9 This is of great benefit to those witnesses who do not have the inconvenience of coming to court, but conversely it can be extremely distressing for witnesses to be warned to attend court, when their evidence could have been agreed and their attendance avoided. We therefore appreciate the concern raised about the perception of ‘block’ warning of witnesses.
- 6.10 It goes without saying that this is a practice that should be avoided. However, in the files that we examined we found that, in a number of instances, BTP had provided initial files that contained the names of potential witnesses, with or without an indication of the evidence they were likely to give, but without a copy of their statements. We appreciate that this is often because the person preparing the police file may not have the statement immediately to hand, but there is a need to provide a file to the CPS at the earliest opportunity.
- 6.11 In the event of a not guilty plea, this can place the CPS in something of a dilemma. It is unable to serve the witnesses’ evidence under section 9, even if this appears to be the most appropriate course, because there is no copy statement to serve upon the defence. Equally, if it asks for the statement, because of the increasingly stringent time constraints in many Areas, the delay in getting the statement will lead to the witness being warned at a late stage if their attendance is required, or may leave insufficient time to serve the statement under section 9.
- 6.12 The reasons for this perceived ‘block’ warning can therefore be misunderstood and, although we were told that it only occurs in a small number of cases, it is an issue that needs to be addressed by both BTP and the CPS. This is a practical example that would benefit from the improved inter-agency communication and the introduction of effective joint performance management that we have advocated earlier in this report, so that both sides can be fully aware of the issues and their cause, and can consider appropriate remedial action where necessary.

Special measures

- 6.13 As part of the drive to put the needs of witnesses and victims at the heart of the CJS, Chapter 1 of Part II, Youth Justice and Criminal Evidence Act 1999 contains a range of special measures to assist vulnerable and/or intimidated witnesses to give evidence.

- 6.14 Whilst these measures may apply equally to witnesses in BTP cases as those in other cases, we were told that because of the nature of the crimes frequently dealt with by BTP, it was unusual for the special measures provisions to apply. We did not see any such cases.
- 6.15 Nevertheless, both BTP and the CPS were aware of the need to ensure that cases involving vulnerable and/or intimidated witnesses are properly identified, and that appropriate applications are made.

Dealing with victims

- 6.16 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.
- 6.17 It was clear from the files we examined, that cases involving victims are being properly identified and flagged by CPS, so that appropriate letters can be sent where necessary. However, as mentioned above under discontinuance, we were told that in some cases BTP is not informed of decisions to amend or discontinue, particularly in relation to cases that are stopped in court (as opposed to being formally discontinued by notice under section 23, Prosecution of Offences Act 1985). In many cases, if AJU staff contact the CPS they will be given an explanation as to why a case has been stopped, but this is not universally the case.
- 6.18 This can also have an adverse impact on victims.
- 6.19 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.
- 6.20 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.
- 6.21 It is important, therefore, that BTP is kept informed of developments in its cases and, where victims are notified of decisions, BTP is also notified. All CPS Areas have a national framework and should have protocols in place with their local police for the operation of DCV. Within this, it is perfectly possible for copies of DCV letters to be

provided to the police so there can be no misunderstanding as to the information given to the victim. Since a lot of BTP cases involve victims, this may be a simple expedient for use by the CPS in BTP cases. In any event, the need to have a protocol in place applies equally to BTP as to other local forces.

RECOMMENDATION

In all cases where a decision is made to substantially alter the charges in a case, 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.

Aspects for improvement

- * **Implementation of a protocol agreed between CPS Areas and BTP for the operation of DCV.**

7 TRAINING

- 7.1 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.
- 7.2 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.
- 7.3 An example is training in the requirements of the CPIA relating to disclosure of unused material and the recent new JOPI referred to earlier in this report, in relation to which we have made a specific training recommendation. There are a number of other topics that might be considered as potentially benefiting from joint training following the introduction of new legislation and initiatives affecting the CJS, including the implementation of the special measures provisions for vulnerable witnesses and the introduction of charging centres following the recommendations in Lord Justice Auld's Criminal Courts' Review.
- 7.4 Although it is anticipated that training needs relate to those issues where the CPS are deemed to have the particular expertise, there may also be potential for BTP to provide training for CPS staff. An attempt has already been made by the BTP with the production of the video relating to crime on the railways, which has been made available to all CPS prosecutors, albeit with only limited success in raising awareness.
- 7.5 Joint engagement with BTP in relation to training, however, as with many other aspects of activity, has been very limited.
- 7.6 CJS agencies recognise the benefits from joint training initiatives, particularly in relation to issues that impact on more than one agency. The training of police officers is clearly the responsibility of individual police forces, but this has not of itself restricted progress in this field.
- 7.7 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 unlikely to be insurmountable, provided there is the will and a pro-active approach on both sides.
- 7.8 The lack of engagement in relation to training is, perhaps, symptomatic of the general lack of engagement with the BTP. Without formalised and effective joint performance management and effective channels to feedback information, training needs can easily be overlooked, so that improvement in performance, by CPS as well as BTP, becomes more difficult.

- 7.9 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. Because BTP is a national force, there might be benefits in such a strategy being led initially by CPS Headquarters, but this could thereafter be disseminated down through the individual CPS Areas (see **Annexes 3 and 4**).

RECOMMENDATION

The CPS, through national or local liaison structures, should consider a joint training strategy with BTP.

8 EQUALITY AND DIVERSITY

- 8.1 Neither CPS nor BTP representatives raised any concerns relating to equality or diversity issues. Similarly, the case files that we examined suggested that reviewing lawyers are properly applying the CPS policy on equality and diversity.
- 8.2 We examined three cases that related to racially aggravated or motivated offences, and these were all prepared and prosecuted properly.
- 8.3 In two cases, which we have referred to earlier in this report, BTP had charged an offence that did not contain a racial element, and had suggested that it was appropriate for the defendant to be cautioned. The reviewing CPS prosecutor correctly identified that the offence should be charged as a racially aggravated offence, and that a caution was inappropriate. In one case, this gave rise to a defence application to have the case stopped as being an abuse of process.
- 8.4 Whilst this demonstrated that CPS prosecutors are giving these sensitive cases the care and consideration they warrant, it was also an example where an effective performance management and training regime could benefit the effective prosecution of cases. Earlier decisions, although subsequently corrected, could have led to the case being lost for reasons that were peripheral to the offence, rather than on the merits of the case itself.

AJU/CPS AREA CORRELATION

AJU	CPS AREAS
<p>LONDON AND SOUTH EAST AREA (London)</p>	<p>Bedfordshire, Cambridgeshire, Essex Hampshire and the Isle of Wight, Hertfordshire, Kent London, Norfolk, Northamptonshire (part), Suffolk Surrey, Sussex, Thames Valley</p>
<p>NORTH EAST AREA (Newcastle)</p>	<p>Cleveland, Derbyshire (part), Durham Humberside, Leicestershire (part), Lincolnshire North Yorkshire (part), Northumbria Nottinghamshire (part), South Yorkshire</p>
<p>NORTH WEST AREA (Liverpool)</p>	<p>Cheshire, Cumbria, Greater Manchester Lancashire, Merseyside, North Yorkshire (part)</p>
<p>WESTERN AREA (Birmingham and Bristol)</p>	<p>BIRMINGHAM Derbyshire (part), Dyfed-Powys, Leicestershire (part) North Wales, Northamptonshire (part), Nottinghamshire (part) Staffordshire, Warwickshire, West Mercia, West Midlands</p> <p>BRISTOL Avon and Somerset, Devon and Cornwall, Dorset Gloucestershire, Gwent, South Wales, Wiltshire</p>

**BRITISH TRANSPORT POLICE PERSONNEL
WHO ASSISTED IN OUR REVIEW**

BTP Headquarters

Mr P Robb, Assistant Chief Constable (Crime)
Inspector S Hale
Inspector J Millar

BTP Administration of Justice Units

London and South East Area AJU

Superintendent J Hennigan
Sergeant G Rose
Ms I Onwuazor
Ms T Herath

North East Area AJU

Sergeant I Mellish
Ms M Dudgeon

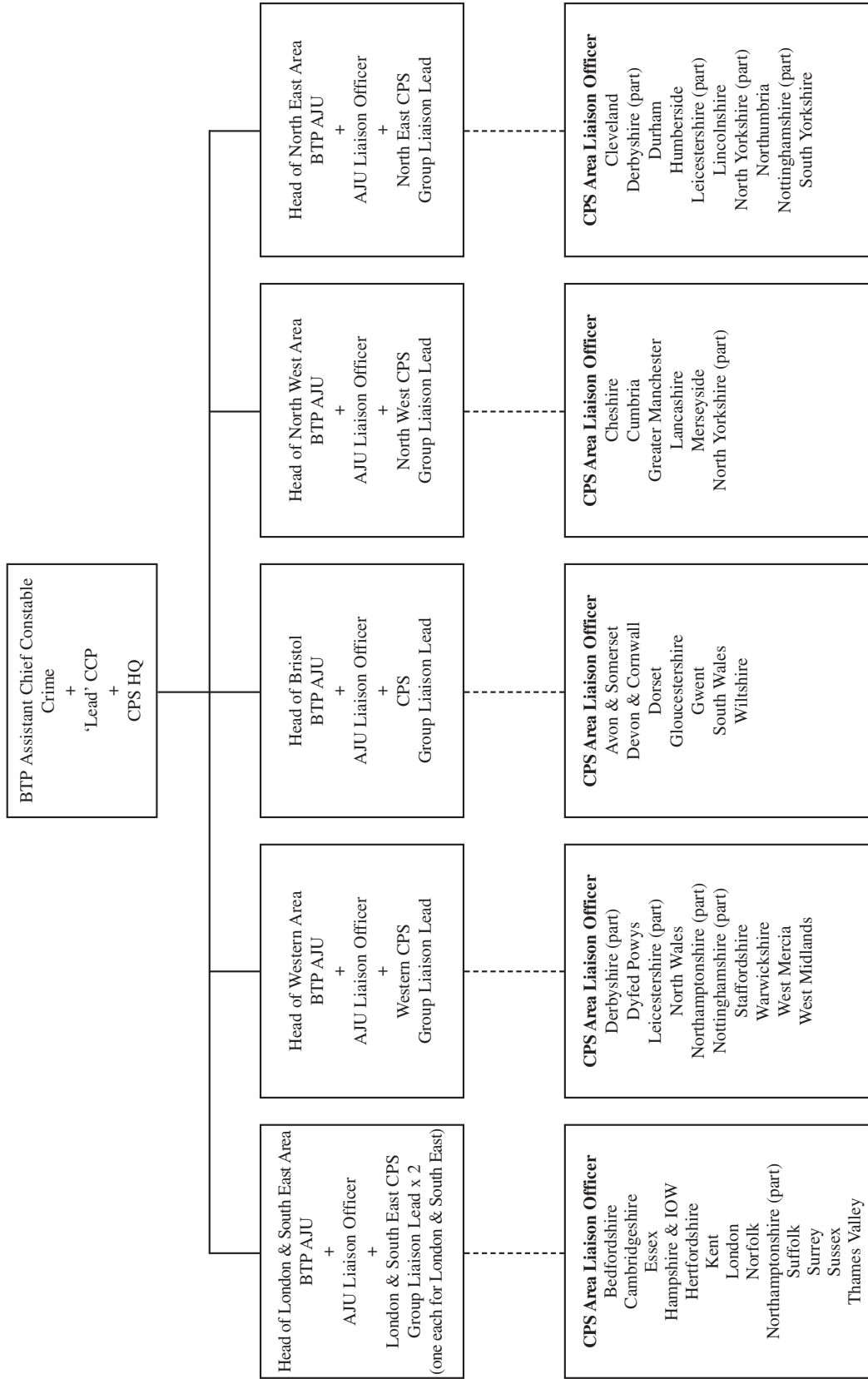
North West Area AJU

Inspector J Bolt
Sergeant R Pook

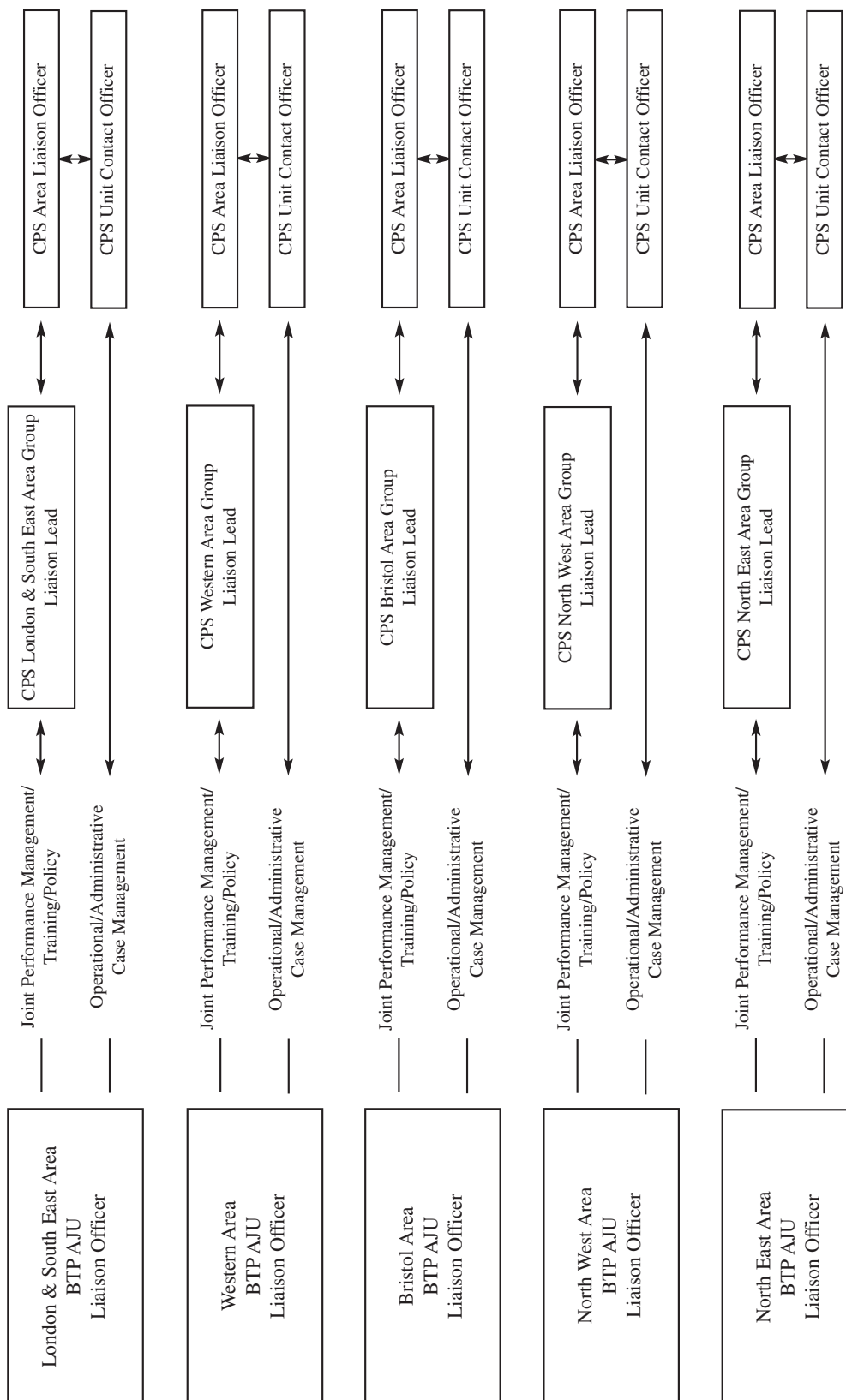
Western Area AJU

Inspector J Hugginson, Birmingham
Sergeant S Partridge, Bristol
Ms M Newcombe, Bristol

NATIONAL BTP/CPS LIAISON MODEL



LOCAL BTP/CPS LIAISON MODEL



GLOSSARY OF TERMS

ASPECT FOR IMPROVEMENT	<p>A significant weakness relevant to an important aspect of performance (sometimes including the steps necessary to address this).</p>
GOOD PRACTICE	<p>An aspect of performance upon which the Inspectorate not only comments favourably, but considers that it reflects a manner of handling work developed by an Area which, with appropriate adaptation to local needs, might warrant being commended as national practice.</p>
RECOMMENDATION	<p>This is normally directed towards an individual or body and sets out steps necessary to address a significant weakness relevant to an important aspect of performance (i.e. an aspect for improvement) that, in the view of the Inspectorate, should attract highest priority.</p>



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