



Report of the Inspection of the Counter Terrorism Division of CPS Headquarters

Executive Summary

April 2009

Background

The Crown Prosecution Service (CPS) Counter Terrorism Division (CTD) was set up in 2005 as one of three separate divisions (along with Special Crime and Organised Crime) within Central Casework, which replaced the Casework Directorate. The Head of Counter Terrorism reports to the Director of Public Prosecutions (DPP). The three divisions provide centres of excellence and deal with those complex, serious and sensitive cases that for operational or resource reasons are better dealt with by CPS Headquarters rather than by individual areas. CTD specialises in prosecuting terrorism cases, which have been increasing rapidly in numbers and complexity over the last three years. The division also handles all cases involving incitement to racial and religious hatred, war crimes, genocide and related offences, prosecutions under the Official Secrets Acts and hijacking.

Most cases are referred directly from dedicated investigators and there are guidelines for referrals. The nature of terrorism investigations means that the reviewing lawyer is almost always involved at an early stage. Lawyers liaise closely with investigators to determine potential courses of action and evidence gathering. This means that CTD is very much at the forefront in combating terrorism and bringing offenders to justice.

Casework

The quality of decision-making is very good. The advice to police and review notes are detailed, setting out the relevant facts and law and reasons for decisions in a logical format. The quality of advice is monitored by managers who approve each review note. Standards in general are excellent.

Post-charge case management is routinely good. Lawyers and caseworkers are proactive in progressing cases and court directions are generally complied with. Many defendants are detained in custody pending trial and custody time limits are closely monitored. There have been no custody time limit failures.

CTD handles its duties in relation to the disclosure of unused material to the defence well. It applies the provisions of the Criminal Procedure and Investigations Act 1996 appropriately whilst adopting a helpful approach to the defence. A record of disclosure actions is maintained, although this is not always kept on the main file with other disclosure papers.

Case presentation

When a case is contested the caseworker attends court on a daily basis. The trend to move cases away from London to regional courts means that CTD needs to establish firmer links with some centres to ensure that caseworkers have access to necessary facilities and that arrangements for the receipt and storage of documents at court ensure security. Measures had already been put in hand to address this.

CTD lawyers are encouraged to act as advocates in their own cases according to their experience, ability and availability. Higher court advocates have acted as junior counsel in a number of cases. The division has been proactive in developing the skills of its in-house advocates. The standard of both in-house and external counsel reflects their considerable skill, experience and ability in this type of casework. Instructions to counsel are comprehensive and detailed and are often part of a staged process which involves counsel in planning and strategy for prosecutions.

Sometimes evidence in trials is presented electronically using computer generated images to depict events, conversations etc. This can be expensive but can save money by reducing trial times as well as simplifying issues for a jury. Most of the cost is borne by the prosecution team.

Learning lessons from casework is a strength and the division is prepared to be very self critical. Post-trial case conferences are held after every trial to identify what was done well and also those aspects which should have been done better.

Specialist offences

CTD deals with a number of specialist offences in addition to terrorism. These include allegations of war crimes and genocide, violent extremism and Official Secrets Acts cases. Letters of request for evidence or extradition of suspects from other countries are not uncommon and are handled well. There are champions and specialists for all categories of case.

The division handles prosecutions against those accused of breaching control orders, which restrict the movement and activity of persons suspected of being engaged in terrorism but who have not been charged. They also undertake reviews of potential evidence obtained against such persons. Although there are relatively few cases often urgent action is required. The operation of control orders is reviewed annually by Parliament. The role of CTD is viewed positively.

Victims and witnesses

The Secretariat-based witness care unit is shared with the other two Central Casework divisions. There are very few civilian witnesses in CTD cases and most aspects of witness care are dealt with by the police. The police are happy to do this in most instances and have the procedures and experience to do it efficiently. It is nevertheless important that CTD retains a role in looking after witnesses at court. This should involve more proactive engagement with those giving evidence, both in assessing their needs before court and in keeping the witnesses informed of the progress of case throughout their attendance.

In some very sensitive cases CTD has shown an ability to respond innovatively to assist victims to cope with traumatic occurrences. Special measures are identified early and every effort is made to assist the giving of evidence despite often significant obstacles.

Resource management

The importance of CTD's work ensures that it is adequately funded despite the high costs involved. Nevertheless the division rightly has to account carefully for the expenditure it incurs. Resources are used effectively and value for money principles are clearly apparent in the close scrutiny of costs.

Staff have a professional approach to their cases, often working very long hours because of their commitment and dedication. The level of sickness absence is below the national average. Whilst managers allow flexibility in working arrangements to give a proper work-life balance, the nature and demands of the work sometimes make this difficult to achieve.

The number of staff has increased considerably. Achieving and retaining the skilled staff to fulfil the demands of this difficult work is not easy. The division has taken lawyers on secondment from elsewhere in the CPS with a view to their developing expertise which can later be called upon if needed, should there be a sudden upturn in work. However many in fact become permanent staff. A strategy for developing a cadre of lawyers with CTD experience who could return to the division if an upturn of work suddenly occurs should, nevertheless, be considered.

Performance management

Although the volume of cases is small when compared with the average CPS area, most are large and complex and can take many months to prepare; trials may last several weeks. Managing performance in order to improve must concentrate on a case-by-case basis using monthly reports rather than the number of cases. The monthly casework report is considered in management team meetings alongside financial and administrative information. Greater comparison of performance with other specialist departments or CPS group complex casework units could be beneficial.

The casework management system (xCMS) is rarely used other than for registering case details. It is, with justification, considered to be unsuited to the needs of the CTD. In contrast the use of the division's shared drive on the CPS internal intranet as an electronic repository for exchanging knowledge and expertise is of particular benefit. Many staff contribute information or samples of prepared documentation which assist their colleagues, which is of particular value to new members of staff. The drive needs to be regularly updated to ensure relevance.

Leadership and community engagement

Senior managers are highly regarded by their staff, CPS colleagues and external partners for their dedication and commitment. Effective partnerships have been developed both at home and abroad. The managers meet regularly with key partners within government agencies to address concerns and devise strategies to counter global terrorism and other serious casework. CTD's reputation is high and requests for help and training from other prosecuting authorities across the world are common.

Whilst the division does not have a local neighbourhood the nature of the work affects different community groups. Community engagement is focused where a need is determined. Activity is diverse and frequent. To ensure that a consistent approach is given to both communities and the media, the national lead on violent extremism takes responsibility for this work alongside the Head of Division.

Conclusions, recommendations, aspects for improvement, strengths and good practice

In assessing CTD's performance inspectors have taken into account that it is difficult to equate the level and nature of the caseload and resources to undertake it with other CPS units or areas. Overall the division undertakes its role to an exceptionally high standard. It will be difficult for generalist units to aspire to this although there is much in the report which should commend itself to them.

When identifying good practice inspectors have sought to commend those aspects of the division's work which we consider could be of particular benefit to other specialist units within the CPS, for example the other Central Casework divisions and complex casework units.

Inspectors make recommendations about the steps necessary to address significant weaknesses relevant to important aspects of performance, which are considered to merit the highest priority. The report makes four to help improve CTD's performance.

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- 1 Counter Terrorism Division should ensure that the disclosure record sheet or other written record of disclosure decisions and actions is retained on each case file, or is kept securely if necessary (paragraph 4.29).
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2 CounterTerrorism Division should ensure that whenever documents are forwarded to court in advance of trial there are appropriate arrangements for their receipt, handling and secure storage (paragraph 5.15).

3 CounterTerrorism Division, in conjunction with the Special Crime and Organised Crime Divisions, should:

- set out definitive guidelines as to the role and responsibilities of the witness care unit and ensure all staff are familiar with them;
 - ensure all witness care officers receive appropriate training as soon as practicable to enable them to perform their functions effectively; and
 - develop systems to enable the divisions to undertake analysis of No Witness No Justice measures in compliance with the Victims' Code (paragraph 7.5).
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4 CounterTerrorism Division's managers should continue to work with Business Information Systems Directorate to improve the functionality of the case management system to ensure all core actions are recorded and monitored and that the system is fit for the division's use (paragraph 9.4).

We identified one aspect for improvement.

1 The approval of charging decisions by the Head of Division or Deputy Head of Division should be recorded with the case papers and annexed to the review decision (paragraph 3.20).

We found five strengths.

1 The availability of CounterTerrorism Division prosecutors at all times to provide investigative and evidential advice to the police pre-charge (paragraph 3.11).

2 The high quality of decision-making and detail of review notes (paragraph 3.15).

3 CounterTerrorism Division's approach to casework review and decision-making involves early participation in the investigation process and quality assurance of decisions by senior managers throughout the life of the case (paragraph 9.6).

4 The leadership demonstrated by the Head of Division and the management team displays a high degree of commitment to the prosecution of high profile complex cases. This level of commitment also manifests among staff (paragraph 10.14).

- 5 Counter Terrorism Division's involvement in community engagement and liaison with agencies nationally and internationally is both extensive and necessary. Senior managers have demonstrated that this aspect of work is core to its business and are highly respected externally by its stakeholders (paragraph 11.11).
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Two aspects of good practice were also identified.

- 1 Post-trial case conferences highlight good practice in the investigation and prosecution of terrorist offences and analyse issues to determine where lessons can be learned and improvements made (paragraph 4.43).

 - 2 Counter Terrorism Division's use of electronically presented evidence to explain issues in the trial to the court and jury and to save court time (paragraph 5.23).
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The full text of the report may be obtained from the Corporate Services Group at HMCPsi Inspectorate (telephone 020 7210 1197) and is also available on line at www.hmcp.si.gov.uk.