



# CPS ESSEX

THE INSPECTORATE'S REPORT ON  
CPS ESSEX

EXECUTIVE SUMMARY

AUGUST 2007

## Introduction

This is the report of Her Majesty's Crown Prosecution Service Inspectorate's (HMCPIS) inspection of CPS Essex (the Area), carried out in January 2007.

There are two types of inspection. A full one considers each aspect of Area performance within the Framework, while a risk-based inspection considers in detail only those aspects assessed as requiring scrutiny. This is based on HMCPIS's overall performance assessment (OPA) and other key data.

The OPA of CPS Essex, undertaken in November 2005, assessed the Area as "Poor" and as a result of this it was determined that the inspection should be a full one.

The OPA report identified a total of 56 aspects for improvement. In the course of this inspection, inspectors assessed the extent to which these have been addressed.

## Overview

CPS Essex has made progress since the OPA. The Area has embarked on a comprehensive programme of change and improvement, and a clear vision has been set and communicated to staff. The management team has changed and is now rather more cohesive and focussed on improving performance across the board. There had been some improvements in staffing through recruitment, but loss of staff and high sickness levels have reduced the impact of this, and the balance of staff and caseloads between prosecution teams are uneven. The Area is about to undertake a significant programme of change, which managers believe should give better flexibility and resilience of staff, and return the processing of key administrative functions back to the CPS. There is a high risk to this - the change process needs to be effectively managed and controlled, with more structured assessment of risks and benefits.

The quality of advice to police and decisions on charging have improved and some of the benefits from statutory charging are starting to be seen. The conviction rate in the magistrates' courts and in the Crown Court has continued to improve since the OPA, but is still well below the national average in the Crown Court. The collation and assessment of performance management information has improved significantly, however, the inaccuracy of case finalisations is significantly hampering the Area's assessment of its own performance. Budgetary controls have improved and payment of fees is undertaken expeditiously.

The quality of decision-making in both the magistrates' courts and Crown Court file sample was variable. Whilst some cases demonstrated thorough early review and case progression, some were poorly considered, reviewed inadequately and late. This is a significant contributing factor to the adverse outcome rate and can undermine public confidence in the CPS. Lack of clear case 'ownership' and lawyer and Crown Court caseworker shortages hamper effective case review and progression. The handling of disclosure is generally late and some disclosure failures were apparent. There are long periods between listing for trial and the trial date itself in the magistrates' courts, which can impact adversely on victim care and the attendance of witnesses.

There is a lack of formal performance monitoring undertaken by District Crown Prosecutors (DCPs). Casework Quality Assurance (CQA) reviews and adverse outcome analysis are not used effectively to address trends in performance on a team or Area level. Compliance with judges' orders is not monitored effectively, and as a result repeated failures are often missed.

Under specific headings inspectors' findings were as follows:

### **Pre-charge advice and decisions**

Essex piloted pre-charge advice in 2002 and moved to statutory charging in December 2005. Since then good progress has been made. The quality of advice given on bail cases has improved, but remains variable, and the practice of conditional charging has been eradicated. These factors have led to an improving monthly trend in the key performance measures during 2006. Sustained improvement will require more effective 'gate keeping' and quality assurance systems, and improvement in the quality of action plans and post-charge review in custody threshold test cases.

Face-to-face advice to the police is provided in eight charging centres, but a recent review has concluded that not all sites are being fully utilised. The Area has recently undertaken a review of the scheme and has secured agreement with the police to merge coverage of a number of the charging centres to increase efficiency. The Area has recognised the risk to the development of the 'prosecution team' ethos between the police and CPS and considers that the prosecution team performance management structure is capable enough to resolve any issues or frictions that arise from the changes. This will need to be monitored.

### **Casework in the magistrates' courts**

Performance in the magistrates' courts is generally at the national average or slightly better. The quality of summary trial reviews is variable, both within individual teams and across the Area as a whole. Only limited review of adverse outcomes is undertaken. There has been an increase in the rate of convictions to 84.2% and Essex remains better than the national average of 83.9%. Discontinuance rates also remain better than the national average.

The cracked trial rate is considerably better than the national average. Performance with regard to reducing ineffective trials has declined recently, at 21.8% compared to the national average of 19.4%. However, the number of cases where this is attributed to prosecution fault remains better than the national average. Performance in regard to the target for persistent young offenders has been consistently very good, most recently standing at 48 days from arrest to sentence, and at 60 days for the year 2006.

### **Casework in the Crown Court**

The quality of review and decision-making in the Crown Court is very variable. Late receipt and preparation of papers hampers effective review and case progression. The rate of convictions has improved to 74.5%, but remains worse than the national average of 77.3%. There is only limited analysis of the reasons for case failure. The standard of instructions to counsel remains very poor, with only superficial case analysis and consideration of alternative pleas.

Systems for ensuring compliance with court orders are not working effectively and correspondence handling is not always timely. Nevertheless, improved performance in reducing the number of ineffective trials has been achieved by effective partnership working, resulting in performance that has been consistently better than national average at 8% compared to 12.7%.

The Area, in conjunction with the police, have recovered proceeds of crime to the extent of £506,719 in the year to December 2006, exceeding its financial target for 2006-07.

### **Presenting and progressing cases at court**

The quality of in-house advocacy observed by inspectors was good and prosecutors are committed to progressing cases in court. The practice of briefing counsel in the Crown Court on the morning of the plea and case management hearing and the late arrival of case files for agents in the magistrates' courts adversely affects the quality of their case presentation. There is no systematic monitoring of advocates.

The standard of facilities for CPS advocates in some magistrates' courts is poor, although facilities seen in all Crown Courts were generally good.

### **Sensitive cases and hate crime**

The Area deals appropriately with sensitive cases, including homicide, rape, child abuse, racially and religiously aggravated and homophobic cases, applying the principles of the Code for Crown Prosecutors and CPS policy correctly.

The CPS has taken the lead in the proposals for setting up a domestic violence court in Essex, which is to commence in April 2007.

### **Disclosure of unused material**

Overall compliance with the duty of disclosure of unused material has declined since the last inspection in 2003. There was significant variation in the quality of disclosure decisions and endorsements seen within the file sample. In a number of files, the provision of initial disclosure was late, which affected case progression. In the Crown Court, failure to disclose unused material is a key contributing factor to ineffective trials due to the prosecution, and the proportion of cases where this occurs is worse than the national average.

### **Custody time limits**

The handling and monitoring of custody time limits (CTLs) has improved and no failures have been reported since November 2005. A comprehensive review and training programme was delivered in February 2006 and further training has since been carried out. DCPs undertake dip sampling and report some improvement on CTL handling.

Examination revealed two cases where time limits had been calculated incorrectly; fortunately the cases were concluded prior to the date being reached.

Protocols covering the handling of CTLs in both the magistrates' and the Crown Court have recently been signed, which is a positive move.

### **The service to victims and witnesses**

The standard of care provided to victims and witnesses in Essex is good, with effective implementation of the No Witness No Justice initiative and timely and effective provision of information. The Witness and Victim Experience Survey, undertaken in August 2006, demonstrated consistently high levels of satisfaction with the way witness needs had been met.

Letters are not always sent to victims following the dropping, or substantial alteration, of a charge and the quality of the letters is variable. Victim personal statements were not always present in relevant files for prosecutors to consider or place before the court. The Area has raised this issue with the police.

The provision of witness availability to the courts and to the Witness Service is variable, with some delays in submission of the information affecting early court listing and the provision of witness care.

### **Delivering change**

The Area's comprehensive Business Plan is harmonised with those of criminal justice partners and national and local targets are addressed. Staff objectives are linked to the plan, but business planning could be extended usefully to the four geographic prosecution teams. Joint initiatives with partners have been successful and this has been assisted by incisive reviews. Other collaborative projects are ongoing and several inter-agency protocols have been agreed during the year:

To improve efficiency Area managers have decided to revert from co-location with police, as this is now considered to be an impediment to further sustained progress. A centralisation programme is currently being implemented, but planning and benefits monitoring need to be more clearly developed and defined. The risks to the administration capability are considerable.

Priority legal training has been given and administrative staff are becoming multi-skilled by 'on-the-job' training. This would be assisted by more formal contextual training, which should be delivered by Area champions. Staff understand their roles and good induction is provided.

### **Managing resources**

There are robust financial management procedures and periodic reports are prepared for consideration by the Strategic Management Team. For the current financial year (2006-07) CPS Essex is under spending its non-ring fenced administrative budget, which is mainly due to the low number of lawyers employed. Although recruitment is ongoing, gains have been offset by staff attrition and sickness. The prosecution cost budget is under spent at present as additional sums have been allocated for high cost cases in progress.

Some aspects of value for money are covered by the Business Plan and improvement initiatives have led to better performance. Higher Court Advocate usage and related earnings are good, however, there is scope for increasing the number of designated caseworkers (DCWs). The low numbers of CPS lawyers and DCWs have resulted in high agent usage. The staff/work ratio between the four prosecution teams is not well balanced, with some staff carrying high caseloads and working excessively long hours. Staff sickness is high and the management procedure is not being applied fully; however there has been some improvement over recent months.

### **Managing performance to improve**

Senior managers have extended the CPS Headquarters' performance reporting system into Essex's prosecution teams, supported by a comprehensive Area performance report. Steady progress has been made in improving performance, and the Area is meeting a number of its own and shared targets. It is addressing finalisation backlogs but action is required to improve data quality. Responsibilities for reviewing/checking work need to be strengthened at team level. CQA and adverse case analysis needs to be undertaken more effectively.

The Area collaborates effectively with partner criminal justice agencies, with staff participating at board and action team level; there is also constructive bilateral working with the police and courts.

### **Leadership**

A comprehensive programme of change and improvement is underway in response to the "Poor" OPA and a clear vision has been set and communicated to staff. A governance pack has been produced to improve transparency of management and what is expected of staff. Senior managers are committed to improvement, which is recognised by criminal justice partners, and there is effective collaborative working. Collegiate management arrangements at strategic and operational level are satisfactory. However, more corporacy is required to bring effect to Area performance and delivery policies at team level.

The Area has decided to revert from the co-location arrangements with Essex Police and is engaged on a comprehensive change programme to give it greater control over its own processes and to improve Area ethos. More attention needs to be given to the new staffing profile and its affordability.

The Chief Crown Prosecutor acts as the Area's Equality and Diversity Champion and these issues are integrated into the Area's People Policy. A race equality document has been produced which sets out Area actions and work is ongoing with local groups.

### **Community confidence**

The Area has become more pro-active in its effort to secure community confidence and has addressed this within its Business Plan. The Area Business Manager is now responsible for co-ordinating all community engagement activities. The Area is now taking steps to engage more with community groups. There are clear signs of a commitment to drive the initiative forward.

There is no separate measure of public confidence in the CPS, but confidence in the ability of criminal justice agencies in bringing offenders to justice in Essex has fallen back to 40% in September 2006, from 44% in March 2006. Whilst this still meets the national target of 40%, it is below the national average of 44%.

Responses to complaints are undertaken by DCPs and are generally timely. Complaints are analysed to secure improvement. A more consistent approach across the Area would help raise public confidence.

### **Added value of the CPS locally**

Essex CPS has played an active part in the development and delivery of local criminal justice initiatives. Senior managers work collaboratively with other criminal justice agencies and the focus and achievement of the Essex Criminal Justice Board has secured improvement through joint working in reducing cracked and ineffective trials and in the setting up of a specialist domestic violence court. The Area's focus, jointly with the police, on the recovery of the proceeds of crime ensured the target for 2005-06 was met, and the financial target for 2006-07 has also been reached.

The benefits of CPS pre-charge decision-making are starting to be seen. Resources are now being deployed more effectively and systems for monitoring performance are effective. CPS Higher Court Advocates are generally held in high regard and contribute to the smooth running of plea and case management hearings. However, further value can be added by more focussed and timely review and case progression in the Crown Court, by scrupulous compliance with the duties of disclosure of unused material, and consistently high standards of case preparation.

### **Equality and diversity issues**

Area policy and expectation with regard to equality and diversity is fully integrated into its People Policy. The workforce is representative of the Essex community as a whole in terms of gender, ethnicity and disability. In particular the Area has been successful in increasing the proportion of prosecutors from minority ethnic communities and representation is now above the local benchmark. The Area recognises that further progress needs to be made concerning representation amongst administrative staff and targets have been set. It is taking steps to engage with local interest groups and minority communities, with a view to increasing their confidence in the criminal justice system. There is recognition of good performance and staff are aware of their own contribution towards Area performance and improvement.

### Follow-up from previous report

Inspectors identified 56 aspects for improvement (AFIs) at the time of the OPA. Three are no longer relevant; five have been fully achieved, with substantial progress made in another 17; there has been limited progress in 25 and none in the remaining six. Some aspects of poor performance, such as improvement in the quality of instructions to counsel, have been flagged as requiring attention since the inspection in November 2003.

### Recommendations and aspects for improvement

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, and have made nine recommendations to help improve the Area's performance.

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- 1 Duty prosecutors are more proactive in identifying evidential defects, setting clear action plans and advising on ancillary matters.  
  
Managers systematically quality assure pre-charge decision cases, including those where no further action is advised (paragraph 3.11).

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  - 2 Area managers should develop systems to increase the continuity of prosecutor in pre-charge advice cases and to support case ownership following the decision to charge (paragraph 3.19).

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  - 3 Crown Court prosecutors provide good quality instructions to counsel and District Crown Prosecutors monitor this effectively (paragraph 5.29).

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  - 4 District Crown Prosecutors ensure that all agents and counsel are properly instructed in advance of each hearing (paragraph 6.5).

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  - 5 Lawyers should comply with the duties of disclosure of unused material in all cases and District Crown Prosecutors should monitor this effectively and provide feedback to individuals (paragraph 8.10).

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  - 6 The Chief Crown Prosecutor ensures that to facilitate the major changes in Area structure and staff location:
    - work stream planning is completed;
    - quantified business calculations are undertaken and staff/work imbalances across all disciplines and between teams are taken into account;
    - there is documenting and tracking of main risks; and
    - a performance baseline is established as at October 2006 and adverse changes during implementation are monitored (paragraph 11.9).

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  - 7 Senior managers should continue to recruit lawyers and secure additional staff, and use long term secondments from preferred sets of chambers, wherever possible (paragraph 12.7).

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8 The Chief Crown Prosecutor and Area Business Manager ensure that responsibilities for operational effectiveness are fully defined by clear terms of reference for District Crown Prosecutors and the Secretariat Manager. These terms of reference should be included in the Area governance pack (paragraph 13.7).

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9 The Chief Crown Prosecutor and District Crown Prosecutors adopt a meaningful approach to Casework Quality Assurance and implement it with determination (paragraph 13.17).

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Inspectors additionally identified 21 aspects for improvement within the Area's performance.

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1 Discharged committal cases should be analysed by a District Crown Prosecutor; considered for re-instatement, and lessons learned (paragraph 4.20).

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2 Files should be delivered to agents to allow sufficient time to prepare for trial (paragraph 4.28).

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3 The timeliness of file preparation, correspondence handling and compliance with judges' orders and directions (paragraph 5.21).

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4 The monitoring of prosecution advocacy in the magistrates' courts by District Crown Prosecutors needs to be systematic and recorded (paragraph 6.13).

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5 There are inadequate facilities for prosecution advocates at three magistrates' courts (paragraph 6.13).

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6 The roles and duties of Area champions should be fully defined and form part of the individuals' forward job plans (paragraph 7.13).

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7 Accurate calculation of custody time limits in all relevant cases (paragraph 9.8).

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8 Requests for victim personal statements are made in all appropriate cases (paragraph 10.4).

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9 The timeliness of special measures applications (paragraph 10.5).

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10 Ensuring counsel and agents undertake the advocate's duty under the Prosecutors' Pledge in relevant cases (paragraph 10.11).

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11 Prosecution team plans are needed to address variations in performance (paragraph 11.4).

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- 12 Area champions to be more active in producing more formal contextual training for administrative staff (paragraph 11.12).
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- 13 Area managers review deployment issues to maximise staff availability between the teams and to ensure effective lawyer development (paragraph 12.11).
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- 14 Designated caseworker staffing needs to be increased to meet available session allocation (paragraph 12.11).
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- 15 The Area needs to review the sickness handling process to ensure records are complete and appropriate actions are timely, and should consider setting achievable team sickness absence targets (paragraph 12.12).
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- 16 District Crown Prosecutors to undertake thorough review of case outcomes and systems drawing out learning points and trends, for sharing with criminal justice partners and staff (paragraph 13.7).
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- 17 Area data is cross-checked using wider sources including the Essex Criminal Justice Board (paragraph 13.11).
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- 18 Finalisation accuracy needs to be improved and specific monthly dip sampling checks need to be undertaken by team managers to improve data quality (paragraph 13.16).
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- 19 A more focussed approach to informing staff of performance achievement against targets needs to be considered (paragraph 13.16).
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- 20 During the change programme the Area needs to publish and maintain the answers to frequently asked questions to provide a definitive source of information for staff (paragraph 14.10).
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- 21 Training for all District Crown Prosecutors in drafting responses to complaints should be provided (paragraph 15.8).
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### Good practice and strengths

Inspectors have identified one aspect of good practice that might warrant adoption nationally.

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- 1 The Area has extended the CPS Headquarters quarterly performance reporting system into the four geographical prosecution teams and the assessment criteria is revised and agreed each year by the Strategic Management Team. In preparation for the quarterly reviews, team managers self assess performance and the Chief Crown Prosecutor and Area Business Manager scrutinise progress with team managers at the review meeting (paragraph 13.3).
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Nine strengths were also found.

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- 1 There are good joint working relationships between the police and CPS at county and district level (paragraph 3.22).

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  - 2 Good, consistent file 'housekeeping' across the Area (paragraph 5.3).

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  - 3 The Area's handling of complex casework (paragraph 5.13).

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  - 4 Area performance on asset recovery (paragraph 5.18).

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  - 5 Area performance on increasing effective trials and reducing cracked and ineffective trials.  
The positive trial readiness assessment meetings (paragraph 5.32).

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  - 6 The quality of higher court advocacy is good (paragraph 6.13).

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  - 7 The quality and timeliness of support and information to witnesses provided by the Witness Care Units (paragraph 10.9).

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  - 8 A comprehensive performance report underpins Area reviews (paragraph 13.7).

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  - 9 The creation of the Area governance pack (paragraph 14.10).

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The full text of the report may be obtained from the Corporate Services Group at HM Crown Prosecution Service Inspectorate (telephone 020 7210 1197) and is also available on line at [www.hmcp.si.gov.uk](http://www.hmcp.si.gov.uk).