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## **PREFACE**

Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) was established by the Crown Prosecution Service Inspectorate Act 2000, which came into effect on 1 October 2000, as an independent statutory body. Previously, the Inspectorate had been a unit within the Crown Prosecution Service (CPS) Headquarters. The Chief Inspector is appointed by and reports to the Attorney General.

HMCPSI's role is to promote the efficiency and effectiveness of the CPS through a process of inspection and evaluation; the provision of advice; and the identification and promotion of good practice. It achieves this primarily through an Area inspection programme operating a two-year cycle during which it visits and publishes reports on each of the 42 CPS Areas and the Casework and Policy Directorates at CPS Headquarters. It also maintains a programme of thematic reviews and each year conducts a number of inspections jointly with other criminal justice inspectorates.

Although the inspection process focuses mainly on the quality of casework decision making and casework handling, the Inspectorate also looks at matters that go to support the casework process. Business management inspectors are specialists in the fields of management, human and financial resources, and corporate planning; they examine aspects of the Areas' performance based on themes relating to management and operations; these are in addition to the more casework-orientated themes that are examined by legal inspectors.

HMCPSI also invites suitably informed members of the public nominated by national organisations to join the inspection process as lay inspectors. These inspectors are unpaid volunteers who examine the way in which the CPS relates to the public, through its dealings with victims and witnesses, its external communication and liaison, its handling of complaints and its applications of the public interest test contained in the Code for Crown Prosecutors.

HMCPSI employs 39 members of staff and has offices in London and York. The London office has two groups which undertake Area inspections in the Midlands and Wales, and in Southern England. The group based in York undertakes Area inspections of Northern England. Both offices undertake thematic reviews and joint inspections with other criminal justice inspectorates. At any given time, HMCPSI is likely to be conducting six Area inspections and two thematic reviews, as well as joint inspections with the other criminal justice inspectorates.

The Inspectorate's reports commend high quality work, identify good practice and make suggestions and recommendations where CPS performance needs to be improved. The distinction between recommendations and suggestions lies in the degree of priority that HMCPSI considers should be attached to the proposals, with those matters meriting highest priority forming the basis of recommendations.

## **THE INSPECTION**

- 1.1 This re-inspection of CPS Gloucestershire follows our full inspection conducted in March and April 2000 and our report 3/2000 which was published in July 2000.
- 1.2 The re-inspection was designed to ascertain the extent to which the Area had improved certain important aspects of its performance, and whether it had implemented our recommendations and suggestions from our earlier report. These are set out in Annex One.
- 1.3 To a large extent inspectors measured the Area's performance against its own action plan. Inspectors conducted only a very restricted file examination and limited interviews with individuals either inside or outside the CPS.

## INTRODUCTION

- 2.1 There has been an improvement in a number of aspects of the performance of CPS Gloucestershire, with some recommendations and suggestions being fully implemented. In other matters, there has been a partial improvement. Some aspects still require a lot more effort and work. Some monitoring and analysis is being done, but it does not appear to be systematic or fully effective.
- 2.2 The Area action plan, in response to our last report, was late in being developed, and in certain respects was even later in efforts being made to implement it. Our suggestions were not addressed in the plan. Some initiatives, such as the duty lawyer scheme, were implemented immediately. Changes in management held matters back, and actions set for September, October and November were put back because of difficulties reported by staff. This meant that many responses to our recommendations were not targeted for implementation until January this year. Further, not everything has actually been implemented.
- 2.3 The Area Management Team (AMT) is meeting more regularly and discussing relevant issues, but appears not to be fully effective or cohesive, as there was evidence of agreed action points not being followed through.
- 2.4 The quality of review decisions remains sound overall. However, we still have concerns about the timeliness and effectiveness of initial and continuing review. This has contributed to the very high number of cracked and ineffective trials in the magistrates' courts (up to 80%). The standard of review endorsements remains poor.
- 2.5 An early decision was made in June to introduce a duty lawyer scheme. This was seen as a way of ensuring that more cases were prepared expeditiously. This has improved some aspects of casework, such as the timeliness of advice to police, but it has meant that there is little real file ownership in the magistrates' courts team.
- 2.6 Certain aspects of case preparation have improved, notably the standard of instructions to counsel, albeit the standard needs to rise further. Positive work has been undertaken in relation to the disclosure of unused material, but further guidance, monitoring and feedback is required in order to achieve a consistent standard.
- 2.7 The Area has made some progress in seeking to improve the accuracy of its performance indicators (PIs), although it is still recording minor traffic cases contrary to national guidance and this is significantly increasing the case inputs and discontinuance rate of the Area. We gained little assurance as to the implementation of the provisions of the Magistrates' Courts (Procedure) Act 1998.

2.8 We commend the improvements brought about and the efforts made to achieve these. Overall, however, significant improvements in accountability for decisions and in important aspects of service delivery are still needed. Continuing drive and determination is required in order to achieve good standards of prosecution across the board.

## PROVIDING ADVICE

- 3.1 Our re-inspection was concerned primarily with the timeliness of advice provided to the police, and the systems used to effectively monitor both timeliness and quality of advice. We were satisfied that the current systems are effective, and that our recommendations have been implemented.
- 3.2 Indictable only cases, or cases likely to go to the Crown Court, are sent to the Crown Court team, and are allocated by the Prosecution Team Leader (PTL) to lawyers, taking into account their experience and workload. All other cases are dealt with by the magistrates' court team, and are allocated to the duty lawyer.
- 3.3 Both teams operate the same system to monitor timeliness. An action date of ten days is recorded, and a printout of all outstanding advice cases is generated weekly and passed to the PTLs. Any advice files that are close to the time limit are checked, and reallocated if necessary.
- 3.4 In the magistrates' court team, a carbon copy of the advice given is kept in a log and the PTL carries out spot checks on quality. Any problems identified are raised with the individual concerned. A report is provided monthly to the Chief Crown Prosecutor (CCP). In the Crown Court team, the PTL checks the quality of advice monthly, and raises problems informally with the individual concerned. The CCP also undertakes spot checks on the quality of advice.
- 3.5 In the last report we commended prosecutors' use of carbonated forms to record the advice given to the police in the absence of a formal file. Prosecutors still give some informal advice when they are reviewing files at the police station. Any such advice continues to be noted on the carbonated forms, which are kept in a folder in the office. Otherwise, the giving of such advice has been actively discouraged, and now the police are asked to send in a file. Oral advice is only given in urgent cases, and a full file is always requested in these cases, so that a follow-up written advice can be given.

## REVIEWING CASES

### Quality and timeliness of review decisions

- 4.1 We concluded at the time of the last inspection that overall the majority of decisions made by prosecutors were in accordance with the Code for Crown Prosecutors. This is still the position. We examined the quality of the review decision in 43 files, covering summary trials and committals to the Crown Court for trial. We consider that the evidential test was applied properly in all but one case. The public interest test was properly applied in every case.
- 4.2 We expressed concern about the timeliness and effectiveness of review in our last report. There was no evidence of an initial review in eight of the cases in our current sample, and it was timely in only 16 of the remainder. Of more concern is our finding that only 12 cases out of the 43 were reviewed effectively.
- 4.3 Our sample consisted of summary trials and cases committed to the Crown Court and so there was generally a need for further review, yet we found evidence of such a review in only 23. The further review was timely in 14 out of the 23 cases, and effective in 14.
- 4.4 Some aspects of timeliness of review have improved. The initial charge selected by the police was correctly amended at the first reasonable opportunity in ten out of 14 cases. Discontinuance was timely in 19 cases out of our sample of 25. Four were late and two were premature.
- 4.5 At the time of our last inspection we were concerned about the time taken to allocate files to lawyers on the Crown Court team. We are pleased to note that Crown Court files are usually allocated within 24 hours, and that the system requires lawyers to review them immediately.
- 4.6 The PTLs are undertaking random checks of files, and thereby monitoring the quality and timeliness of review, as we recommended in our last report. However, in view of our findings, we have concerns about how effective the monitoring is, mainly in relation to summary cases.
- 4.7 We have already referred to the duty lawyer scheme, which it was hoped would ensure timeliness of case preparation. This was introduced in an effort to improve performance, but we have concerns about the subsequent lack of file ownership and its effectiveness in ensuring continuing and timely review. We noted examples of cases being referred to the duty lawyer for decisions to be made, when it would have been more appropriate, and timely, for the lawyer in court to have accepted responsibility and taken positive action.



4.8 The pace of many courts is not hectic and it would improve efficiency substantially if the advocate (who has mastered the case for court) took responsibility for the next steps in the review and preparation of the case.

**4.9 We recommend that the CCP ensures that:**

- \* **the AMT evaluates the benefits and disadvantages of the duty lawyer scheme;**
- \* **prosecutors review cases effectively and expeditiously; and**
- \* **PTLs effectively monitor initial and continuing review decisions.**

**Youth justice and persistent young offenders**

4.10 Youth justice has assumed a high priority within the criminal justice system, with the government setting targets to improve performance that require closer inter-agency co-operation. The government has set a target to halve the time between arrest and sentence of persistent young offenders (PYOs) from an average of 142 days to 71.

4.11 In Gloucestershire, the average time to deal with PYOs in 2000 was 89 days, against a national average of 93 days. This is a marked improvement on the figure for 1999 when Gloucestershire's figure was 119 days, against a national average of 108 days.

4.12 We noted at the time of our last inspection that one of the prosecutors had been nominated as the youth co-ordinator. He continues to undertake that role, and not only liaises with the other criminal justice agencies but is also a member of the national youth co-ordination scheme. He has also provided training to members of staff on sentencing provisions, and is shortly due to give a presentation on the importance of PYOs.

4.13 In October 2000 the youth co-ordinator became responsible for undertaking the review of all youth cases, as well as the advocacy in the two main youth courts. This has meant that he has personal knowledge of all cases involving PYOs, and is able to accord those dealt with in the youth court the necessary priority. He meets informally with the magistrates' court clerk and a representative from the Youth Offending Team (YOT) before the start of each court, in order to ensure that all PYOs are identified. He is able to deal speedily with follow-up work by the use of a laptop computer, which he takes to court with him. The allocation of youth cases to one person has been welcomed by magistrates' courts representatives and the efforts being made to improve the handling of youth cases are to be **commended**.

- 4.14 One member of staff has devised a computer programme to assist in the collection and monitoring of data on youth cases. The programme has the facility to track and monitor the progress of cases involving PYOs, but is not currently being used for this purpose. Monitoring is carried out by the youth co-ordinator's knowledge of cases being dealt with summarily, and by his undertaking monthly checks on Crown Court cases. Although the performance in relation to the time taken to deal with PYOs has improved, we noted that the performance for the quarter ending 31 December was poor (102 days against a national average of 93 days). Active progress monitoring and analysis of live cases is necessary to ensure any necessary remedial action is taken.
- 4.15 The AMT is considering appointing a case progression officer, one of whose tasks would be to undertake the monitoring of progress in PYO cases. We consider that the computer programme should be used immediately, and that consideration should be given to assigning a caseworker to input the data, pending any decision in relation to the appointment of a specific case progression officer.
- 4.16 We recommend that the case tracking system to monitor the progress of PYOs is implemented immediately.**

#### **Discontinuance**

- 4.17 We expressed concerns about the Area's high discontinuance rate, and the accuracy of its records, in our last report. The rate at the time was 15.6%, compared with the national average of 12.1%, and was the third highest rate of the 42 CPS Areas. The rate for the year ending 31 December 2000 was 16.9%, compared with the national average of 12.9%. This is the second highest rate nationally.
- 4.18 We requested all 143 discontinued cases (that is cases discontinued, dropped or withdrawn) recorded on their PI and case outcome records for February 2001. The computer printout provided to us showed only 121 cases. We were provided with 105 files, three of which were not on the printout.
- 4.19 Of the 105 files, 62 (59%) were withdrawn at court; in 15 (14%) the prosecution offered no evidence; and 27 cases (25%) were formally discontinued by notice under section 23, Prosecution of Offences Act 1985. One case resulted in an absolute discharge at court and so was wrongly categorised as withdrawn.
- 4.20 In the 77 cases dropped or withdrawn at court, 21 were due to insufficient evidence and 11 cases were because of public interest reasons. Of these 11 cases, two should have been dropped due to insufficient evidence rather than public interest. We could not establish from the file endorsements why the remaining 45 cases had been dropped.

- 4.21 Of the 27 cases discontinued by written notice, 19 were because of insufficient evidence and 8 because of public interest reasons.
- 4.22 Twenty-eight cases (26%) were minor traffic offences and in accordance with CPS national guidance should not have been included in the PIs. In ten cases (9.5%), the result recorded on the printout differed from the result recorded on the file. We comment further about these issues later.
- 4.23 We were told that there was no reconciliation of discontinued cases with PIs. However, at the end of each month, the majority of discontinued cases are pulled out for checking by the CCP and PTL. This practice began in December 2000, although we were informed that January's cases remained in a room to be checked.
- 4.24 We examined 25 discontinued cases in order to assess whether the Code tests had been correctly applied. We considered that the decision to discontinue was in accordance with the Code in 22 of the 25 cases.
- 4.25 We found that in a further two cases the decision to discontinue was made prematurely. They both involved allegations of domestic violence where the complainants had retracted their statements. In accordance with CPS national policy the prosecutor should have considered the circumstances surrounding the retraction more thoroughly, and sought further information from the police, before reaching a decision. We deal with the handling of cases involving allegations of domestic violence in more detail below.
- 4.26 Our findings suggest that the quality of decision-making in relation to discontinuance has improved, but that there is still room for improvement in the recording of those decisions.
- 4.27 **We recommend that the CCP and PTL monitor discontinued cases, to ensure that:**
- \* **reasons for discontinuance are recorded on files;**
  - \* **files are registered in accordance with national guidance; and**
  - \* **cases are finalised correctly in the Area's performance indicators.**

### **Learning from experience**

- 4.28 Adverse case reports are completed for both magistrates' courts and Crown Court cases. They are examined by the CCP and discussed at the AMT. Unsatisfactory reports are returned to the PTLs to deal with. It was not clear, from an examination of the AMT minutes, what action is planned to take forward learning points. We were told that adverse cases would be discussed at team meetings if they had a wider impact, however our examination of team meeting minutes revealed no evidence of such discussion.

- 4.29 Our recommendation that adverse case reports should be used in order that lessons can be learned, therefore, has not been effectively implemented.
- 4.30 We recommend that the CCP and PTLs ensure that adverse case reports are used in order that lessons can be learned.**
- 4.31 We were concerned at the time of our last inspection that prosecutors were not being kept up-to-date on legal developments. The CCP has provided training on disclosure of unused material. Training is planned in March on public order offences. Other training sessions and legal updates have been planned but, although lawyers had been identified to provide monthly presentations, none have yet taken place.
- 4.32 We recommend that the CCP and PTLs ensure that the planned training presentations take place, so that prosecutors are kept up-to-date on legal developments.**
- 4.33 A bulletin containing local press cuttings, copies of law reports and other matters of interest is compiled and circulated every couple of weeks. This provides an opportunity for staff to follow local cases and keeps them abreast of legal developments, and we are pleased to note its introduction.

#### **Review endorsements**

- 4.34 We found that the standard of review endorsements was poor at the time of our last inspection, and recommended that full records of review should be made on files. We found no improvement in the overall standard. Indeed, our findings indicate that there has been a decline in performance. The evidential factors were satisfactorily recorded in only eight cases (18.6%), and the public interest factors were recorded in only six cases (14%). Mode of trial considerations were recorded in three out of 20 relevant cases (15%).
- 4.35 We were told at the time of the last inspection that prosecutors would have objectives set to make comprehensive review endorsements in their forward job plans. Such objectives were set for the year 2000/2001, and we were told that they will be carried forward in the year commencing 1 April 2001. Appraisals need to be carried out fairly and firmly if these objectives are to be of impact.
- 4.36 The Area is still using a police pro-forma to record review in Narey cases, rather than a CPS file jacket. We commented upon the limited space to endorse review considerations on the pro-forma in the last report, and note that the form has not been redesigned, nor has a CPS pro-forma been introduced. Whilst we do not seek to suggest that the Area should use file jackets for cases that are likely to be concluded on the first date of hearing, we do consider that any pro-forma used should contain sufficient space for a proper review endorsement.

**4.37 We recommend that the CCP ensures that:**

- \* a system is introduced immediately to enable a proper review endorsement to be made in every case;**
- \* prosecutors and caseworkers make full records on the files of review decisions; and**
- \* PTLs monitor effectively the quality of review endorsements.**

## PREPARING CASES

### Handling and service of unused material

#### *Overview*

- 5.1 We recommended in the last report that an unused material record sheet be introduced to record prosecutors' decisions, and that all material relating to disclosure be kept in a separate folder. Although the AMT has discussed this, it has not been implemented.
- 5.2 At the time of our last inspection, Area staff had made considerable efforts to procure an improvement in the quality of the schedules provided by the police. Our file sample at the time did not reveal examples of detailed schedules. We were pleased therefore to note that 24 out of 35 schedules in our current sample were sufficiently detailed, and we compliment the work undertaken to achieve such an improvement. Nevertheless, 11 schedules were not sufficiently detailed, and continued liaison with the police is required to secure even more improvement.
- 5.3 We were concerned to note that the police are using schedules that vary significantly from those in the Manual of Guidance and which bear greater resemblance to forms used before the introduction of the Criminal Procedure and Investigations Act 1996 (the CPIA). Of particular concern was the fact that the sensitive material schedules do not contain any space for the reviewing lawyer's signature.
- 5.4 **We recommend that the AMT introduces the use of an unused material record sheet and that all material relating to disclosure is kept in a separate unused material folder.**
- 5.5 **We recommend that the CCP and PTLs liaise with the police immediately, in order to secure the use by police of appropriate unused material schedules.**

#### *Handling of non-sensitive material*

- 5.6 We were pleased to note that prosecutors are endorsing the schedules with their view on disclosure, something we commended in our review of the disclosure of unused material (Thematic Report 2/2000). However, the wording used by some prosecutors did not accord strictly with the CPIA test on disclosure, which could lead to the inference that they were not applying the provisions correctly. We were assured by the PTLs that prosecutors were handling disclosure appropriately, but it is important that there should be no doubt about prosecutors' decision-making and therefore a form of words which accords with the test should be adopted.

- 5.7 Primary disclosure was made in 25 out of 43 cases. We could not ascertain whether it was made in five cases, and no schedules were provided in one instance.
- 5.8 Primary disclosure had not therefore been made in 12 cases. Six of these were committals and, as they had not been finalised in the Crown Court, the issue may be one of timeliness, rather than failure to make disclosure.
- 5.9 We are concerned that disclosure had not been made in six out of the 21 summary trial cases. The disclosure provisions apply in all summary cases where a defendant has entered a not guilty plea and it is important that prosecutors comply with the provisions in all cases.

### *Handling of sensitive material*

- 5.10 We considered that the police should have provided a sensitive material schedule in nine cases. They had not yet provided a schedule in three of those.
- 5.11 There was evidence that the prosecutor gave proper consideration to whether the items on the schedule were sensitive in four of the six cases. We considered that the prosecutor had not dealt with primary disclosure of sensitive material appropriately in one out of the six cases, and there was no evidence that it had been considered in two cases. We were concerned at the time of the last inspection about whether prosecutors were undertaking their responsibilities in relation to sensitive material, as we only found that they had endorsed the relevant schedule in four out of ten cases. Our current findings reveal some improvement in performance, but further efforts need to be made.
- 5.12 We recommend that the CCP ensures that prosecutors always discharge their duties of disclosure, and that any endorsement on the schedules accords with the tests for disclosure.**

### **Summary trial preparation**

- 5.13 At the time of our last inspection, representatives of the other criminal justice agencies expressed concern about the number of cracked and ineffective trials. We were told by magistrates' courts representatives that the rate is still high, and at times up to 80% of listed trials.
- 5.14 We saw two cases in our summary trial sample where acceptable pleas were offered on the day of trial. We consider that if the cases had been properly and effectively reviewed consideration could have been given to the question of pleas at an earlier stage. In another instance, the case had been discontinued two months before the trial date but the court had not been notified and so had not vacated the trial date.

- 5.15 We also saw an instance in our discontinued sample of a decision to drop a case being made twelve days after receipt of the relevant information, with the result that the court was informed only the day before the trial.
- 5.16 In another case (incorrectly categorised as discontinued) a decision to accept a plea to a lesser offence was made before the date was set for trial, yet it was only communicated to the defence shortly before trial. The trial was vacated only three days before the date of hearing, when it could have dealt with a month before.
- 5.17 During our court observations we saw a case where witnesses had been cancelled because one witness (previously a co-defendant) was said to be unable to attend. We considered that more efforts should have been made to secure the attendance of the witness (who could have been relatively easily located on the morning of the trial). We also considered that there was sufficient evidence for the case to have proceeded, if necessary, without the witness. In the event, the application for an adjournment was refused and the case was dismissed.
- 5.18 Another trial had been listed in the same court-room as the case referred to above, but it had been discontinued. Although the decision in that case was timely, it meant that none of the work listed to be heard was effective. Therefore cases had to be transferred from another court-room, and the prosecutor had to take over the conduct of those cases at short notice.
- 5.19 The magistrates' courts provide the Area and the police with monthly figures on cracked and ineffective trials, and seek their views on whether they agree with them. Although the figures are analysed, and files examined, we have concerns about how effective that monitoring is. We also noted that there was some disagreement over the analysis of who, if anybody, was at fault. We understand that no formal discussion takes place with the magistrates' courts, in order to explore these issues. It is essential that the cracked and ineffective trials figures are agreed with the magistrates' courts, in order to enable constructive discussions to take place, and improvements to be made. (A system of joint performance management of cracked, ineffective and vacated trials is being piloted in selected Areas).
- 5.20 The Area has a system whereby summary trial files are checked three weeks before the date of hearing. They are now checked by the duty lawyer. Whilst we are satisfied that this system ensures that all administrative tasks have been completed, we still have doubts about whether this results in effective continuous review. We saw evidence of further review following the receipt of the summary trial file in only eight out of 39 cases.
- 5.21 We recommend that the CCP and PTL ensure that summary trials are reviewed appropriately and prepared expeditiously; and that they analyse all cracked, ineffective and late vacated trials and liaise with the magistrates' courts with a view to reducing the numbers.**



- 5.22 We found that the appropriate witnesses were warned to attend court in 19 out of 20 cases, and that the warning was timely in 17 of the 19 cases.

### **Committal preparation**

- 5.23 When we last inspected the Area, most committals were prepared by caseworkers, under the supervision of the reviewing prosecutor. Since January 2001, all committals have been prepared by prosecutors.
- 5.24 If caseworkers undertook some committal preparation, it would release prosecutors to spend more time on their duties of disclosure and on complex and difficult cases. It would also offer caseworkers valuable experience, assist in their career development, and provide continuity of cover. We deal in more detail with the issue of continuity of caseworker cover below.

### **Instructions to counsel**

- 5.25 We examined the instructions given to counsel in 22 cases. They contained a summary that adequately addressed the issues in the case in 12 cases. Although ten instructions did not address all the issues, they did contain a CPS prepared summary of facts. We also one instance of very detailed consideration of the issues in a murder case.
- 5.26 Appropriate instructions were given about the acceptability of pleas in only five out of the 18 relevant cases.
- 5.27 We were disappointed to note that three out of the 22 instructions were poorly prepared, with details missing or standard alternatives not deleted. The use of a modified Crown Court case preparation package, with greater input by prosecutors, had improved matters.
- 5.28 Overall, the instructions to counsel are not yet of a consistently good standard, but this is a marked improvement on our findings in the last report. We were also pleased to note that the PTL has implemented the recommendation we made in the last report about monitoring instructions to counsel: he examines one or two sets per prosecutor per month. The CCP also examines the quality of instructions. The CCP and PTL will wish to ensure that the improvement continues, and that more consideration of the issues is included in the instructions.

### **Quality of indictments**

- 5.29 We examined 22 indictments and were satisfied that they reflected the gravity of the offending in 20 cases. The PTL checks the quality of the indictment when undertaking the monitoring referred to above.

- 5.30 We suggested in the last report that the system for monitoring amendments to indictments (which had been stopped in 1998) be re-introduced. This had only been re-introduced in January, but we were concerned to note that the relevant forms were not being completed and that therefore no monitoring was capable of being undertaken.
- 5.31 We recommend that the PTL takes steps to ensure that the system for monitoring indictments is properly implemented.**

### **The role of the CPS in the Crown Court**

- 5.32 The Area has one prosecutor who has attained rights of audience in the higher courts (HCA), and a second is due to attain his rights shortly. The HCA currently deals with committals for sentence, but will also cover plea and directions hearings (PDHs) in due course, and has also recently been appointed as the junior in a murder case. Other prosecutors attend the Crown Court to deal with bail applications. In addition, the PTL usually attends the preliminary hearings of indictable only cases sent to the Crown Court under section 51, Crime and Disorder Act 1998. We were pleased to note that prosecutors remain to provide assistance to caseworkers and instructions to counsel when pleas are tendered or problems arise, as we suggested in the last report. Prosecutors are also able to attend the Crown Court if necessary on days when no prosecutors are present, due to its proximity to the office.
- 5.33 We were told that, wherever possible, caseworkers are allocated to cover their own serious or complicated cases at the Crown Court. However, once the prosecution case has concluded they return to the office.
- 5.34 Our examination of the rota for the week of our inspection revealed that each caseworker attended the Crown Court once or twice during the week, and that generally this was not for consecutive days. We also noted from a recent counsel monitoring form that in a serious and sensitive case the caseworker was in court for only the first day of the trial. This suggests that caseworkers may not be retaining responsibility for their own cases throughout, and that continuity of support to counsel at court is absent.
- 5.35 We suggested in the last report that arrangements should be developed so that caseworkers could retain responsibility for their cases throughout, including instructing counsel. It is disappointing to note therefore that not only are caseworkers not involved in assisting in the preparation of committals (see above), but also they are not providing continuity of cover in court.
- 5.36 We recommend that the CCP and PTL ensure that caseworkers undertake increasing amounts of committal preparation, and that they retain responsibility for their own cases throughout, including instructing counsel where feasible.**

## **Sensitive and aggravated offences**

- 5.37 In the last report we commended the Area's work in relation to cases involving allegations of domestic violence, and the appointment of one prosecutor as the Area co-ordinator. That prosecutor is a member of an inter-agency group which is tasked with co-ordinating Gloucestershire's response to incidents of domestic violence, and has been working full time on a project to deliver an enhanced evidence gathering programme to the police. The prosecutor has prepared the programme and is in the process of delivering training to the police. It is due to be used from 2 April 2001, and its effectiveness will be evaluated.
- 5.38 As part of the evaluation, the co-ordinator will compare files prepared by police officers using the programme, with those prepared in the usual way. This will involve examining all cases involving domestic violence dealt with by the Area. A system has been developed to ensure that in future all such cases are recorded on the computer and then passed to the co-ordinator. The current system of monitoring is in accordance with the suggestion we made in the last report.

## **Custody time limits**

- 5.39 We were concerned at the time of last inspection about the custody time limit (CTL) systems. Since then, training has been delivered to staff on CTL systems by Management Audit Services (MAS).
- 5.40 Staff in the magistrates' court team now use the national ready reckoner to calculate the review and expiry dates, which are recorded on stickers and placed on the file jacket, index cards and on the computer. In the Crown Court team the computer system is relied upon to calculate dates. Diaries held by the caseworkers and casework manager are used in place of the index cards used by the magistrates' courts team. The casework manager checks all diaries once or twice per month.
- 5.41 In the magistrates' court team, a weekly printout of all CTL cases is produced to check for any CTLs reaching their review date that week. The printouts form a log which is monitored by the B1 manager and given to the PTL each week to check. Printouts are also checked regularly by the Crown Court team PTL.
- 5.42 We are satisfied that the systems now accord with MAS best practice and there is a greater consistency of practice between the two teams. CTLs are also discussed at AMT and team meetings.

## **Providing information to the Probation Service for pre-sentence reports**

- 5.43 There were no clear records at the time of our last inspection that the CPS was providing information to assist the Probation Service with the preparation of pre-sentence reports. The information was also being provided late in some instances.

- 5.44 The current arrangement for the delivery of information packages is through the document exchange. The packages are prepared by caseworkers, relying on prosecutors marking the file to indicate that one is required. The appropriate information is copied and a standard letter is produced from the computer. A copy of the letter is placed on the file as evidence of service.
- 5.45 We are satisfied that the system now in place is sufficient to ensure that information is provided when required, and that it is properly documented.

## PRESENTING CASES

### Advocacy in the magistrates' courts

- 6.1 During our last inspection, we observed cases being transferred from one courtroom to another, sometimes without the prosecutor being consulted. As a result, some prosecutors were spending unnecessary time in preparing cases while others had limited opportunity to prepare them properly.
- 6.2 We were told that the transfer of cases between courtrooms has since reduced, and that when cases have to be transferred the prosecutor is able to exert some influence. In addition, the Area now participates in countywide listing policy and is represented on a working party set up to deal with the amalgamation of the two clerkships.

### Monitoring advocacy standards

- 6.3 We recommended in our last report that monitoring of the performance of all advocates should take place.
- 6.4 We are pleased to note that the CCP and PTLs monitor the quality of CPS prosecutors, and that both PTLs provide advocates with feedback.
- 6.5 The CCP and PTL spot check the performance of agents, and feedback from the magistrates' courts is also sought. We understand that some feedback has been given recently to agents on their performance.
- 6.6 The Area has introduced a formal system of monitoring counsel in the Crown Court. Caseworkers are instructed to provide exception reports on counsel's performance at court, which are used by the casework manager for the purposes of re-grading. Additionally he will observe counsel himself at court once or twice a week.
- 6.7 We examined a number of completed monitoring reports, which cover both preparation and presentation. Some lacked substance, and in one instance, the caseworker was unsure about how to complete the form. These would be inadequate to satisfy a re-grading exercise at Joint Advocates Selection Committees, which now also involve the Leader of the local Circuit. There appears to be no discussion on counsel performance at team meetings, which would provide a valuable opportunity to raise awareness of good and poor advocates.
- 6.8 We recommend that the PTL provides further training and guidance to caseworkers on the completion of the monitoring forms, and that regular discussions take place at team meetings to raise awareness.**

## MANAGEMENT AND OPERATIONAL ISSUES

### Management of the Area

- 7.1 The Management Team has met regularly, with better rates of attendance. There still appears to be some lack of clarity as to the responsibility for ensuring decisions of the AMT are carried out and there appear to be continuing examples of decisions of AMT not being carried through within the individual units. Clarification within the AMT as to the respective responsibilities of the PTL in charge of the Crown Court unit and the B2 manager within it appears appropriate.
- 7.2 Business planning for the next year and beyond is receiving a higher profile, with greater determination to involve a wider cross section of staff in the process.
- 7.3 An important aspect is the ongoing complaint by a former member of the AMT, which arose in July 2000 and has yet to be resolved. The unsettling impact upon staff within the office cannot be precisely measured, but is clearly a significant issue. The resultant uncertainty is clearly an inhibiting factor on the development of a determined and effective AMT.
- 7.4 A second issue which has seriously impacted on the time and ability of the CCP to focus his attention and energies upon the Area has been the continuing amount of time spent upon an out of Area case. The issue was resolved in February, but too late for any impact to be noted by inspectors.
- 7.5 Overall there remains a substantial question mark over the united resolve of the AMT members to improve performance and carry through planned changes. This is only likely to develop fully when the outstanding complaint is concluded and Glidewell implementation is carried forward.
- 7.6 There has been an improvement in internal communication, largely through some wider training sessions and team meetings. The Investors in People assessor considered that appropriate means of communication and training and development of staff were in place, but has deferred accreditation until they have become bedded in and shown to be effective. (Accreditation has subsequently been gained).
- 7.7 Inspectors were encouraged to be told that the widespread problem of missing files at court appears to have diminished substantially. However, the reluctance to maintain a simple missing file log prevents there being complete assurance in relation to this. Other key logs have been the subject of clearer consideration about their use and effectiveness in case management. The racist incident monitoring scheme, whilst appearing to be properly maintained in relation to cases in the magistrates' courts, does not include results of cases that have progressed to the Crown Court.

## **Management of human resources**

- 7.8 Inspectors were encouraged by the hard work and determination of many members of staff to seek improvements and efficiencies within their work. This was demonstrated by the positive efforts in relation to domestic violence, youth justice, the greater engagement in joint performance management with police, and some improvements in the casework flowing from introduction of the new Crown Court case preparation package and the duty lawyer scheme. However, there remains a negative culture on the part of some staff which is holding back progress within the Area. Some staff appear willing to accept that substantial inaccuracies and weaknesses will continue and there is nothing they can do personally to improve matters.
- 7.9 Inspectors were not unsympathetic to the pressures and demands at times placed upon staff to service a number of magistrates' courts around the Area, and to deal with files received from the police which were not of the highest quality (a concerted drive in relation to joint performance management has indicated that only 39% of full files for adults in the period of October-December 2000 were fully satisfactory). A number of late court sittings were brought to our attention. Nevertheless, the number and complexity of contested cases in both the magistrates' courts and Crown Court are proportionately low in the experience of inspectors when compared to some other Areas observed. The weight of advocacy and of committal preparation is not unduly onerous in comparison to other Areas, and it is unrealistic of some staff to think otherwise. We commend the other staff who we observed undertaking their work positively and professionally.
- 7.10 The Area training officer has made particular efforts to develop a training programme taking into account the comprehensive training and development needs of all staff. However, progress is slow and there has been some lack of take up of what has been offered.

## **Case management**

- 7.11 At the time of our inspection in March 2000, sensitive or aggravated offences were not particularly well recorded which reduced the impact of systems to ensure such cases are dealt without delay.
- 7.12 Logs are maintained in the magistrates' court unit for child abuse, domestic violence and racist incident monitoring. Files for child abuse and racially motivated cases are stamped by level A caseworker staff when registering them. One level A caseworker is responsible for maintaining the child abuse log in which identified cases are recorded. Domestic violence cases are at present monitored by the co-ordinator and in the future all such cases will be referred to the co-ordinator under the project we referred to in paragraph 5.38. Racially motivated cases are additionally recorded on CATS. A monthly report is

generated which identifies those cases which have been finalised to prompt the completion of a RIMs form.

- 7.13 In the Crown Court team, child abuse, domestic violence and racially motivated cases are put onto the computer system, which produces reports to identify their status. Additionally, a child abuse log is maintained to track each stage of a case. However, we were unable to clarify who, if anyone, is co-ordinating the Crown Court team racist incident monitoring forms. Racist incident cases in the Crown Court are identified on the Area returns to Headquarters; however we were unable to locate any completed forms.

### **Victims and witnesses**

- 7.14 Some positive and sympathetic steps have been undertaken by the Area in relation to victims and witnesses, including work with both Victim Support and the Witness Service. Further work needs to be undertaken to ensure all agencies work together in fulfilling the joint service level agreement.

### **External communication and liaison**

- 7.15 The Area has engaged more positively in joint performance management with police. A higher level of feedback to police about the standard of files has provided a more realistic assessment of quality. Further joint work needs to be undertaken in relation to file building and to unused material.
- 7.16 There has been positive work with the magistrates' courts in relation to the major rubbing points which include the numbers of cracked, ineffective, or late vacated trials and listing which enables the more effective use of designated caseworkers (DCWs). Matters have progressed. Ensuring that DCWs work to the widest limits of their current remit should facilitate more effective use of their time. (There seemed to be in the past some unnecessary constraints upon their ability to deal with defendants who wished to show cause why they should not be disqualified, as distinct to defendants who in advance expressed their intention to raise "special reasons" as to why they should not be disqualified). A greater determination to reduce the unacceptably high rate of cracked and ineffective trials should help the Area to reduce still further any responsibility of the CPS for this.
- 7.17 Further beneficial work is necessary on the part of the CCP to ensure that a more joined up approach is adopted to finding solutions to problems between CPS, the Magistrates' Courts Service, and the police.



## **Performance indicators**

- 7.18 We have commented in the section dealing with discontinuance about the number of cases which could not be found and the print out from CATS, neither of which could be reconciled with the Area's PIs for the month.
- 7.19 Although managers told us that some checking was carried out, there appears to be no validation to check accuracy of PI figures, particularly on discontinuance and adverse cases.
- 7.20 Lawyers are instructed to write the appropriate finalisation code on files, which are checked by level A staff inputting onto the computer system. In some of the discontinued cases we examined, the file endorsements by the lawyer at court were insufficient to enable level A staff to determine the correct finalisation. This can lead to inaccurate recording of case outcomes.
- 7.21 Training in the recording of PIs was arranged for all staff recently; however only five out of about 15 delegates attended the course. Another session is planned during April. Managers will want to ensure that all staff not yet trained attend this course.
- 7.22 PIs in the Crown Court team continue to be compiled manually. However, the Crown Court computer system has been developed to collect and collate Crown Court case outcomes. This system has been running alongside the manual system to ensure that figures produced by the computer system accurately correspond with the manual system. The computer system is to go live on 1 April 2001. This system guides staff inputting case outcomes to the correct code to help eliminate errors.

## **Motoring cases**

- 7.23 At the time of our last inspection we expressed concern about the failure to adopt the provisions of the Magistrates' Courts (Procedure) Act 1998 and recommended that liaison should take place with a view to ensuring that they were implemented in a properly structured manner.
- 7.24 We were disappointed to learn that although some liaison had taken place with the police, it had not addressed the issue of the provisions, and it was clear that they have not yet been adopted. Instead the Area is still operating under the previous system, which means that it is still recording some cases in its PIs that CPS national guidance states should not be so recorded. More worrying is the possibility that some cases are being dealt with as written pleas of guilty when the proper procedures may not have been followed. The system soaks up some prosecutor time and effort which could be better directed elsewhere.

- 7.25 We recommend that the CCP liaise as a matter of urgency with the police and the Magistrates' Courts Service with a view to ensuring that the provisions of the Magistrates' Courts (Procedure) Act 1998 are implemented, and that cases are not being dealt with without the proper procedures being followed.**

### **Complaints**

- 7.26 Inspectors noted a more orderly system of handling complaints with a clearer drive to deal with these within appropriate time targets and carefully and sympathetically.
- 7.27 Some further development is called for to ensure that any follow up action proposed is undertaken and noted on the complaint file. Some further development of the complaints register itself, drawing upon good practice, will enable more systematic and effective analysis of complaints to be undertaken at regular intervals.

## CONCLUSIONS, COMMENDATIONS, AND RECOMMENDATIONS

### Conclusions

- 8.1 On the one hand, inspectors were heartened to discover a positive outlook on the part of many staff, together with many specific instances of improvements brought about in response to the last report.
- 8.2 On the other hand, for a variety of reasons the AMT had not driven forward the improvements in performance as far as the inspectors would have hoped.
- 8.3 Some of the AMT's own decisions encapsulated in the Area's action plan have not been carried forward. There remained a substantial number of cases with little or no evidence of effective review and a lack of real drive to reduce the unacceptable rate of cracked or ineffective trials. Additionally, it was difficult for inspectors to accept that some of the monitoring undertaken had been carried out effectively in the light of the recent casework examined in the course of this re-inspection.
- 8.4 Fundamental inaccuracies and mis-recording within the Area's system of performance indicators and case outcomes raised questions against their accuracy as a whole, in spite of the work and training undertaken. A few inappropriate decisions and lack of recording reasons for decisions raised more fundamental concerns about the attrition rate.
- 8.5 The unstructured response to the inspectors' concerns about the system of dealing with minor traffic cases in the light of the Magistrates' Courts (Procedure) Act 1998 leaves doubts both as to the necessity for the CPS to handle these cases and as to compliance with the law in relation to written pleas of guilty.
- 8.6 On the positive side the overall standard of review decisions made by prosecutors were in accordance with the Code for Crown Prosecutors, and some aspects of timeliness of review have improved. The allocation of files in the Crown Court team is now undertaken swiftly, so enabling the lawyers to undertake early further review and preparation. Inspectors would encourage a greater degree of partnership between the lawyer and the caseworker in the case from allocation through to conclusion.
- 8.7 A marked improvement has been achieved in reducing the time taken to deal with PYOs, and good practice is being developed through the youth co-ordinator and the use of a dedicated laptop computer and specially devised programme.
- 8.8 Of particular note has been the work undertaken by the Area in engaging more positively in joint performance management with police. Securing improvements in the quality of police files through this will be a major step forward.

- 8.9 Improvements have been secured in relation to some aspects of disclosure of unused material, so that police schedules have improved in quality and the recording of decisions and the reasons for them by prosecutors are better. Weaknesses nevertheless remain in compliance with the duties of disclosure across the range.
- 8.10 The implementation of a duty lawyer scheme has helped gain improvements in the timeliness of advice and in checking the preparation of summary trials. This latter work, plus good standards of witness warning, should bring about improvements in the cracked and ineffective trial rate. A continuing lack of fully effective review and decision-making, and particularly the recording of this, was apparent to inspectors and is likely to be the primary cause of continuing problems at court.
- 8.11 The Area is playing a full role within a Gloucestershire initiative in relation to domestic violence and a project was due to commence after the inspection had concluded. Integral within this should be the clear compliance with the CPS' own policy in relation to cases of domestic violence.
- 8.12 The custody time limits system had been the subject of overhaul and training to staff so that the system now accorded with CPS best practice. The system in relation to provision of information packages to the Probation Service had been improved and this should have a positive benefit on the progress of cases to sentence within the Area.
- 8.13 Inspectors noted some improvement at court following work between Area managers and the Magistrates' Courts Service. Listing arrangements had improved and the better preparation of summary trials had reduced the number of ineffective cases, which inevitably lead to transfer of work between courtrooms. The more active engagement with the Magistrates' Court Service needs to be carried forward into positive joint analysis of cracked and ineffective trials, as well as securing substantial and effective work for the Area's DCWs. Continuing efforts to minimise the need for transfer of cases will naturally help raise standards of advocacy. There is now more positive monitoring of advocates and feedback was being provided. Similar work was being undertaken with agents. The Area had introduced a system of monitoring counsel at the Crown Court, but this was far from adequate.
- 8.14 The AMT had gained in cohesion, but that there was still some lack of clarity as to respective responsibilities in driving through agreed actions. It was of no surprise to inspectors that the Area had not initially gained Investors in People accreditation, but it is encouraging that this was achieved after the inspection. Business planning for the future is receiving a higher profile and a wider cross section of staff are being involved in the process. Improved means of internal communication and the training and development of staff are in place, but need to be carried forward effectively. The circulation of a news and legal bulletin is a

- helpful part of internal communication and legal updating. The ATO has tried to make real progress in relation to training and development, but support and take up have been limited.
- 8.15 The Area has made improvements in understanding the level of its own performance, but still lacks a wide range of performance information and does not use all of it effectively. Thus the attrition rate as disclosed through the Area discontinuance rate is neither wholly accurate nor is it being tackled effectively. The major problem of missing files at court appears to have diminished substantially, but no specific information is maintained. Key case management logs have been considered, but the racist incident monitoring system does not record the finalisation of cases in the Crown Court and so is unlikely to have been effective in ensuring their supervision and progress.
- 8.16 Inspectors were pleased to note the good work by the Area in relation to victims and witnesses with both Victim Support and the Witness Service.
- 8.17 A more orderly system of complaints handling had been initiated, although further development is necessary.
- 8.18 In essence inspectors considered that the resources and levels of experience and stability of staff within the Area ought to support good standards of casework across the board. This has yet to be achieved. Securing a culture of continuous improvement remains a key issue.
- 8.19 Inspectors found some signs of vigorous intent and determination to improve performance. This needs to be developed positively by a united management team which engages staff in these efforts. To that extent it is vital that the debilitating grievance procedure and time consuming demands upon the time of senior managers are finalised to enable them to demonstrate that the Area can move forward positively in relation to the implementation of the Glidewell changes and in improving its overall performance.

### **Commendations**

- 8.20 We commend the Area in relation to:

The efforts being made to improve the handling of youth cases (paragraph 4.13).

## Recommendations

8.21 We recommend that:

1. The CCP ensures that:
  - \* the AMT evaluates the benefits and disadvantages of the duty lawyer scheme;
  - \* prosecutors review cases effectively and expeditiously; and
  - \* PTLs effectively monitor initial and continuing review decisions (paragraph 4.9).
2. The case tracking system to monitor the progress of PYOs is implemented immediately (paragraph 4.16).
3. The CCP and PTL monitor discontinued cases, to ensure that:
  - \* reasons for discontinuance are recorded on files;
  - \* files are registered in accordance with national guidance; and
  - \* cases are finalised correctly in the Area's performance indicators (paragraph 4.27).
4. The CCP and PTLs ensure that adverse case reports are used in order that lessons can be learned (paragraph 4.30).
5. The CCP and PTLs ensure that the planned training presentations take place, so that prosecutors are kept up-to-date on legal developments (paragraph 4.32).
6. The CCP ensures that:
  - \* a system is introduced immediately to enable a proper review endorsement to be made in every case;
  - \* prosecutors and caseworkers make full records on the files of review decisions; and
  - \* PTLs monitor effectively the quality of review endorsements (paragraph 4.37).
7. The AMT introduces the use of an unused material record sheet and that all material relating to disclosure is kept in a separate unused material folder (paragraph 5.4).
8. The CCP and PTLs liaise with the police immediately, in order to secure the use by police of appropriate unused material schedules (paragraph 5.5).
9. The CCP ensures that prosecutors always discharge their duties of disclosure, and that any endorsement on the schedules accords with the tests for disclosure (paragraph 5.12).

10. The CCP and PTL ensure that summary trials are reviewed appropriately and prepared expeditiously; and that they analyse all cracked, ineffective and late vacated trials and liaise with the magistrates' courts with a view to reducing the numbers (paragraph 5.21).
11. The PTL takes steps to ensure that the system for monitoring indictments is properly implemented (paragraph 5.31).
12. The CCP and PTL should ensure that caseworkers undertake increasing amounts of committal preparation, and that they retain responsibility for their own cases throughout, including instructing counsel where feasible (paragraph 5.36).
13. The PTL provides further training and guidance to caseworkers on the completion of the monitoring forms, and that regular discussions take place at team meetings to raise awareness (paragraph 6.8).
14. The CCP liaise as a matter of urgency with the police and the Magistrates' Courts Service with a view to ensuring that the provisions of the Magistrates' Courts (Procedure) Act 1998 are implemented, and that cases are not being dealt with without the proper procedures being followed (paragraph 7.25).

## **KEY STATISTICS**

- 9.1 The charts in Annex 2 set out the key statistics about the Area's casework in the magistrates' courts and in the Crown Court for the year ending 31 December 2000.

## **EXTERNAL CONSULTATION**

- 10.1 Annex 3 is a list of the local representatives of criminal justice agencies who assisted in our inspection.