

HM CROWN PROSECUTION SERVICE INSPECTORATE

INSPECTION OF CPS AVON AND SOMERSET

EXECUTIVE SUMMARY

Introduction

1. This is the report of HM Crown Prosecution Service Inspectorate about CPS Avon and Somerset. The CPS is a national service, but operates on a decentralised basis with each of its 42 Areas being led by a Chief Crown Prosecutor (CCP) who enjoys substantial autonomy.
2. The inspection was carried out during a period of extensive change for the CPS both nationally and in Avon and Somerset. The Area has introduced initiatives to reduce delay in the criminal justice system to give effect to the recommendations within the Review of Delays in the Criminal Justice System (the Narey report). The Area has reorganised into functional Units based on magistrates' court and Crown Court casework rather than geographical ones and has moved into co-location with the police to take forward the recommendations of the review of the CPS (the Glidewell Report).
3. The report focuses on the quality of casework decision-making and casework handling but also extends to all matters that go to support the casework process. The Inspectorate examines all aspects of Area performance and has reported on a number of management and operational issues.

The Area

4. CPS Avon and Somerset has two offices based at Bristol and Taunton. These cover ten magistrates' courts and two Crown Court centres. At the time of the inspection the Area employed the equivalent of 141.5 full time staff.
5. The Area dealt with 29,125 defendants in the magistrates' courts and 2,593 defendants in the Crown Court in the year ending 31 March 2002. In addition, pre-charge advice was given to the police in 599 cases, which was 2% of the caseload compared with a national average of 3.3%. In the magistrates' courts, the Area handled a higher proportion of summary offences than the national average; 63.7% compared to 56%, and the number of either way and indictable only offences was below the national average; 34.1% compared to 40%.

Main findings of the Inspectorate

6. The quality of casework was variable. The quality of advice to police was generally good. Serious cases sent to the Crown Court under section 51, Crime and Disorder Act 1998 were handled well but there was room for improvement in dealing with casework in general and sensitive cases in particular. Inspectors found a larger proportion of decisions to discontinue than the national average in the inspection cycle that did not

comply with the tests within the Code for Crown Prosecutors. Similarly, there was a higher proportion of cases in the adverse sample where the outcome was foreseeable but appropriate remedial action was not taken. Avon and Somerset has not met the Government target of 71 days from arrest to sentence for dealing with persistent young offenders (PYOs) and currently has a high figure of 91 days. The starting point for the county was high at 180 days, but the criminal justice agencies in Avon and Somerset, including the CPS, have a considerable way still to go. The Area had just introduced formal assurance systems and casework standards to address performance.

7. Inspectors found that the overall standard of advocacy was good in both the magistrates' courts and in the Crown Court.
8. The Area's senior managers were keen to press ahead with initiatives. It was a leading Area in taking up the Glidewell recommendations on co-location with police and is involved in both the Charging Pilot, in which the CPS provides enhanced legal guidance and advice to police, and the Government Street Crime Initiative. Inspectors considered that the former would have benefited from better strategic planning and continuing evaluation and that care needed to be taken in planning and undertaking the recent initiatives so that the quality of the Area's casework was enhanced.
9. Area managers need to address the communication strategy and involvement of staff, in order to effect a sense of corporate entity and team spirit within the Area and to secure the support of staff to the direction being taken.
10. Inspectors were satisfied that the overall management of the Area was effective. In relation to other management and operational issues certain aspects needed to be addressed. These included the development of the Area Business Plan; review and clarification of the roles and responsibilities of Area managers; the review of the functions of the Area Secretariat and Case Information Unit (which undertakes direct communication with victims of crime); implementation of stronger financial controls and the introduction of a formalised rotation policy for staff.
11. The Area has a good working relationship with the other criminal justice agencies. Senior managers have a high profile in inter-agency matters and have been pro-active in working with them. The criminal justice agencies in Avon and Somerset have established a Criminal Justice Co-ordinator post, which should play a valuable role in collating cross-agency data and statistics that needs to be used in improving joint performance in key aspects by the agencies.

Specific findings

Advice

12. Advice given to police was in most cases well-reasoned, comprehensive and typed. Police representatives considered the quality of advice was very good, particularly in cases involving serious offences. Timeliness however, needed to be addressed; those in our sample were timely in only 33.3% of cases. Our broader file sample indicated that an increased submission of files for advice by police above the current comparatively low rate would be desirable.

13. The review of the criminal justice system conducted by Lord Justice Auld recommended that the CPS should assume responsibility for charging, and for providing enhanced legal guidance and advice to police. The CPS nationally has introduced a pilot scheme and CPS Avon and Somerset was selected as one of the pilot sites. The Area has three sites involved in the Charging Pilot scheme. This is a resource intensive commitment for the Area as its co-located Units are not sited at the operational police stations. Early indications were of a low take-up rate by the police for those types of case where the scheme is only voluntary and there were concerns about maintaining existing casework and court coverage and delay initially. However, we have since been informed that, following liaison, the use of the scheme has increased dramatically in Bristol. Further, the scheme is to include referral of all cases where a suspect is held in custody to the lawyer on duty at the police station.

Review

14. The quality of initial review was variable; in some cases there was merely a repetition of facts without analysis or a mere ticking of boxes for the two Code tests where greater consideration was warranted. Delivery of files at court on the morning of the first hearing rather than review in advance in accordance with the Narey initiatives to reduce delay and facilitate progress, was a contributory factor in some cases that needs to be addressed with police. Continuing review was not consistently evidenced by endorsement or other means and its effectiveness was reduced by late submission of files by police and some instances of late file allocation. Inspectors found that ineffective review was reflected in case results. There had been no formal monitoring of the quality of review but a comprehensive system of management checks was introduced shortly before the inspection.
15. The number of cases in our sample where charges accepted or advised by the CPS required amendment, and the timeliness of those amendments, was higher than average. There were a comparatively high number of inappropriate applications of mode of trial guidelines. Differing approaches between the Trials Units and Criminal Justice Units about the level of charging in assault and public order cases needed to be resolved.
16. The Area had a discontinuance rate well below the national average; 8.2% against 13.1%. Examination of the case sample indicated that the rate could be lower inasmuch as the inspectors considered that five cases had been discontinued inappropriately. On the other hand, inspectors saw some cases in the Crown Court that should have been stopped earlier or problems identified sooner, demonstrating lack of effective and robust review. Lack of endorsement made it difficult to establish what the decision-making process had been and whether consultation had taken place. Effective and consistent application of the assurance systems now in place are needed to tackle this. The low overall rate of attrition is admirable, although it needs to be checked that the inappropriate level of decision-making identified is not discouraging the police from charging when they ought to do so.

17. In relation to adverse cases, the inspectors found that the outcome was foreseeable in 35 out of 53 cases (66%), and that the Area should have done more to avoid acquittal in 28 cases (53%). This compares very unfavourably with other inspections and reflects our findings about the overall quality of review. The adverse case reports were in themselves variable and though some were penetrating, the Area's own assessment of outcomes attributable to CPS failures in the review process demonstrates a need for a more searching approach. There was no cohesive system for learning from experience across the teams.
18. The figures for the average time between arrest and sentence of PYOs in Avon and Somerset is a matter of concern, being 91 days, against a current national average for the last quarter of 67 days. There was no cohesive system across the agencies for dealing with this, albeit the Criminal Justice Co-ordinator is now compiling agreed statistics with a new case tracker system to be in place in June. This is an aspect upon which the CPS individually and with the other agencies will want to place emphasis for effective action.
19. Inspectors considered that child abuse cases require greater case management. The Area has a good red tag system for these and other sensitive categories of cases, whereby updated information is passed to the victim in the case after each hearing. However, systems for recording and monitoring domestic violence and racially aggravated offences are not effective, resulting in inaccurate returns.

Case preparation

20. Case management systems vary between the two offices and, on the whole, are more effective in Taunton. Managers will want to identify and adopt good practice across the Area. This includes standardising the format of files, evaluating the operation of the single file system, and addressing the current shortcomings in communication and administration issues relating to files.
21. The Area's compliance with its duties in relation to the disclosure of unused material to the defence is comparable to that across the CPS and we found no distinct recurring problems. However, the Area should take advantage of work already done in identifying weaknesses and training needs and take this forward with the police. Documents relating to unused material should be kept separately on file so necessary actions are not overlooked; there were examples of schedules on summary not guilty files which had not been dealt with.
22. Summary trial preparation incorporates the use of a trial pack, consisting of a standard letter enclosing copy statements of witnesses to be called, unused material schedules and statements being served under section 9, Criminal Justice Act 1967. This is a good tool but its value can be restricted by the late submission of trial files by the police, which limits the time for effective review and the ability to make binding decisions at the pre-trial review (listing date). On the random file sample we found evidence of effective preparation for summary trial in only 39% of cases and that all appropriate actions were taken before pre-trial review in 66%.

23. Joint performance management (JPM) has not been utilised or operated fully by the CPS and the police. Exception reporting has led to a distorted picture of police performance on file delivery. Better monitoring is now taking place under the auspices of the Criminal Justice Co-ordinator and the agencies must turn this information into effective action to improve the issue of timeliness of submission of police files.
24. Cracked trials, where cases are fixed for trial and either acceptable late pleas occur or the prosecution is discontinued; and ineffective trials, where trials are adjourned, are an issue in both the magistrates' courts and the Crown Court. The situation has been static for the last couple of years. The Criminal Justice Co-ordinator is tasked with breaking down the statistics of the causes of cracking and the CPS, both individually and jointly with the other agencies, will need to prioritise tackling this problem.
25. There is inconsistent deployment of caseworkers across the Area in committal preparation which needs to be reviewed, as this has an effect on the input of caseworkers to other aspects of case preparation in the Crown Court. Delays existed in committal preparation but there is no history of committals being discharged when not ready. Whilst timeliness of lodging indictments is good, the relatively high number requiring amendment needs checks to be put in place. Similarly, the overall standard of briefs to counsel needs improvement.
26. There had been no recorded custody time limit failures in the last three years and the inspectors commended the Area on the correct expiry date calculations present on all cases examined. However, the systems for monitoring and logging such cases were not being maintained in Bristol, and were susceptible to forthcoming expiry dates being missed.
27. The Probation Service needs to get consistent and timely access to information in order to prepare pre-sentence reports. A local protocol has now been agreed under which the CPS has undertaken to provide "prosecution packs" on the day a report is requested or within three working days. Area managers will wish to review current arrangements, to ensure the protocol is working effectively in all the Units.

Advocacy

28. Inspectors observed 21 CPS lawyers, three designated caseworkers (DCWs) and four agents in the magistrates' courts. The overall standard of advocacy was good; 11 advocates were above average in some respects and one above average in many. Some presentations could have been improved by better preparation and less reliance on files. All three DCWs were well prepared and positive in their presentation.
29. Ten counsel and three Higher Court Advocates (HCAs), (Crown Prosecutors with rights of audience in the higher courts), were observed in the Crown Court. Those HCAs in senior managerial positions contributed substantially to Crown Court coverage, although it is not realistic to expect them to be as regularly deployed as other lawyers. The Inspectors considered their court profile was important not just to achieve the high target of sessions that the Area has set itself, but also to enhance the profile of the Area. Whilst inspectors did not observe them doing any trials, the advocacy of the HCAs that was seen demonstrated competence and confidence. Six of the counsel seen were competent in all respects and two were above average in some respects. Care needs to be taken that counsel of appropriate experience are instructed, particularly where briefs have been returned. Formalised monitoring of all advocates, including agents and counsel, in both the magistrates' and Crown Court is desirable.

30. The Area has 14 HCAs and last year conducted the highest proportion of Crown court appearances of all CPS Areas. It has set a high target for the coming year. Inspectors considered that lawyers in the Trials Unit needed to focus more on Crown court work, and that the new target for HCA coverage was too stretching to accommodate the improvements in casework identified as necessary. The Area needs to maintain a constructive dialogue with the local Bar so that there is a shared understanding of the progress in, and implications of, increased deployment of HCAs.

Management and operational issues

31. The Area's current management structure dates from the implementation of the Glidewell report initiatives. It was one of the first to take up the recommendations and has achieved co-location with police at both the Bristol and Taunton offices with its Criminal Justice Units. The aim to have co-location with the Trials Units is still some way off and there are outstanding issues in relation to administration and file movements, which are hampering the efficiency savings looked for. These need to be addressed quickly so that all the agencies can realise the benefits which are anticipated. Regular evaluation and review is needed.
32. To its credit, the Area has been at the forefront of several new CPS initiatives and the management group, comprising the CCP, Area Business Manager (ABM) and three Heads of Unit has embraced change. Staff were not as engaged or supportive of the direction being taken by management as desirable. Other management positions, such as the Team Leaders were not as involved as they might be and this contributed towards the communication gap. The Inspectors saw room for development of the management group and a more comprehensive communication strategy. This includes more delegation in external liaison and clarification of roles and responsibilities. Increased engagement with staff during visits by the CCP and ABM to the Bristol and Taunton offices would be of benefit.
33. The Area Business Plan had lacked the formal involvement of some managers or staff and did not evidence reviews or translate high level objectives into action plans with assigned timescales, responsibilities and costs. There was a need to ensure a greater understanding and commitment by staff to the Business Plan.
34. The Inspectors recommended that the Area reviews the functions of the Area Secretariat and provides training support for Secretariat staff. The Case Information Unit (CIU) has been established to communicate with victims and witnesses where cases are discontinued or charges changed significantly. Inspectors commended the Area's commitment to the principle of providing more information to victims, although the CIU is currently under-utilised and review of its operation is desirable.
35. The Area's performance against a number of CPS measures was generally good but in contrast some of the casework examined was lacklustre. Casework and performance management groups have recently been established to help improvement of Area performance. Performance linked objectives need to be reflected in, and underpinned by, the appraisal system. Some concerns were also raised about the accuracy of finalisation of cases and recording of performance indicators (PIs) that requires review.

36. The Area had a 4.8% overspend last year and is forecasting an overspend again for this. If funding for new initiatives materialises then the budget should broadly balance. Certain aspects of financial control required improvement, particularly in the use of code 3010 for expenditure on special counsel in the magistrates' courts, and the system for raising and completing Notification of Fee forms.
37. Care is needed in the management of human resources to ensure proper deployment of lawyers within their Units, so that Trials Unit lawyers concentrate on Crown Court cases. The role of the B1 Casework Managers needs definition. To ensure that lawyers are appropriately developed and remain in touch with the necessary skills required in the two different Units, a clear and formalised rotation schedule is being put in place.
38. The Area needs to ensure that it has access to accurate information about sickness. Training throughout the Area is mainly effective and the Inspectors were pleased to note the structured efforts that are made with new agents, although induction training across all grades needs to be effectively implemented. The Area has a comprehensive and detailed Equality and Diversity Plan and the inspectors commended its engagement with the community and multi-ethnic groups.
39. The Area enjoys good and positive relations with other agencies and has been at the forefront of initiatives which have achieved closer working relations with, for instance, the police, Victim Support and Witness Service. There is a need for these good relations to be used to ensure effective action is taken on certain key aspects of joint performance, particularly police file timeliness, persistent young offenders and cracked and ineffective trials.

Commendations

40. The Inspectors commended the following aspects of the Area's performance:
 - * correct calculation of expiry dates in all custody time limit cases examined;
 - * two week induction programme for new agents;
 - * engagement with local communities and multi-ethnic groups; and
 - * the determination of the Area to provide more information to victims.

Recommendations and suggestions

41. The inspectors made 28 recommendations identifying those aspects of performance where improvement was a priority. These related to:
 - * ensuring that advice is provided to the police within 14 days (in all save the most substantial cases);
 - * ensuring that informal advice is properly recorded and subsequent files appropriately allocated;

- * formal assurance systems of casework review being applied consistently and supported in the performance appraisal system;
- * prosecutors selecting the appropriate charge at the earliest opportunity and training being provided to assist in this;
- * managing quality assurance of decisions and the recording of discontinuance decisions and reflecting their requirements in the appraisal system;
- * working with the other criminal justice system agencies to ensure reduced delay in dealing with persistent young offenders by effecting in particular:
 - a coherent, accurate and unified approach to data collection and analysis; and
 - a unified approach to case progression, both within the CPS and police co-located Units and other criminal justice system agencies through Youth Case Progression Groups;
- * ensuring that effective review and monitoring is in place for child abuse cases;
- * reviewing the roles of the Case Progression Officers and the monitoring and data collection systems for all sensitive cases;
- * agreeing with the police a standard file format and layout to be used by all staff including, where appropriate, the discrete retention of certain documentation, for example unused material;
- * evaluating the working of the single file system in conjunction with police;
- * reconsidering the report on handling unused material prepared by the Special Casework Lawyer and police and undertaking appropriate joint training with the police;
- * continuing work with the other criminal justice agencies and taking action to reduce cases in which the prosecution is responsible for causing cracked or ineffective trials in both the magistrates' courts and the Crown Court;
- * reviewing the role of caseworkers in relation to committal preparation to ensure that the use of resources is consistent and effective across the Area;
- * early committal case allocation by the Bristol Trials Unit Team Leaders to ensure file ownership and case management;
- * agreeing with police:
 - a programme of measures to improve police file timeliness; and
 - nominated senior officers for each agency to carry through the measures agreed;

- * monitoring the quality of instructions to counsel;
- * instituting procedures for more effective checking of indictments;
- * the system of court coverage by caseworkers being reviewed to promote continuity and case ownership;
- * determining and implementing a standard for the preparation and presentation of appeals in the Crown Court;
- * custody time limits systems being urgently reviewed in accordance with Management Audit Services' guidelines and standardised wherever possible;
- * reviewing arrangements for visiting Bristol Criminal Justice Unit and the Taunton offices by the CCP and ABM to improve visibility and communication;
- * reviewing the business planning process and producing a Business Plan which:
 - is regularly reviewed;
 - is linked to essential elements such as training, external liaison and budget, and individual project plans for any new business undertaken; and
 - incorporates action plans that include assigned responsibilities and timescales; and
 - incorporates a communication strategy to disseminate the Area Business Plan to all staff and external criminal justice system partners;
- * reviewing the function of the Area Secretariat by conducting a scoping exercise to determine its role and the staff skills and numbers needed for that business;
- * reviewing the Glidewell project and setting out its detailed objectives in a formal project plan with assignment of responsibilities and timescales;
- * reviewing the current financial control and reporting systems to ensure that all its core and initiative based work is fully costed, and budgets set and monitored;
- * reviewing the communications strategy to ensure that it is comprehensive, co-ordinated and monitored;
- * reviewing the current systems for identifying cases relevant to the CIU and analysing the timeliness of processing, accuracy of records and quality of correspondence;
 - liaising with the police with a view to agreeing a protocol for providing a co-ordinated response to complainants; and
 - considering the viability of operating independently at Bristol and Taunton; and

- * ensuring that specified offences are not included in PIs;
 - adopting a spreadsheet that includes basic case details; and
 - reviewing systems for data collation and analysis so that information received is both accurate and timely.
42. The Inspectors also suggested action should be taken as a lower priority on the following:
- * planning a cohesive system to ensure learning from experience shared with the police on an Area-wide basis;
 - * reviewing the case management systems in place across the Area to identify and implement good practice;
 - * working with the Special Casework Lawyer to further develop the role in improving casework;
 - * considering delegating some criminal justice system liaison activities to staff, particularly Team Leaders;
 - * reviewing the roles and responsibilities of the level E and D managers to ensure greater clarity and optimum deployment between the two levels;
 - * conducting performance reviews for all staff;
 - the system is more actively used as a performance improvement tool for individuals;
 - induction and on-the-job training is provided; and
 - objectives are set for new staff as early as reasonably possible.
 - * ensuring that complaints are properly analysed with a view to identifying any practices or procedures that need to be improved within the Area.

The full text of the report may be obtained from the Corporate Services Group at HMCPS Inspectorate (telephone 020 7210 1197).

HMCPS Inspectorate
October 2002