

CPS Devon & Cornwall

Overall Performance Assessment

December 2005

Promoting Improvement in Criminal Justice

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A. INTRODUCTION TO THE OVERALL PERFORMANCE ASSESSMENT PROCESS

This report is the outcome of Her Majesty's Crown Prosecution Service Inspectorate's (HMCP*SI*) overall assessment of the performance of the Crown Prosecution Service (CPS) in Devon and Cornwall and represents a baseline against which improvement will be monitored.

Assessments and judgments have been made by HMCP*SI* based on absolute and comparative assessments of performance. These came from national data; CPS self-assessment; HMCP*SI* assessments; and by assessment under the criteria and indicators of good performance set out in the Overall Performance Assessment (OPA) Framework, which is available to all Areas.

The OPA has been arrived at by rating the Area's performance within each category as either 'Excellent' (level 4), 'Good' (level 3), 'Fair' (level 2) or 'Poor' (level 1) in accordance with the criteria outlined in the Framework.

The inspectorate uses a rule-driven deterministic model for assessment, which is designed to give pre-eminence to the ratings for 'critical' aspects of work as drivers for the final overall performance level. Assessments for the critical aspects are overlaid by ratings in relation to the other defining aspects, in order to arrive at the OPA.

The table at page six shows the Area performance in each category.

An OPA is not a full inspection and differs from traditional inspection activity. While it is designed to set out comprehensively the positive aspects of performance and those requiring improvement, it intentionally avoids being a detailed analysis of the processes underpinning performance. That sort of detailed examination will, when necessary, be part of the tailored programme of inspection activity.

B. AREA DESCRIPTION AND CASELOAD

CPS Devon and Cornwall serves the area covered by the Devon and Cornwall Constabulary. It has three offices, at Exeter, Plymouth and Truro. The Area Headquarters (Secretariat) is based at Exeter. Additionally, the Area has co-located premises with the police at Exeter.

Area business is divided on functional lines between magistrates' courts and Crown Court work. The Magistrates' Courts Units handle cases dealt with in the magistrates' courts. The Crown Court units handle cases dealt with in the Crown Court.

During the year 2004-05, the average Area number of staff in post was 118.05 full-time equivalents.

Details of the Area's caseload in the year to March 2005 are as follows:

Category	Area numbers	Area % of total caseload	National % of total caseload
Pre-charge advice to police	5,207	16.5	20.9
Advice	1,740	5.5	5.1
Summary offences	14,887	47	46.9
Either way and indictable only	9,788	31	26.7
Other proceedings	0	0	0.4
TOTAL	31,622	100%	100%

C. SUMMARY OF JUDGMENTS

At the time of the inspection in May 2004 the Area's casework handling was generally very sound, although the handling of unused material needed to be improved. Two significant aspects of performance, namely the development of arrangements for co-location with the police and the implementation of the shadow pre-charge advice scheme were problematic. The Area had suspended its casework quality assurance scheme part way through 2004-05, although it has now re-introduced it on a limited basis.

Since the time of the inspection, the Area has made some progress towards co-location and now shares premises with the police in Exeter, but has still to finalise arrangements with the police at Plymouth. A move to co-location with the police in Cornwall has been abandoned following police withdrawal from the project. The Area remains unable to resource the Torbay charging centre, and on some occasions is unable to staff the Exeter charging centre.

There are serious risks to future implementation and delivery of the pre-charge decision scheme. The Area does not have a strategy for delivery nor, consequently, an implementation plan and there is an urgent need to kick-start the joint CPS/police Project Management team.

Overall, Area casework results remain good. The Area met its targets for reducing ineffective trials in the magistrates' courts and the Crown Court, with performance at the latter being particularly impressive. Most case outcome rates are good, although there are significant monthly variations in the discontinuance rate for cases that have been subject to pre-charge advice, with the target not always being met. Cases involving domestic violence make up a sizeable proportion of this figure. Some cases have been wrongly recorded as being subject to pre-charge advice, which may have impacted adversely on this aspect of performance.

Persistent Young Offender (PYO) performance remained excellent throughout 2004-05, although is now declining significantly. The Area needs to raise its awareness of this aspect of performance and address it urgently through the inter-agency youth case progression groups.

CPS Devon and Cornwall shares an Offences Brought To Justice (OBTJ) target with its criminal justice partners. This aspect of performance is mainly police driven, although there is scope for the CPS to influence it. The target has not been met but performance is improving and the sanction detection rate is rising. The Area brought 28,449 offences to justice in 2004-05 against a target of 28,676.

Partnership working with the police is fair, with performance discussed at joint management meetings. Crown Court unsuccessful outcomes, and the reasons for cracked and ineffective trials are analysed. In the magistrates' courts there is good joint working by case progression officers to reduce the level of ineffective trials and detailed analysis of the reasons for cracked and ineffective trials. Sensitive cases and hate crimes

are dealt with effectively. The Area has appropriate systems to ensure that decisions are taken at the correct level. Performance information on offences involving domestic violence and those that are racially motivated is shared with the other agencies and local interest groups.

The Area's poor performance in relation to the disclosure of unused material has improved since the inspection, although defective schedules from the police are still being accepted and disclosure logs are not always completed. Late compliance with the duty to provide primary disclosure, occasioned by the Area waiting for documentation from the police, has led to ineffective trials and wasted costs orders.

The Area's case management system (CMS) is not used appropriately in all cases. Whilst it is used effectively to prepare committals for trial, there is a need to improve substantially its use for full file reviews, particularly in the magistrates' courts units.

The Area's performance management regime needs to be strengthened further, and applied consistently across the Area. The Area also needs to develop its strategy for managing change, particularly at a time when it has to deliver a number of national initiatives.

Resource management is problematic, with the Area likely to repeat in 2005-06 its overspend in 2004-05. The resources allocated and the planned expenditure detailed in the budgets is not sustainable when the current level of funding is taken into account.

Training needs have been identified and set out in a detailed plan, but these have not been prioritised nor linked systematically to the Area Business Plan. The Area needs to introduce training evaluation so that it can ensure that value has been obtained and the anticipated benefits, including improvements in performance, have been achieved.

Senior managers participate extensively in outward facing activities, and represent the Area on a range of joint criminal justice system groups. However, they need to engage more effectively with staff on strategic issues, to enable them to play a greater role in the development of the vision, values and direction of the Area.

The arrangements in place for delivery of the Area Business Plan are undermined by the lack of underpinning plans at office level.

In many respects the service to the public in Devon and Cornwall is reasonably good, with casework dealt with appropriately and wide ranging community engagement. However, the Area's weaknesses in implementing new initiatives, delivering change and managing its resources, particularly its budget, reduces its overall performance assessment.

In the light of the above therefore, our overall assessment of Devon and Cornwall's performance is **POOR**.

CRITICAL ASPECTS	Level 1 - POOR
Pre-charge decision-making	1 - Poor
Ensuring successful outcomes	3 - Good
Leadership	2 - Fair
The service to victims and witnesses	3 - Good
Managing resources	1 - Poor
OTHER DEFINING ASPECTS	
Managing magistrates' courts cases	2 - Fair
Managing Crown Court cases	3 - Good
Handling sensitive cases and hate crimes	3 - Good
Custody time limits	3 - Good
Disclosure	2 - Fair
Presenting and progressing cases at court	3 - Good
Delivering change	1 - Poor
Managing performance to improve	2 - Fair
Securing community confidence	3 - Good

OVERALL ASSESSMENT	1 - POOR
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D. DEFINING ASPECTS

1. PRE-CHARGE DECISION-MAKING

1 - POOR

The Area operates a partial shadow-charging scheme. Pre-charge advice is given at three centres, Camborne, Exeter, and Plymouth. Resource constraints have led to the withdrawal of coverage at Torbay, and the withdrawal on occasions of coverage at Exeter. A quality review of the Exeter charging centre indicated that there were a number of issues to be addressed, including custody sergeants overriding the decision of the advising lawyer. Realisation of expected benefits is only fair. The discontinuance rate in the magistrates' courts is poor, at 20.9% and the Crown Court (15.6%). However, the guilty plea rate in the magistrates' courts is excellent (64.8%) and good in the Crown Court (70.2%).

1A: The Area ensures that procedures for pre-charge decision-making operate effectively at Area charging centres

- The Area implemented the first stage of its plan for full shadow charging. It then, however, through a lack of resources had to withdraw coverage from one site, and reduce it on occasions at another. The Area has given input to the training of custody sergeants, but not operational officers, on the operation of the pre-charge advice scheme. This has been well received by the police.

Aspects for improvement

- Migration to the statutory scheme is highly problematic, with the Area unlikely to move to full shadow charging until October 2005. There are serious risks to future implementation and delivery of the scheme. The Area does not have a strategy for delivery nor, consequently, an implementation plan and there is an urgent need to kick-start the joint CPS/police Project Management team.
- The Area does not regularly provide pre-charge advice and decisions at all relevant police stations. Resource limitations have led to coverage being withdrawn from Torbay and on occasions restricted at Exeter. There is a concern that this could impact adversely on CPS/police relationships.
- The lack of police Unique Reference Numbers on files has hampered the recording and counting of pre-charge decision cases. However, the use of the CPS Case Management System (CMS) for recording of advice and pre-charge decisions is now widespread. All files examined on CMS had a record of the pre-charge decision.

1B: The Area ensures that all charges advised on are in accordance with the Director’s guidance, the Code, charging standards and policy guidelines, and are accurately documented and recorded

- Area lawyers are generally of sufficient experience and expertise to deal with pre-charge decision cases and there is widespread understanding of the local and national scheme and all relevant guidance. The Area has systems to ensure that serious and sensitive cases are referred to a lawyer of appropriate experience. Eight of the 10 cases examined on CMS appeared to give adequate reasoning for the decision.
- The Area has monitoring systems in place to assure the quality and timeliness of advice and decisions provided but not all categories of case and outcomes (for example, cases where no further action is recommended) are included in the monitoring. Unit Heads look at all cases which are discontinued or are subject to an adverse outcome. This is more detailed in some units than others and the process needs to be regularised across the Area, with better use of the CPS management information system.
- Better performance information could be obtained in respect of cases submitted inappropriately for advice, and those where the police do not follow the pre-charge advice.

1C: The Area is able to demonstrate the benefits of its involvement in pre-charge decision-making

- The guilty plea rate in the magistrates’ courts is excellent and good in the Crown Court.
- The Area has undertaken some analysis of cases subject to pre-charge advice which are subsequently discontinued. They identified cases involving allegations of domestic violence as being particularly problematic. Eight of the 0ten cases with an adverse outcome examined on CMS involved an allegation of domestic violence

Aspects for improvement

- There is only limited realisation of benefits. The discontinuance rate for cases subject to pre-charge advice is poor in the magistrates’ courts and the Crown Court. There is, however, evidence of some discontinued cases being recorded incorrectly as subject to a pre-charge decision. This could have an adverse impact on the discontinuance rate.
- There is limited joint working and analysis with the police at some levels. The monitoring of, or action taken in respect of, police non-compliance with the scheme needs to be strengthened, with only anecdotal evidence available at the moment. Some unsuccessful outcomes are attributable to poor police file preparation.

2. MANAGING MAGISTRATES' COURTS CASES**2 - FAIR**

The Area has case progression officers who meet regularly with their counterparts in the police and the magistrates' courts. Cracked and ineffective trial are analysed and reports submitted to unit heads. The Area met its 2004-05 target to reduce the level of ineffective trials to 20%. The cracked trial rate was 29.3%, which was substantially better than the national average (37.1%). Late guilty pleas offered by defendants for the first time was the principal reason for trials cracking. Summary trial preparation is good, with effective use of trial readiness forms, but there is an urgent need to improve the use of the CPS Casework Management System (CMS) for full file reviews. Persistent Young Offender performance is declining in the magistrates' courts and the Area needs to address this in conjunction with the other criminal justice agencies.

2A: The Area ensures that cases progress at each court appearance

- Magistrates' courts cases are reviewed and prepared promptly, and follow-up work is undertaken when necessary, with the result that cases are ready to proceed at each court hearing. The Area has effective systems to ensure cases are reviewed before the first hearing, and the standard of police file for early first hearings is good. The proportion of trials, which are ineffective due to the prosecution not being ready, is much better than the national average.
- There is liaison with criminal justice partners, and regular case progression meetings, with action taken to secure improvements and performance improving as a result. The Area met its target in 2004-05 to reduce the ineffective trial rate by 20%, with performance improving, albeit slightly, over the year.
- Work has started on the implementation of the Effective Trial Management Programme (ETMP). The Area has undertaken, in conjunction with its criminal justice partners, a gap analysis of existing systems against those required by the ETMP
- The PYO target is being met and is better than the national performance. The Area's three-month rolling average to February 2005 was 57 days against the national target of 71 days. The national average for the same period was 67 days. PYO performance is discussed at case progression meetings and there is a detailed youth case progression plan for Cornwall. However performance is now declining significantly. Whilst this is partly attributable to an increase of seven days in the notional arrest to charge to figure, the Area needs to raise its awareness of this aspect of performance and address it urgently through the inter-agency youth case progression groups.

Aspects for improvement

- The number of wasted costs orders is well above the national average. There were five wasted costs orders in 2004-05. Whilst numerically very small, performance is poor when compared to almost all other Areas. The Area attributes most of these orders to a failure to deal with disclosure in a timely manner at Plymouth Magistrates' Court. The Area needs to identify with the police what necessary remedial action should be taken.

2B: The Area contributes effectively to reducing cracked and ineffective trials

- The ineffective trial rate is reducing and the Area has met its own and national targets. There is regular and formal analysis of all ineffective trials, and appropriate action is taken in all cases where the prosecution has been at fault. The cracked trial rate is increasing, although at 29.3% remains significantly below the national average (37.1%).
- The Area's rates for cases that are cracked or ineffective due to the prosecution are both below the national average, with the exception of those cases where the defendant is bound over, and the prosecution has previously rejected that disposal. A late guilty plea by defendants to the original charge is the principal reason for trials cracking.
- Some work has been undertaken with criminal justice partners in case progression officer meetings. Prosecution Team Performance Meetings are used to analyse, at an Area level, the reasons for cracked, ineffective and late vacated trials. Case progression officers provide a detailed analysis of the reasons for ineffective or cracked trials. These analyses indicate that some cases are recorded in the wrong category or that the reason attributed for the ineffective or cracked trial is wrong. There is evidence of necessary actions being identified and remedial work undertaken.

2C: The Area demonstrates that CMS contributes to the effective management of cases

- Some Area templates have been added to CMS, particularly for dealing with the disclosure of unused material.

Aspects for improvement

- Staff are not routinely using CMS to record key events in summary cases, although task escalation is monitored. The use of CMS for full file reviews in summary trial cases is very poor. Performance is only improving very slowly. Staff have been set objectives in their forward job plans to increase the use of CMS for full file reviews, and the performance of individual prosecutors is discussed by the Area Management Group.

3. MANAGING CROWN COURT CASES

3 - GOOD

The ineffective trial rate is excellent, and the Area has met its own and the national target by some way. The proportion of ineffective trials that are due to the prosecution is less than half the national average. The cracked trial rate is better than the national average, as is the proportion of cases that crack due to the prosecution. The Area does not have Crown Court case progression officers. Caseworkers progress effectively their own caseload. The Area consistently achieves its target for using its casework management system (CMS) to build indictments. The recording of full file reviews on CMS is good in the Plymouth Crown Court Unit, but poor at Exeter and Truro.

3A: The Area ensures that cases progress at each court appearance

- Crown Court cases are reviewed and prepared promptly, and follow up work is undertaken when necessary, with the result that cases are ready to proceed at each court hearing. There is good liaison with the Crown Court Case Progression Officers. Only five trials were ineffective because the prosecution were not ready. This was 0.9% of cases listed for trial, which is half the national average. Overall, only 3.2% of cases were ineffective due to the prosecution, which is less than half the national average.
- As in the magistrates' courts, work has started on the implementation of the Effective Trial Management Programme (ETMP). The Area has undertaken, in conjunction with its criminal justice partners, a gap analysis of existing systems against those required by the ETMP
- Instructions to counsel are delivered promptly. Over 90% of instructions to counsel met the national target, compared with 85% nationally. The quality of instructions to counsel was good, and comparable with the findings in our inspection.
- There is some liaison with criminal justice partners, with performance improving as a result. Although the Area does not have any Crown Court progression officers, there are regular meetings with HM Court Service staff to discuss performance.

Aspects for improvement

- The Area has not met its Proceeds of Crime Act confiscation order targets. Only 16 confiscation orders were made against a benchmark of 25. Performance in obtaining restraining orders needs to be improved. Whilst relevant staff have been trained in the operation of the Joint Asset Recovery Database, some still need to be trained in the application of the provisions of the Act. The Area has developed a useful "at a glance guide" to assist prosecutors and has a protocol with the police on how these cases should be handled.

- The number of wasted costs orders is well above the national average. Although there were only two orders made in 2004-05, most CPS Areas had no orders made against them.

3B: The Area contributes effectively to reducing cracked and ineffective trials

- The ineffective trial rate is reducing and the Area has met its own and the national target. In 2004-05 the ineffective trial rate was 11.9% against a local target of 15%, and a national target of 18.4%. The cracked trial rate was 31.1%, and although rising was still below the national average. In 10.1% of cases the trial cracked due to the prosecution, again this is below the national average (15.3%).
- Regular meetings are held with the Crown Court to analyse cracked and ineffective trials. In Plymouth these meetings identified the intention of the prosecution to adduce bad character evidence as a reason for the increase in cracked trials.

3C: The Area demonstrates that CMS contributes to the effective management of cases

- In 96.3% of cases CMS was used to build the indictment. This is better than the national average and reflects the drive by the Area to increase the use of CMS to prepare Crown Court cases.

Aspects for improvement

- The use of CMS to undertake full file reviews needs to be improved in some units. Whilst the Plymouth Crown Court Unit was using CMS to do full file reviews in the majority of cases, performance at Truro was poor. In some months no reviews took place on CMS in this unit. Performance is however improving in the first quarter of 2005-06.

4. ENSURING SUCCESSFUL OUTCOMES	3 - GOOD
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The percentage of unsuccessful outcomes in all case categories is better than the national average. However, there is a need to reduce the number of cases subject to a pre-charge decision that are subsequently discontinued. Adverse case reports are completed for all unsuccessful Crown Court case outcomes, and those where there is a finding of no case to answer in the magistrates' courts. The findings are analysed and shared with the police and the court.

4A: The Area is working to increase the number of successful outcomes and reduce the level of attrition after proceedings have commenced

OUTCOME	AREA FIGURE	NATIONAL AVERAGE
Magistrates' courts		
Discontinuance & bindovers	12.0%	12.5%
No case to answer	0.2%	0.3%
Dismissed after trial	1.6%	1.5%
Discharged committals	0%	0.3%
Overall conviction rate	84.6%	80.8%
Crown Court		
Judge ordered acquittals	10.0%	14.2%
Judge directed acquittals	1.8%	2.0%
Acquittals after trial	4.8%	6.3%
Overall conviction rate	82.8%	75.8%

- Adverse outcome forms are completed in appropriate Crown Court cases, and clearly set out the reasons for acquittal. These are passed to the police and the Area casework manager addresses any issues identified. There was some assessment of the quality of review and case handling through the casework quality assurance scheme, but this was suspended partway through 2004-05.
- The Area has met its target in relation to the combined magistrates' court and Crown Court unsuccessful outcomes and its performance is significantly better than the national rate (15.5% against a local target of 17%, a national average of 19.6% and a 21% national target). Performance is particularly good in the Crown Court where the unsuccessful outcome rate was 17.2% against a national average of 24.2%. The discontinuance (including bind overs), discharged committal, Judge Ordered Acquittal (including bind overs), No Case To Answer, Judge Directed Acquittal and Crown Court acquittal rates are lower than the national average. The magistrates' court acquittal rate is slightly higher than the national average.

Aspects for improvement

- The percentage of pre-charge decision cases resulting in a conviction is below the national average and is not increasing. Some discontinued cases have been wrongly recorded as being subject to a pre-charge decision.
- The Area Offences Brought To Justice (OBTJ) target was missed by 227 offences although performance is improving. The Area brought 28,449 offences to justice in 2004-05 against a target of 28,676. The OBTJ target is a shared one, set by reference to the criminal justice areas. The ability of the CPS to influence this particular target is limited because it includes offences dealt with by non-prosecution disposals. The CPS's contribution comes through managing cases to keep discontinuance levels and unsuccessful outcomes low.

5. HANDLING SENSITIVE CASES AND HATE CRIMES 3 - GOOD

The Area deals effectively with sensitive cases and hate crimes. It has effective systems for ensuring that decisions are taken at an appropriate level, both at the review stage and at court. Information on Area performance is shared with other agencies and interest groups. Protocols exist, or are in the process of being agreed between the relevant agencies, for the managing of major crime cases, high impact cases and anti-social behaviour.

5A: The Area identifies and manages sensitive cases effectively

- Sensitive cases (including child abuse and child witness cases, rape, and fatal road traffic offences) and hate crimes (comprising domestic violence, homophobic, racist and religious crimes) are generally flagged up on the CPS case management system, and their review and handling is formally assessed, with appropriate action being taken where necessary. Only one of the nine relevant files we examined was not flagged to indicate it was a sensitive case. The Area's system for analysing adverse case outcomes is used to identify where improvements need to be made in the handling of sensitive cases.
- The Area is in the process of agreeing protocols with the police on the handling of serious and high impact cases. The protocols set out clearly the roles and responsibilities of the prosecution team members. The major crime protocol would benefit from a post-implementation review process.
- The Area has appointed champions and specialists for sensitive cases, who disseminate information to prosecutors and caseworkers, and handle cases where appropriate. Prosecutors with the appropriate specialist skills and knowledge handle most sensitive cases. The Area ensures that in-house specialists prosecute racially or religiously aggravated cases, and the Chief Crown Prosecutor assesses all cases within this category.
- The Area takes CPS policies and, to a more limited extent, HMCPsi thematic reviews into account when devising Area practice.
- We examined a number of letters written to the victims of rape that explained why their cases could not proceed. These were well written, and showed a good level of sensitivity.
- The Area undertakes an analysis of hate crime cases in which a reduction or change of charge, or an agreed basis of plea, reduces or removes the 'hate element' from the offence. The analysis is shared with local interest groups. The Area prosecuted 87% of defendants received against whom a racially aggravated offence was alleged, compared with 76% nationally. The conviction rate was 95% compared with 86% nationally.

6. CUSTODY TIME LIMITS

3 - GOOD

The Area has recently updated its written custody time limit (CTL) system, which is applied throughout the Area but with some variations to accommodate local practices. The Area has undertaken staff training during 2004-05, and only a small percentage of staff remain to be trained. The Area is close to agreeing a protocol, which will include the courts in calculating and monitoring custody time limits.

6A: Area custody time limit systems comply with current CPS guidance and case law

- The Area has a written CTL system that fully complies with national guidance and contains some elements of good practice. The system has been tailored to meet the particular working practices of each office. The Area has not had any CTL failures within the last financial year.
- A protocol is currently being negotiated with HM Court Service, which would involve the courts in agreeing the CTL expiry date and any subsequent monitoring.
- The majority of staff have been trained in both the local system and the relevant law. using the national training package available to Areas. All levels of staff were given the same training.
- Examination of a number of CTL files revealed generally good practice, with all expiry and review dates being correctly calculated and displayed on the front of the file.
- The Area system is reviewed and changes are made when new case law or procedures are brought in.

Aspects for improvement

- Office managers and Unit Heads in each office require a monthly assurance that the monitoring system has been functioning effectively. However, it is not clear whether this is sufficient to assure managers that the monitoring system is being adhered to, that all necessary action has been taken and that all live custody time limit cases are being monitored.
- In some cases examined an extension to the expiry date had not been noted on the front of the file. National guidance requires a fully up to date back up monitoring system. The Area referred to the case management system as their back up. However, enquiries into the system showed that in some offices it was not up to date, with many outstanding tasks relating to custody time limits.

7. DISCLOSURE**2 - FAIR**

Overall the handling of the disclosure of unused material has improved since our inspection. However, some schedules provided by the police are still lacking in detail and prosecutors are not using the disclosure log in all cases. Some relevant staff still need to be trained on the revised disclosure provisions. There has been no joint training with the police. The failure of the police to identify sensitive material, and their delay in providing non-sensitive unused material has contributed to unsuccessful outcomes, ineffective trials and wasted costs orders. The Area systems for securing sensitive material are effective.

7A: The Area takes steps to ensure that there is compliance with the prosecution's duties of disclosure

- The Area's overall disclosure performance during the last inspection cycle was poor. Primary disclosure was handled correctly in the magistrates' courts in only 33.3% of cases compared with 71.6% nationally. In the Crown Court it was handled correctly in 62.5% of cases, compared with 79.9% nationally. In contrast, secondary disclosure was handled correctly in 77.3% of Crown Court cases, compared with 59.4% nationally.
- There was, however, evidence of performance improvement in the file sample we examined as part of the overall performance assessment. We examined 10 magistrates' court cases and found that primary disclosure was dealt with correctly in six cases. Although only a small sample this is better than we found at the time of our inspection. Timeliness needed to be improved in two of these cases.
- Area systems ensure that all sensitive material schedules and unused sensitive material are stored securely. There is an understanding with the police that sensitive material will not usually be sent to CPS offices. Appropriate arrangements exist to enable prosecutors to view sensitive material.
- The Area has appointed a disclosure champion, who sits on the joint CPS/police disclosure committee. They have drawn to the police's attention aspects of performance where improvement is needed, for example in respect of the handling of very sensitive material.
- In the Crown Court, primary disclosure was dealt with correctly in seven of the ten cases examined, and secondary disclosure in five of the seven relevant cases. In a further case relevant items were omitted from the sensitive disclosure schedule.

Aspects for improvement

- In the Crown Court, primary disclosure was dealt with correctly in seven of the ten cases examined, and secondary disclosure in five of the seven relevant cases. In a further case relevant items were omitted from the sensitive disclosure schedule. Following the Area's suspension of the casework quality assurance process there is little evidence of prosecutors' performance in relation to disclosure being assessed, or of appropriate action being taken where necessary. Some adverse case reports indicate that a failure to comply with the prosecutions duty of disclosure is leading to unsuccessful outcomes. Additionally some trials are ineffective because of the prosecutions failure or late compliance with their duty of disclosure. Summary trial review is being delayed while the police rectify defective unused material schedules.
- In the Crown Court, primary disclosure was dealt with correctly in seven of the ten cases examined, and secondary disclosure in five of the seven relevant cases. In a further case relevant items were omitted from the sensitive disclosure schedule. There has been no joint training with the police, and some unused material schedules are still lacking in detail. Additionally, prosecutors do not always use the disclosure log to evidence their actions.

8. THE SERVICE TO VICTIMS AND WITNESSES
3 - GOOD

The Area's performance in 2004-05 in securing the attendance of witnesses at court was better than national performance. Area training has emphasised the importance of understanding and providing for witness needs. One of the three planned Witness Care Units (WCU) has recently been established in Exeter and the current aim is to have full coverage by the end of 2005. A recent review of the Unit showed there are a number of challenges to be met before the Unit is fully compliant with national requirements. It is as yet too early to demonstrate all the benefits of this initiative.

8A: The needs of victims and witnesses are fully considered and there is timely and appropriate liaison, information and support throughout the prosecution process

- There is a detailed analysis of cracked and ineffective trial data at an Area and Local Criminal Justice Board (LCJB) level. Efforts are being made through the establishment of WCUs, to secure a reduction in the number of cracked and ineffective trials that occur as a result of witness issues.
- Direct Communication with Victims (DCV) and the Speaking Up For Justice initiative are generally embedded throughout the Area with effective monitoring and dissemination of lessons learnt. The Area Management Group considers DCV performance at monthly meetings and takes action to ensure compliance levels are maintained when performance dips. Timeliness and volume has fluctuated to some extent throughout the year but is generally maintained at a satisfactory level.
- We examined nine files that required a letter to be written to the victim explaining why the case had been dropped. A letter was sent in eight of the cases, although was not timely in two. The quality of the letter was good in seven.
- Witness warning procedures are generally effective and pre-trial checks are usually carried out by the case progression officer in magistrates' court cases and by caseworkers in Crown Court cases. There is timely supply of witness details to the Witness Service.
- There is good day to day liaison with the Witness Service who are also involved with CPS on a number of LCJB sub-groups.

Aspects for improvement

- The Area's capability is limited at present, as only one WCU has been set up. The Area is working to ensure that the three planned units will be fully operational by the end of 2005. Implementation of this initiative has been problematic with some deadlines being missed and future difficulties anticipated. Some benefits are being realised with the establishment of the Exeter WCU.

9. PRESENTING AND PROGRESSING CASES AT COURT 3 - GOOD

The Area has a strong cadre of Higher Court Advocates who undertake the full range of Crown Court casework, including some trials involving serious allegations. Current resource constraints have reduced the number of sessions they are able to undertake, but the Area has plans to bring coverage back up to previous levels. There is high agent coverage in the magistrates' courts, but the Area has a good induction process. New counsel spend two weeks in Area offices to familiarise themselves with CPS procedures, including aspects of file endorsement. Counsel's performance in the Crown Court is monitored regularly by caseworkers, as is the performance of agents in the magistrates' courts.

9A: The Area ensures that prosecution advocates and staff attend court promptly, are professional, well prepared and contribute to effective case progression

- There are effective systems to ensure cases are reviewed before the first hearing and where appropriate progressed to trial. More adult cases are brought to trial within the target time of 143 days than the national average (73% compared with 66%). Prosecutors in the magistrates' courts use a Certificate of Readiness to show that the relevant issues have been addresses, and in the Crown Court there was good evidence of continuing review by caseworkers and prosecutors. As in our inspection report, we found that prosecutors and caseworkers were alert to what further tasks needed to be carried out by the police.
- Papers are provided to prosecutors promptly, enabling all advocates to prepare thoroughly for court.
- The selection of prosecution advocates for all courts is usually undertaken with full consideration of their experience, expertise and qualifications. Suitably trained prosecutors cover most specialist courts, and particular care is taken to ensure that appropriately trained prosecutors deal with cases involving allegations of racial aggravation.
- Agents and counsel are given full instruction packs and are advised of new initiatives and policy directives. Our analysis of instructions to counsel confirmed that they are updated regularly.

- There are very few complaints about prosecutors from other agencies. When these do occur they are investigated and action is taken if appropriate. There was a case in our file sample where there was a complaint about the performance of the prosecution. This was dealt with effectively.
- There is regular monitoring of all counsel in the Crown Court by CPS caseworkers. The performance of agents in the magistrates' courts is monitored regularly and detailed assessment forms completed, which was confirmed by an examination of a sample of the forms. New in-house prosecutors are also monitored.

10. DELIVERING CHANGE

1 - POOR

The Area Business Plans mirrors the national priorities, but significant gaps in the planning documents means that translation of these to the local level is not always clear or transparent. Change is not systematically planned and managed, with the Area tending to be reactive rather than anticipating the need for change. While training needs have been identified they are not clearly linked to business needs and no evaluation of training received takes place to ensure the business needs have been met.

10A: The Area has a clear sense of purpose supported by relevant plans

- The Area sets out its aims and objectives in its Area Business Plan, which mirrors the CPS national priorities.
- There is some evidence of planning with its criminal justice partners being successful, for example witness profiling, but generally it lacks depth and effectiveness.

Aspects for improvement

- The planning regime has significant gaps in it with no local team or change plans to augment the Area Business Plan and as a result the translation of the Areas aims and objectives to the local level is not always clear or transparent.
- Regular structured and documented reviews of the Area Business Plan and Risk Register need to be carried out to ensure that changing priorities are reflected in the Area's activities.

10B: A coherent and co-ordinated change management strategy exists

- There is evidence that some change has been implemented, often the perceived benefits have not been realised or the new systems or processes have not been sustainable, for example shadow charging and some aspects of co-location.

Aspects for improvement

- Overall, change is not systematically managed, with the Area tending normally to be reactive rather than anticipating the need for change. A coherent change programme and strategy needs to be developed, to enable the Area to have a structured approach to the introduction of individual initiatives. With its limited change management resources the Area needs to adopt a more targeted approach to change concentrating its efforts on the delivery of key initiatives.

- Post implementation reviews of change projects need to be carried out to identify good practice for future use and the reasons for the failure to realise the anticipated benefits and sustainability of the new systems. This will help the Area to take action to avoid similar problems arising in the future.

10C: The Area ensures staff have the skills, knowledge and competences to meet the business need

- Training needs have been identified and set out in a detailed plan.

Aspects for improvement

- Training needs have not been prioritised nor linked systematically to the Area Business Plan. The Area needs to introduce training evaluation so that it can ensure that value has been obtained and the anticipated benefits, including improvements in performance, have been achieved.

11. MANAGING RESOURCES

1 - POOR

The Area has no systematic or comprehensive strategy towards achieving value for money. While the arrangements for monitoring the budget are satisfactory the lack of soundly based resource planning has resulted in the locally set budgets not being sustainable when taking into account current levels of funding. The Area overspent in 2004-05 and is projecting an over spend for 2005-06. Designated Caseworker (DCW) deployment, savings arising from Higher Court Advocate usage and sick absence are below the national target and average.

11A: The Area seeks to achieve value for money, and operates within budget

- Senior managers are provided regularly with full financial information, which is considered at the Area Management Group.

Aspects for improvement

- The non-ring fenced running costs budget was under spent by 1.2% in 2003-04 but overspent by 3.9% in 2004-05. Performance is declining and an over spend is predicted for 2005-06. The prosecution costs budget was over spent by 18.4% in 2004-05.
- Resource planning while systematic needs to focus on the financial resources available and not the Area's perceived need, which results in the resources allocated and planned expenditure detailed in the budgets not being sustainable when taking into account the current level of funding.
- There is limited evidence of action being taken to achieve greater value for money. This is not part of a systematic and comprehensive strategy to address the over spend, but an attempt to contain expenditure within the internally allocated budgets.

11B: The Area has ensured that all staff are deployed efficiently

- The Area makes good use of all its HCAs, and takes account both of development needs and targeting savings in counsel fees. However, the notional counsels fees saved per HCA session is not as good as the national average.

Aspects for improvement

- Due to resource difficulties there was a high level of agent usage in 2004-05, which may also contribute significantly to this years projected overspend. The percentage of court sessions covered by agents in 2004-05 was about 10% higher than the average national figure.
- The number of court sessions covered by DCWs needs to be increased. The Area has the full-time equivalent of 2.3 DCWs, who covered 327 court sessions in the 2004-05. In the quarter ending March 2005, only 4.4% of court sessions were covered by DCWs, against a national average of 9.3%.
- Average sick absence is relatively high at 9.9 days per member of staff over the year 2004-05. The overall trend indicates that sick absence rates are rising. The Area has expressed a concern that an increasing strain on resources will aggravate this aspect of performance.

12. MANAGING PERFORMANCE TO IMPROVE

2 - FAIR

Whilst performance is frequently discussed it does not represent a systematic and cohesive appraisal, and therefore does not result in positive and planned action to address poor performance. The Area suspended the use of the Casework Quality Assurance (CQA) system part way through 2004-05, although it has now re-introduced the process. Although effort is being put into joint performance appraisal activity with the other criminal justice agencies it does not always translate into improved performance.

12A: Managers are held accountable for performance

- In some aspects of its work the Area has demonstrated a commitment to performance management. Performance information is available at the Area and unit level and disseminated to staff through a quarterly performance bulletin. Performance is discussed at Area Management Group (AMG) and Office Management Team (OMT) meetings.

Aspects for improvement

- Unit Head recognise they are accountable for delivery, but the systems need upgrading and formalising to ensure a systematic and cohesive assessment of performance is possible. Whilst the AMG and OMTs discuss performance, no evidence exists to confirm that this is carried out systematically and consistently, resulting in planned improvement activity.
- Although there is evidence of limited improvement activity it tends to be ad hoc, reactive and office based. Steps need to be taken to ensure that it is part of a cohesive long-term strategy for continuous improvement that will address key priorities and promote good practice across the Area.
- While the Area is committed in principle to using performance appraisal activity to improve performance pressure of work means only limited in year reviews are possible thus minimising the effectiveness of the process, and reducing its usefulness in helping to drive up performance, for example in increasing the use of the CPS case management system.

12B: The Area is committed to managing performance jointly with CJS partners

- There is evidence of joint performance management with criminal justice partners that has resulted in improved performance for example in addressing issues relating to cracked and ineffective trials. In relation to other aspects of performance, for example the operation of the pre-charge decision scheme, and the disclosure of unused material, there is a need to work more closely with the police.

12C: Performance information is accurate, timely, concise and user-friendly

Aspects for improvement

- Performance information is available at the Area and Unit level, however at present this is usually just raw data and steps need to be taken to ensure regular and pertinent analysis of performance information. This will assist to identify performance trends and draw attention to aspects for improvement. Work is ongoing in this business year to develop further the suite of management information.

12D: Internal systems for ensuring the quality of casework are robust and founded on reliable and accurate analysis

- The Area suspended the use of CQA partway through 2004-05 because of workload pressures. It continued its effective system for monitoring performance in respect of adverse outcomes, but this only applies to a narrow set of cases, and does not cover the full range of casework. The CQA system has been re-introduced on a limited basis in 2005-06, with a view to it being fully restored by October 2005.

13. LEADERSHIP

2 - FAIR

The Area Business Plan sets out Devon and Cornwall's vision and values but only senior managers were involved in its development. The geography of the Area puts a premium on leadership to ensure appropriate levels of corporacy. This does need to be strengthened, and additionally the Area needs to develop its plans at unit level, to underpin its overall aims and objectives. The quality and regularity of communications with staff at the local level is variable. Despite a stated commitment to equality and diversity no evidence exists to show how this has been integrated into policies and plans.

13A: The management team communicates the vision, values and direction of the Area well

- CPS Devon and Cornwall's vision and values are set out in the Area Business Plan, which has been made available to all staff.
- Senior managers participate extensively in outward facing activities, and represent the Area on a range of joint criminal justice system groups. They also work to increase the profile of the Area within the communities they serve.

Aspects for improvement

- The arrangements in place for delivery of the plan are undermined by the lack of underpinning plans at office level.
- The failure to adopt common systems and processes needs addressing if corporacy is to be embedded in the Area, rather than local customs and practice taking precedent.
- Senior managers need to engage more effectively with staff on strategic issues, to enable them to play a greater role in the development of the vision, values and direction of the Area. It will also help to improve their appreciation of the wider Area and corporate perspective.
- The quality and regularity of local communication is variable and needs to be improved if the Area is to meet the aspirations set out in its communications strategy.

13B: Senior managers act as role models for the ethics, values and aims of the Area and the CPS, and demonstrate a commitment to equality and diversity policies

- The CPS Devon and Cornwall staff mix more than reflects the demography of the Area.

Aspects for improvement

- There is a stated commitment to the CPS Equality and Diversity policies although action needs to be taken to ensure that this is evidenced in the Area's documented plans and strategies.

14. SECURING COMMUNITY CONFIDENCE

3 - GOOD

Senior Area managers play a major role in engaging with the local community and commitment to this work is clear. The Area participates in work carried out by the Local Criminal Justice Board (LCJB), which is building links with local community groups. The Area also works with the other criminal justice agencies on specific projects aimed at informing particular groups within the local population of the work of the criminal justice agencies and also providing general guidance in relation to the law. The Area does not employ a Communications officer, due to lack of resources, which limits the amount of work it can do with the media but it is exploring other options through use of its existing staff and those in other agencies.

14A: The Area is working pro-actively to secure the confidence of the community

- The commitment of senior Area managers to improving community confidence is clear with managers working with the LCJB on specific initiatives and with their criminal justice agency partners to explain how the criminal justice system works and to inform local black and minority ethnic populations of their legal rights. Attendance at, and contributions, to local domestic violence groups and meetings of local diversity fora demonstrates wider engagement activity with the community. Area managers are increasing the involvement of staff across the grades in community engagement activities.

Aspects for improvement

- The Area has recently set up a log to systematically record community engagement activity but this does not involve measuring the success of its activity. Given the Area's limited resources, evaluation of the value of this aspect of performance would be useful in determining its priorities.
- There is little evidence that service improvements have been made as a result of consultation.

ANNEX A

PERFORMANCE DATA

ASPECT 1: PRE-CHARGE DECISION-MAKING

MAGISTRATES' COURTS CASES								
Discontinuance rate			Guilty plea rate			Attrition rate		
National Target March 2007	National Performance Quarter 4 2004-05	Area Performance Quarter 4 2004-05	National Target March 2007	National Performance Quarter 4 2004-05	Area Performance Quarter 4 2004-05	National Target March 2007	National Performance Quarter 4 2004-05	Area Performance Quarter 4 2004-05
11%	16.3%	20.9%	52%	68.8%	64.8%	31%	22.7%	27.5%
CROWN COURT CASES								
Discontinuance rate			Guilty plea rate			Attrition rate		
National Target March 2007	National Performance Quarter 4 2004-05	Area Performance Quarter 4 2004-05	National Target March 2007	National Performance Quarter 4 2004-05	Area Performance Quarter 4 2004-05	National Target March 2007	National Performance Quarter 4 2004-05	Area Performance Quarter 4 2004-05
11%	14.6%	15.6%	68%	66%	70.2%	23%	23.8%	24.1%

ASPECT 2: MANAGING MAGISTRATES' COURTS CASES

INEFFECTIVE TRIAL RATE			OVERALL PERSISTENT YOUNG OFFENDERS PERFORMANCE (ARREST TO SENTENCE)		
National Target	National Performance 2004-05	Area Performance 2004-05	National Target	National Performance (3-month rolling average Feb 05)	Area Performance (3-month rolling average Feb 05)
24.5%	24.8%	20%	71 days	67 days	57 days

**TIME INTERVALS/TARGETS FOR CRIMINAL PROCEEDINGS IN MAGISTRATES' COURTS
CHARGED CASES ONLY (MARCH 2005)**

	Initial Guilty Plea Target 59 days		Trials Target 143 days		Committals Target 176 days	
	Cases within target (%)	Sample size (no of defendants)	Cases within target (%)	Sample size (no of defendants)	Cases within target (%)	Sample size (no of defendants)
National	83%	6,152	66%	2,698	89%	992
Area	77%	136	68%	56	89%	9

**TIME INTERVALS/TARGETS FOR CRIMINAL PROCEEDINGS IN YOUTH COURTS
CHARGED AND SUMMONSED CASES (MARCH 2005)**

	Initial Guilty Plea Target 59 days		Trials Target 176 days		Committals Target 101 days	
	Cases within target (%)	Sample size (no of defendants)	Cases within target (%)	Sample size (no of defendants)	Cases within target (%)	Sample size (no of defendants)
National	87%	5,185	87%	3,309	91%	190
Area	92%	121	91%	46	50%	2

ASPECT 3: MANAGING CROWN COURT CASES

INEFFECTIVE TRIAL RATE

National Target	National Performance 2004-05	Area Performance 2004-05
18.5%	15.8%	11.9%

ASPECT 4: ENSURING SUCCESSFUL OUTCOMES

UNSUCCESSFUL OUTCOMES (AS A PERCENTAGE OF COMPLETED MAGISTRATES' COURTS AND CROWN COURT CASES)		
National Target	National Performance 2004-05	Area Performance 2004-05
21%	19.6%	15.5%

OFFENCES BROUGHT TO JUSTICE		
	CJS Area Target 2004-05	CJS Area Performance 2004-05
Against 2001-02 baseline	+14.4%	+13.4%
Number	28,676	28,443

ASPECT 7: DISCLOSURE

DISCLOSURE HANDLED PROPERLY IN MAGISTRATES' COURTS AND CROWN COURT CASES PERFORMANCE IN THE LAST INSPECTION CYCLE		
	National Performance	Area Performance
Primary test in magistrates' courts	71.6%	33.3%
Primary test in Crown Court	79.9%	62.5%
Secondary test in Crown Court	59.4%	77.3%
Overall average	70.3%	57.7%

ASPECT 11: MANAGING RESOURCES

NON RING-FENCED ADMINISTRATION COSTS BUDGET OUTTURN PERFORMANCE (END OF YEAR RANGES)	
2003-04	2004-05
1.2% Under spend	3.9% Over spend

DCW DEPLOYMENT (AS % OF MAGISTRATES' COURTS SESSIONS)			HCA SAVINGS (PER SESSION)		SICKNESS ABSENCE (PER EMPLOYEE PER YEAR)		
National Target 2005-06	National Performance 2004-05	Area Performance	National Performance Quarter 4 2004-05	Area Performance Quarter 4 2004-05	National Target	National Performance 2004	Area Performance 2004
11.6%	8.3%	3.96%	£224	£215	8 days	8.7 days	9.9 days

ASPECT 14: SECURING COMMUNITY CONFIDENCE

PUBLIC CONFIDENCE IN EFFECTIVENESS OF CRIMINAL JUSTICE AGENCIES IN BRINGING OFFENDERS TO JUSTICE (BRITISH CRIME SURVEY)	
CJS Area Baseline 2002-03	Most Recent CJS Area Figures In 2004-05
43%	49%

NOTES

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