

Press Notice

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HM CPSI INSPECTION REPORT ON THE ARMY PROSECUTING AUTHORITY

HM Crown Prosecution Service Inspectorate (HM CPSI) has today published its report on the Army Prosecuting Authority (APA). The inspection concentrated on the quality of the APA's casework and its processes for managing casework performance, including arrangements for liaising with other agencies in the military criminal justice system (MCJS).

The report's main conclusion is that the Army Prosecuting Authority has successfully established itself as an integral part of the MCJS, adding value in the overall quality of casework decision-making and handling. This has included achieving recognition of its independence within the system.

Other significant findings of the report include:

- The quality of prosecutors' decisions is sound and reflected in detailed case analyses, although these could address more clearly issues relating to the Service interest in prosecuting individual cases. Establishing a cadre of specialist lawyers to deal with more serious offences would also assist with mentoring new recruits to the APA.
- There needs to be greater clarity about the circumstances in which investigators can seek advice from the APA during an investigation before completion of the initial report to the Commanding Officer.
- There should also be more formal arrangements to allow discussion between the chain of command and the APA to discuss the possibility of summary dealing in appropriate cases.
- The soundness of the quality of review extends to the APA handling of those high profile cases dealing with the prosecution of soldiers for deaths of civilians which were included in the file sample.

- Once a case is directed for trial by courts martial, case progression is generally supervised by the court through a system of directions and pre-trial hearings. APA prosecutors are generally prepared for such hearings and comply with court directions.
- The quality of advocacy is generally good, but a formal system of advocacy monitoring would help in developing individual prosecutors. A more collaborative approach with the Military Court Service to the listing of cases would help case 'ownership' by ensuring prosecutors prosecute their own cases in court.
- The APA's specific responsibilities towards victims and witnesses are restricted to notifying them of particular events during the course of the case. Prosecutors are proactive in introducing themselves to witnesses at court and Assistant Prosecuting Officers assist with witness needs generally. Overall, however, the approach to witness care needs to be improved and steps are being taken in this direction.
- At the time of the inspection, the common law rules on disclosure of unused material applied to courts martial proceedings. Although the APA generally complied with its responsibilities, files did not have any evidence that material had been properly considered. Preparations are being made with investigators for the implementation of statutory disclosure in December 2007. Currently, unused material is unnecessarily provided to the court, a practice which could compromise the tribunal in some instances.
- The APA takes account of cultural differences when prosecuting defendants from minority ethnic backgrounds, but does not currently keep data on the numbers of such cases. Maintaining data will provide a greater transparency in decision-making.
- The APA has systems for quality assuring its casework and learning lessons, but these need to be more formal to ensure that information is properly disseminated and discussed with its partners. Similarly, a more formal structure of joint performance management should be developed.

Stephen Wooler, HM Chief Inspector of the Crown Prosecution Service Inspectorate, said:

"I am pleased to confirm that the establishment of the Army Prosecuting Authority has been successful in making the prosecution process independent of the military chain of command. This was essential to ensure compliance with the UK's obligation under the European Convention of Human Rights. The standard of casework reflects well on the professionalism of the prosecuting officers. Nonetheless there is scope for some further improvement and I am confident that the APA will build on our report to achieve that."

NOTES FOR EDITORS

1. This is the report of HMCPSI's inspection of the Army Prosecuting Authority.
2. The APA is responsible for handling cases referred by the Army chain of command for trial by court martial of persons subject to military law. Although its jurisdiction is worldwide, cases are prosecuted in fixed locations, usually in the United Kingdom and Germany. It is based at RAF Uxbridge, Middlesex and Rochdale Barracks, Bielefeld, Germany. In the year to 31 December 2006, 988 cases were referred to the APA, of which 667 were directed for trial by court martial.
3. The current system of military justice was introduced by the Armed Forces Act 1996 which was implemented on 1 April 1997 and followed challenges in the European Court of Human Rights to the previous military justice system. These led to a complete review of Army disciplinary procedures and to the creation of the APA, which was made independent of the military chain of command.
4. The purpose of this review was to examine the quality of the APA's casework and case handling processes, including the treatment of victims and witnesses, the quality of APA advocacy and its systems for monitoring and managing its performance. The inspection was carried out using a framework based upon common principles applying to all prosecuting authorities but adapted to the role and circumstances of the APA.

5. The inspection took place between January-March 2007, with inspectors undertaking interviews with APA staff, including administrators, prosecutors and senior officers in the UK and in Germany in February 2007. Interviews were also held with officers in the Army chain of command and the Office of the Provost Marshal (Army), and representatives of other military criminal justice agencies, including the Office of the Judge Advocate General and the Military Court Service. Questionnaires were received from defence practitioners who represented accused in courts martial. A sample of files from the APA units in the UK and Germany was also examined.
6. HM Crown Prosecution Service Inspectorate is an independent statutory body established by the Crown Prosecution Service Inspectorate Act 2000, which came into force on 1 October 2000. The Chief Inspector is appointed by, and reports to, the Attorney General.
7. An Executive Summary of the Report accompanies this Press Notice. For further information, please contact Andreas Harding, on 020 7210 1143 or 07901 856 348. Copies of the Executive Summary, this Press Release and the full Report (after publication) are also available on the website at www.hmcpsi.gov.uk/reports/thematic.shtml.