

CPS handling of custody time limits - CPS improves despite grappling with unwieldy and over complex system

Her Majesty's Crown Prosecution Service Inspectorate (HMCPsi) has today published its report relating to the Crown Prosecution Service's (CPS) handling of cases involving custody time limits (CTLs). An audit team found that progress had been made since the last thematic review, substantially attributable to the introduction of a national standard. Although there is scope for further improvement by the CPS, the overly complex and virtually impenetrable nature of the CTL scheme as it presently exists makes it so vulnerable to human error that it is unlikely that a truly satisfactory compliance can be achieved.

Stephen Wooler, HM Chief Inspector of the Crown Prosecution Service Inspectorate, has called for a more substantial review with a view to a radical simplification of the existing CTL arrangements. He said on publication of the report:

"It is only necessary to glance at the plethora of legal and procedural guidance to appreciate how its complexity adds to the risk of error. My own belief is that the overall system of custody time limits has become disproportionate to the very simple objective Parliament had in mind in 1985 – ensuring defendants do not spend unreasonably long periods in custody awaiting trial."

Key findings include:

- The CPS has struggled over a number of years to manage CTL arrangements which have become progressively more complex in response to changes in criminal procedure and in the nature and size of cases coming before the courts. Any number of common circumstances can serve to complicate the process of calculating expiry date and ensuring compliance. Many factors affecting compliance are outside the control of the prosecution.
- The effort required to operate the system effectively has exacerbated the position and also increased the potential for mistakes in monitoring CTL expiry dates. This is reflected in an increased number of failures reported to CPS Headquarters each year since 2007-08. Depending on the exact circumstances, this may require the court to release the accused on bail.
- The CPS has addressed the problem with the introduction of a national standard. Compliance overall has improved but the position varies and more work needs to be done to ensure consistent application of the standard.
- Progress has also been made in engaging the courts in agreeing the CTL expiry date. Observations show that this agreement was still in very early stages and its application appeared to rely on the attributes of individuals rather than universal compliance.
- Despite the steps taken, the overall number of failures has increased from 35 in 2008-09 to 44 in the current data available for 2009-10. This is partly attributable to a change in the method of counting. Whilst the number of failures directly relating to monitoring has reduced from 24 to 11 over the same period, three times as many applications to extend CTLs have failed because the courts have not been satisfied that there has been due diligence and expedition.
- The assistance available centrally to CPS frontline staff and the central guidance issued by Headquarters has improved.

HMCPST concluded that although the steps taken should, along with better compliance, improve the position further in due course, a more radical approach is required. Stephen Wooler, HM Chief Inspector, continued

“Despite the scope for further improvement by the CPS, the root of the problem lies in the complexity of the system itself. There is a need for a more substantial review which should consider both modification of the existing regime; and a more radical approach building on the increasing role of the judiciary in case management.”

This press release should be read in conjunction with the executive summary which is attached.

For further information please contact Anisha Visram, HMCPST’s media contact, on 020 7210 1187/07901 856 348.

Notes to editors

1. HMCPST was established as an independent statutory body on 1 October 2000 by the Crown Prosecution Service Inspectorate Act 2000. The Chief Inspector is appointed by, and reports to, the Attorney General.
2. The statutory custody time limits scheme was brought in by the Prosecution of Offences Act 1985. It sets limits to the amount of time that unconvicted defendants can be held in custody awaiting trial. The court can only grant extensions when application is made by the prosecution in advance of the expiry date. The court must also be satisfied that there is good and sufficient cause for the extension, and that the prosecution have acted with all due diligence and expedition. Late applications, or those which fail to meet the criteria, will result in the defendant being granted bail in respect of the charge. The defendant will then be released unless lawfully held on other matters.
3. CPS areas have a duty to report such CTL failures to Headquarters, whether they arise from a failure to make application in time, or to demonstrate all due diligence and expedition. It is immaterial whether the defendant was actually released.
4. To establish an overview of progress in implementing the CTL national standard the HMCPST audit team examined 85 files from seven CPS areas. The team also interviewed a range of staff involved in the management of cases with custody time limits. The team looked at the operation of local CTL monitoring systems and carried out observations at court to establish progress in implementing protocols with the courts. The written CTL systems of all 42 areas were also examined.
5. HMCPST inspects and reports on CTL performance in the CPS as part of its area effectiveness inspections and overall performance assessments of CPS areas and London boroughs. It also carries out thematic reviews and audits of CTL performance from time to time. The last full thematic review was in 2002.