

# THE INSPECTORATE'S REPORT ON CPS DERBYSHIRE

REPORT 6/00

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## PREFACE

The Crown Prosecution Service Inspectorate (CPSI) has now commenced a new cycle of inspections based on the 42 Area structure adopted by the Crown Prosecution Service (CPS) on 1 April 1999. The CPS remains a national service but operating on a decentralised basis with each Area managed by a Chief Crown Prosecutor (CCP) who enjoys substantial autonomy within the terms of a framework document governing relationships between CPS Headquarters and the Areas.

The CPS is also taking forward a programme of further change to give effect to the recommendations contained in the Review of Delay in the Criminal Justice System (the Narey report). These, amongst other changes, introduce a new system for the preparation and submission of files and the prosecution of defendants. Before 1 November 1999, most defendants were charged and then bailed to a court hearing about a month later and were prosecuted by Crown Prosecutors. Under the new system, defendants are bailed to the next available court sitting. Some straightforward cases, involving anticipated guilty pleas, are prosecuted by designated caseworkers (DCWs). They are not lawyers but experienced caseworkers who have received special training. We discuss the effect of the new arrangements in more detail in our report, where we refer to “the Narey initiative” and “Narey files”.

The CPS is also in the process of reorganising itself on a functional, rather than geographical, basis along lines recommended in the Review of the CPS by Sir Iain Glidewell (the Glidewell report). This will involve a transition from the existing Branch structure to one based on Criminal Justice Units (CJUs), which will work in close co-operation with the police to support the majority of the casework in the magistrates’ courts, and Trial Units, which will concentrate on cases which are destined for, or have reached, the Crown Court.

These changes alone would have required significant adaptation of the Inspectorate’s methodology. The Glidewell Report, however, also contained recommendations that there should be a stronger independent element in the Inspectorate and that it should have a wider remit. The Government, in its response to the Glidewell Report, decided to place the Crown Prosecution Service Inspectorate on an independent statutory basis. The Crown Prosecution Service Inspectorate Act 2000 received Royal Assent on 20 July 2000 and is expected to come into force on 1 October 2000.

The changes within the Inspectorate necessary to adapt it to the revised structure of the CPS, and its own revised role, can be summarised:

- (i) Inspections will, in future, be based on a two-year cycle, rather than the four-year cycle of the previous Branch based inspection programme. This change is specifically at the request of the Director of Public Prosecutions (DPP) and the Chief Executive of the CPS. The new structure of the CPS is unusual in having 42 CCPs, each reporting to the DPP/Chief Executive, with no intermediate tier of management. The inspection process will therefore be a major source of assurance for them as to the quality of casework and overall performance in CPS Areas.

- (ii) Although the inspection process will continue to focus mainly on the quality of casework decision-making and casework handling, it now extends to all matters which go to support the casework process. In effect, the Inspectorate will examine all aspects of Area performance basing its work on 12 non-legal themes, in addition to the existing legal themes.
- (iii) The Inspectorate will no longer constitute a unit within the CPS itself, but will be a self-contained independent organisation and will assume responsibility for the publication of its own reports.

Notwithstanding these changes, the fundamental purpose of the Inspectorate will remain unchanged: to promote the efficiency and effectiveness of the CPS through a process of inspection and evaluation; the provision of advice; and the identification and promotion of good practice.

There have already been a number of consequential changes to the manner in which inspections are conducted – the most obvious being the unit of inspection which is now the CPS Area, rather than the Branch. Some increase in staffing to accommodate the shorter inspection cycle has already occurred and has broadened the range of skills and experience within our teams of inspectors. In particular, three inspectors have been recruited to concentrate on the business management aspects of our remit. They bring with them specialist skills in the fields of management, human and financial resources and corporate planning.

The Chief Inspector is also developing, at the specific request of the Attorney General, the role of lay inspectors. We seek to bring a new perspective to our work by involving informed members of the public in the inspection process. They look at the way in which the CPS relates to the public, through its dealings with victims and witnesses, its external communication and liaison, its handling of complaints and its interpretation of the public interest test contained in the Code for Crown Prosecutors. We are grateful in this context for the co-operation we are receiving in developing this initiative from Victim Support, Citizens Advice Bureaux and the National Association for the Care and Resettlement of Offenders.

Another change in our methodology relates to the phases of the inspection process. We now visit the relevant CPS Area much earlier in the inspection timetable for a preliminary meeting with the CCP and the Area Business Manager. This enables us to focus each inspection more accurately on the needs of the particular Area. We have also split our on-site phase into two distinct parts. The first is to meet local representatives of criminal justice agencies and criminal practitioners, as well as representatives of community organisations, in order to gather their informed views about the work of the CPS. During this phase, we will also observe the presentation of cases in court and the functions that support this, including the role of the CPS in relation to victims and witnesses. Following a period of evaluation, the second phase concentrates on meeting members of the CPS and observing their work in the office.

Even so, the inspection process must continue to evolve to adapt itself to changes both within the CPS and in the wider criminal justice system. Our methodology will need to be kept under review. We would expect our findings to change over the next two years. Those Areas which are visiting early in the cycle are likely to be at something of a disadvantage in that the extensive change process will, in effect, still be in progress. Towards the end of the cycle, we would expect Areas to have “bedded in” to a much greater extent to the new 42 Area CPS structure, and to the proposed system of working within functional rather than geographical units. Our reports will retain a common approach, but we shall endeavour to ensure that they accurately reflect the different characteristics to be found within the CPS Areas in terms of size, makeup (metropolitan or rural) and the nature of the cases being handled. Each report will address issues of ongoing general concern and relevance – for example, the handling of cases involving offences of particular sensitivity or with aggravating features such as child abuse or racially motivated offences. We will also consider diversity issues generally and the operation of youth justice.

In our reports we comment on good practice and make suggestions or recommendations where performance needs to be improved. The distinction between recommendations and suggestions lies in the degree of priority that the Inspectorate considers should attach to the proposals, with those matters meriting highest priority forming the basis of recommendations.

## INTRODUCTION

- 1.1 This is the Crown Prosecution Service Inspectorate's report about CPS Derbyshire. It is the seventh of the new inspections conducted by the Crown Prosecution Service Inspectorate (CPSI) following the reorganisation of the Crown Prosecution Service (CPS) in April 1999.
- 1.2 CPS Derbyshire shares its boundaries with the other criminal justice agencies in the county. In 1986, when the CPS was created, Derbyshire formed one of the then 31 Areas. At that time, it comprised two Branches, at Chesterfield and Derby.
- 1.3 When the CPS was reorganised in 1993, and the number of Areas was reduced from 31 to 13, the Derbyshire Area became part of CPS East Midlands. The Chesterfield and Derby offices continued to form Branches within the new Area. However, the Chesterfield Branch was closed in 1995 and all staff were then located in Derby.
- 1.4 In the latest reorganisation, which resulted in the creation of 42 new Areas, Derbyshire once again became a CPS Area in its own right. Each of the new Areas enjoys substantial autonomy. Each is headed by the Chief Crown Prosecutor (CCP) who is designated by the Director of Public Prosecutions (DPP), assisted by Crown Prosecutors, acting under the delegated authority and direction under section 1, Prosecution of Offences Act 1985. The Area works with CPS headquarters on the basis of a framework document setting out their respective roles and responsibilities.
- 1.5 CPSI inspected the former Derbyshire Branch in October 1997 during the previous Branch-based inspection programme. We will frequently compare our findings then with this current Area inspection. We will refer to the previous report (Report 6/97) as our 1997 report.
- 1.6 On 26 June 2000, the Area employed the equivalent of 78.5 full-time staff: the CCP, Branch Crown Prosecutor (BCP), 26.6 other prosecutors and a part-time legal trainee; the Area Business Manager (ABM); two designated caseworkers (DCWs); 38.3 caseworkers and administrative staff; and a business support officer and 7.1 administrative staff who work in the Area Secretariat and Central Services.
- 1.7 The Area comprises three teams. The Derby City team (10.4 prosecutors, one DCW and 12.5 caseworkers and administrative staff) is responsible for the conduct of prosecutions in the magistrates' courts and youth courts at Derby and Swadlincote. The East Derbyshire team (5.6 prosecutors and 9.7 caseworkers and administrative staff) is responsible for the conduct of prosecutions in the magistrates' courts and youth courts at Alfreton and Ilkeston. The North

Derbyshire team (10.6 prosecutors, a part-time legal trainee, one DCW and 16.1 caseworkers and administrative staff) is responsible for the conduct of prosecutions in the magistrates' courts and youth courts at Ashbourne, Bakewell, Buxton, Chesterfield, Glossop and Matlock.

- 1.8 Each team is also responsible for cases that are committed to the Crown Court from its magistrates' and youth courts. The majority of the Area's Crown Court cases are heard at Derby. Those cases which are usually tried by a High Court judge are committed to Nottingham and, for several months at the beginning of 2000, all East Derbyshire cases were also committed to Nottingham. Because of its location in the north west of the county, Glossop Magistrates' Court commits to Manchester.
- 1.9 In the year ending on 31 March 2000, the Area dealt with 20,007 defendants in the magistrates' courts and 2,404 defendants in the Crown Court. In a further 983 cases, advice was given to the police before charge.



## THE INSPECTION

- 2.1 The core inspection team comprised three legal inspectors, a business management inspector and a casework inspector.
- 2.2 The inspection team examined a total of 270 cases, ranging from those where an acquittal was directed by the judge, through those where the prosecution discontinued proceedings, to those where the defendant pleaded guilty. The team interviewed members of staff in the Area, local practitioners in criminal law and representatives of the criminal justice agencies that directly affect, or are affected by, the performance of the Area and the quality of its casework decisions. A breakdown of the files examined and a list of those representatives from whom we received comments can be found at the end of this report.
- 2.3 The team of inspectors visited the Area between 26 and 30 June 2000 and between 10 and 14 July 2000. During these periods, we observed advocates in the magistrates' courts at Buxton, Chesterfield, Derby, Ilkeston and Matlock, and in the youth courts at Derby and Ilkeston. We also observed advocates in the Crown Court sitting at Derby.
- 2.4 We were very pleased to be joined, during the on-site phase, by a lay inspector, Mrs Susan Ingham. Mrs Ingham is the manager of the North East Derbyshire Citizens' Advice Bureau (CAB). She assisted the team, in particular, with the examination of complaints handling and the treatment of witnesses and victims. She also contributed to the team's assessment of the quality of some casework decisions involving public interest factors. The inspector visited courts and had the opportunity to speak to some witnesses after they had concluded giving their evidence. She also interviewed members of staff in the Area and examined documents relating to witness care and the handling of complaints.
- 2.5 The lay inspector was able to make a valuable contribution to the inspection team's findings by providing a different viewpoint on these important areas of CPS activity. The views and findings of the lay inspector are reflected within the body of the report. The Chief Inspector is grateful both to Mrs Ingham, for the effort and assistance she provided in undertaking this inspection, and to the management board of the North East Derbyshire CAB for allowing her the time to work with the team.
- 2.6 We set out our findings in relation to casework by reference to its four different aspects: providing advice (chapter 3); reviewing cases (chapter 4); preparing cases (chapter 5); and presenting cases (chapter 6). In chapter 7, we consider management and operational issues.

- 2.7 We were impressed by many aspects of the work carried out by CPS Derbyshire. Lawyers make the right decisions in the large majority of cases and they are supported by competent, experienced caseworkers and administrative staff. Office systems are generally effective. The Area benefits from having a strong management team and a particularly good partnership between the CCP and ABM which enables the Area to drive forward local and national initiatives. Area staff are held in high regard by their criminal justice partners and, although there are some difficult local issues which will require positive action on all sides to resolve, the basis is there for effective and mutually supportive external relationships.
- 2.8 Improvements are needed, however, in some aspects of work. In particular, the effectiveness of the continuing review of cases, the handling of unused material and the quality of instructions to counsel need to be addressed. There are other aspects of performance that will also require attention.
- 2.9 Our overall impression, though, is that CPS Derbyshire is a sound and well-run Area. Staff at all levels demonstrate commitment to their work and a desire to perform well. This gives us confidence that the Area will respond positively to the inspection process and take forward the issues we have identified.

## **PROVIDING ADVICE**

### **Appropriateness of requests for advice**

- 3.1 In the year ending 31 March 2000, the proportion of advice cases dealt with by the Area represented 4.7% of its total caseload. The national average for the same period was 3.7 %.
- 3.2 Whilst the quality and timeliness of advice are the key performance issues, it is important that there are effective arrangements between the police and the CPS to ensure that the right cases are submitted for advice. This enables CPS resources to be targeted on those cases which most require them. In our 1997 report, we commented that the Branch would benefit from an agreement with the police on the types of cases to be submitted for advice. We were pleased to note that, after discussions with the CPS, the police issued a Force Order giving guidance to officers on the types of cases to be submitted. We were also told that police law clerks filter out cases that should not go to the CPS.
- 3.3 We have seen the guidelines. They are tightly drawn so that only cases involving questions of law, difficult evidential assessments, or other issues of complexity or sensitivity should be submitted. Cases involving a fatal road traffic accident, where there is a potential defendant, are always submitted.
- 3.4 We examined ten advice files. We found that in three cases, the evidence was so weak that it was obvious that there was no realistic prospect of a conviction. These files did not raise any of the issues referred to in the Force Order, and their submission to the CPS was unnecessary.
- 3.5 Some prosecutors shared our view on the inappropriateness of some requests for advice. They thought that on occasions the CPS was being asked to take decisions that the police should make themselves. Other prosecutors told us that they did not think that the appropriateness of requests for advice was an issue, but we noted that not all prosecutors had a clear awareness of the police guidelines. Prosecution Team Leaders (PTLs) will want to ensure that their lawyers have a clear understanding of what should be submitted and that the police are notified firmly but sensitively of inappropriate submissions.
- 3.6 Lawyers are instructed to record telephone and informal advice. These are then linked to files submitted subsequently, and are counted for performance indicator (PI) purposes. We examined the system for recording this advice and were satisfied that it generally operates effectively. We were told, however, that not all advice was recorded.

- 3.7 Lawyers attend police stations to review files for early administrative and early first hearings. This provides an opportunity for them to give advice directly. The use of this facility by the police was patchy and Area managers recognise that there is scope for developing the provision of advice in these circumstances. However, the primary purpose of the lawyer and DCW attending the police station is to review files for the following day's court and, as the amount of time required for this is unpredictable, Area managers are aware that they should move forward cautiously so that they do not raise an expectation that advice surgeries will be provided routinely.

### **Quality of advice**

- 3.8 Files are allocated according to lawyers' experience and caseload. Child abuse cases or cases involving young offenders are allocated to the appropriate specialists. Prosecutors told us that the allocation was fair. In cases involving a fatality, the BCP oversees the advice.
- 3.9 We noted that in the ten sample cases, the decisions of the CPS were invariably that proceedings should not be taken. We considered that the decision represented a proper application of the relevant criteria in all ten cases. We were told that advice to proceed is given in around 20% of cases.
- 3.10 The police told us that they value the advice given by the CPS. We found some particularly good advice in the sample, where all the relevant issues have been dealt with. We were impressed with a case concerning a concealment of birth where the lawyer dealt with the public interest elements with great sensitivity and understanding. We also saw some cases where we thought that the issues were dealt with too superficially. We concluded that monitoring for quality was not consistent.
- 3.11 We found that there was no policy as to whether an advice should be typed. We were told that this was often dictated by the time available to provide the advice. This means that, on occasions, detailed advice on complex issues might be hand written. In our view, where typing resources are limited priority should be given to typing advices in complex and sensitive cases rather than routine cases.

### **Timeliness of advice**

- 3.12 Timely advice was given in six of the ten cases in the sample. The range was from six to 60 days. The average was 17.8 days. PTLs monitor timeliness of advice, but told us that their lawyers can be away from the office for several days when prosecuting in courts which are a considerable distance from Derby. This affects the ability of the lawyers to complete their casework in good time.

- 3.13 The police expressed concern that they often have to chase cases when the suspects were bailed pending CPS advice. We noted that some lawyers have a practice of telephoning the police to alert them to a potential delay and to discuss a realistic timescale. We consider that this practice should be adopted by the Area.
- 3.14 We recommend that the BCP and PTLs should ensure that advice is provided within 14 days of receipt whenever possible, and that where this target cannot be met the reviewing lawyer liaises with the police to agree an appropriate timescale.**

#### **Early advice from Counsel**

- 3.15 We were told that this was rare. Instructions to counsel to advise must be approved by the BCP or PTL. We saw an example of early advice from counsel in a case we examined. The advice was appropriately sought and clear instructions were given to counsel. In a further case, we considered that early advice would have been beneficial. There were complex issues of ownership of property and liaison was required with another prosecuting authority. The case was ultimately dropped at the Crown Court. We were also told that seeking early advice from counsel was discouraged in the past. What is important is that lawyers recognise cases which may benefit from counsel's advice and that these cases are brought to the attention of the BCP or PTL, so that a decision can be taken as to whether counsel should be instructed.

## REVIEWING CASES

### The quality of review decisions

#### Overall

- 4.1 The overall quality of the application of the evidential and public interest tests in the Code for Crown Prosecutors was good. From our file examination, we are able to confirm that the evidential test was properly applied in the large majority of cases. This view was shared by the representatives of other agencies whom we consulted. Prosecutors properly applied the public interest test in all cases in the file sample. We saw some cases, in which there were difficult public interest decisions to be made, where the reviewing lawyer had clearly considered the issues with great care.
- 4.2 We examined the Area's PIs to ascertain the proportion of adverse cases and the conviction rate, and we compared our findings with the national figures. These ratios do not in themselves prove or disprove effective review, but a high rate of adverse cases and a low conviction rate can suggest that an Area does not review cases as thoroughly as it should. We were pleased to find that the PIs showed CPS Derbyshire to be performing close to the national average and, in some respects, better than some other Areas. The proportions of judge ordered and judge directed acquittals, and of summary trials lost on a submission of no case to answer, were all lower than the national figure. The proportion of contested cases resulting in a conviction was slightly lower than the national figure for both magistrates' and Crown Court cases.
- 4.3 Where we had concerns about the quality of review, it was usually for one of two reasons: either the reviewing lawyer failed to identify weaknesses in the case or, having recognised that the case was weak, the lawyer nonetheless allowed it to drift through the system, sometimes beyond committal, before accepting that the case should not proceed. We consider these issues in more detail later in this report.

#### Random sample

- 4.4 We examined the quality of the review decision in a random sample of 94 cases. The files were drawn from magistrates' and Crown Court cases and included guilty pleas and trials. We found that the evidential test was properly applied in 92 cases (97.9%).
- 4.5 The two cases where we disagreed with the decision to proceed both involved allegations of assaults where the prosecution case was based entirely on the evidence of the complainant. All cases must be considered on their own facts and it would, of course, be wrong to lay down any principles about dealing with these 'one-on-one' situations. Nevertheless, prosecutors must assess the evidence

carefully and satisfy themselves that there is sufficient evidence for a realistic prospect of conviction. In these two cases, a rigorous analysis of the evidence would have led to the conclusion that there was not. We found other examples in the file sample where the reviewing lawyer had failed to analyse the evidence with sufficient clarity in similar situations, although we were not critical in those cases of the decision to proceed.

#### Adverse cases in the magistrates' courts

- 4.6 In the year ending 31 March 2000, there were 19 summary trials in the Area where the magistrates found that there was no case to answer after the prosecution case had been presented. This represents 0.1% of the Area's caseload, compared with 0.2% nationally; and 1.4% of all the Area's summary trials, compared with a national figure of 2.9%.
- 4.7 There was only one such case in the file sample. The case turned on the admissibility of a notice served on the defendant under section 172, Road Traffic Act 1988, to prove that the defendant was the driver of a car which went through a red light. We agreed with the decision to proceed. However, the case had not been reviewed carefully and the notice had not been served on the defence as part of the prosecution case. The agent who prosecuted the case at court clearly lacked knowledge of the procedural requirements, as did a Crown Prosecutor in another courtroom whom the agent consulted. The evidence was ruled inadmissible and the case collapsed.
- 4.8 We also examined two cases where magistrates found there to be no case to answer after contested committal proceedings. One of the cases involved a complex public order dispute involving five defendants, in two distinct factions. The reviewing lawyer had apparently considered the witness statements and interview records in detail, but had failed to take the next step of properly analysing and assessing the evidence. We disagreed with the decision to proceed against all five defendants on a charge of violent disorder. There was (only just) a realistic prospect of conviction against three of them. The second case was straightforward and involved scientific evidence. There was an error in the exhibit reference of one crucial exhibit and consequently, the court could not be satisfied that the item examined by the forensic scientist was the item recovered by the police. This should have been corrected when the committal papers were reviewed.

#### Adverse cases in the Crown Court

- 4.9 In the year ending 31 March 2000, there were 136 cases which were not proceeded with in the Crown Court. This represents 9.6% of the Area's Crown Court caseload, compared with 11.1% nationally. The large majority of these cases were judge ordered acquittals (JOAs).

- 4.10 We examined 30 JOAs. In six cases, we considered that the evidential test had not been properly applied. In all of these cases, there were clear problems with the strength of the evidence or the credibility of key witnesses. These cases should not have proceeded past committal.
- 4.11 In two further cases, although we did not disagree with the decision to proceed, we considered that the ultimate dropping of the case was foreseeable. In one, the police alerted the lawyer to the complainant's retraction before committal, but the case proceeded until counsel advised that it should be dropped. This, of course, required counsel to be paid the brief fee and a fee for the advice.
- 4.12 In the other case, two separate files were prepared for a defendant who was initially charged with assault occasioning actual bodily harm, and subsequently with intimidating one of the witnesses. In cases such as this, it is important that the files are linked as soon as possible so that the reviewing lawyer can consider the evidence as a whole. This had not been done here, and two sets of committal papers were prepared; in fact, different counsel were briefed on the two sets of matters. When the overall position came to light, it was realised that the complainant had given inconsistent accounts which seriously affected his credibility and the case was dropped.
- 4.13 In the same 12-month period, there were 17 judge directed acquittals (JDAs). This represents 1.3% of the Area's Crown Court caseload, compared with a national average of 2.3%. We examined five JDAs, and in four cases, we agreed with the application of the evidential test. In two cases, witnesses failed to give evidence in accordance with their earlier statements. In the other two cases, the judge ruled against the prosecution on legal submissions. We did not consider that the result was foreseeable in any of these four cases.
- 4.14 We disagreed with the decision to proceed in the fifth case. The defendant was charged with indecently assaulting his neighbour, an 18-year old man with learning difficulties. There was insufficient evidence in the papers that the complainant had not consented. This should have been clarified before committal. The case proceeded to trial in the Crown Court and the judge upheld a defence submission that the prosecution had failed to prove a lack of consent.

#### **Selection of charges and charging standards**

- 4.15 The general view of external consultees was that the prosecution usually proceeded on the appropriate charge. Our findings from the random sample of 94 cases supports this view. The original police charges required amendment in 20 cases. Appropriate amendments were made at the earliest opportunity in 19 of those cases. In the other case, the charge was amended but at a later stage.



- 4.16 We were pleased to see that prosecutors were willing, in appropriate cases, to increase the level of seriousness of the offences charged by the police. In one case, for example, the defendant had been charged with criminal damage. There was clear evidence of racial motivation on the defendant's part and the prosecutor correctly amended the charge to the more serious allegation of racially aggravated criminal damage. The defendant was convicted of this charge after trial. In another case, the police charged assault occasioning actual bodily harm. The victim had sustained a broken arm, and we agreed with the prosecutor's decision to amend the charge to one of unlawfully and maliciously inflicting grievous bodily harm.
- 4.17 Application of the charging standards was good. We agreed with charge selected in 41 of the 42 cases where charging standards applied. In the one case where we disagreed, the defendants had been charged with causing grievous bodily harm with intent (section 18, Offences Against the Person Act 1861). The reviewing lawyer correctly identified that there was insufficient evidence of intention, but substituted a charge of affray. There was clear evidence that the defendants were responsible for the injuries, and a charge of unlawfully and maliciously inflicting grievous bodily harm contrary to section 20 of the same Act was the appropriate charge.

### **Timeliness of review**

#### Initial review

- 4.18 In the file sample, the average time from receipt of the file from the police to the initial review was 16.5 days. We found that 60.3% of cases had been reviewed within seven days of receipt from the police.
- 4.19 Almost all files now are reviewed the day before first hearing by the lawyer or DCW at the police station, under the Narey arrangements. This inevitably leads to timely initial review which, as we consider at paragraph 4.24, is usually fully endorsed.

#### Continuing review

- 4.20 We were concerned about the quality and timeliness of the continuing review of cases in two regards: progressing cases between adjournments and preparing for the next stage of the proceedings, whether summary trial or committal. In relation to the progressing of cases between adjournments, external consultees commented that performance was inconsistent. In a significant number of cases, we were told, cases return to court without necessary work being completed. This work may involve, for example, clarifying evidential issues, supplying information to the defence, or obtaining the views of the police on aspects of the case. Although the Area is not always responsible for delays, we saw some evidence in the file sample to suggest that information was not always requested or supplied promptly, and that action dating systems within the Area are not as effective as they should be.

- 4.21 We consider in detail the preparation of cases for summary trial and committal in chapter five of this report. Our concerns are principally with the depth of analysis that is brought to bear on cases at these key stages. We return to these themes later. In our view, the reviewing lawyer needs to take a greater responsibility for assessing the issues in the case and endorsing his or her analysis on the file.
- 4.22 We recommend that PTLs should ensure that all lawyers carry out timely, full and effective review of summary trials and committals, and that they endorse their analysis of the case on the file.**

### **Review endorsements**

- 4.23 We made a recommendation in our 1997 report directed towards improving the quality of review endorsements. We were very pleased to find that the Area has taken effective action to bring about an improvement in the quality of initial review endorsements. This has been achieved through monitoring and by emphasising and reinforcing the importance of recording the reasons for decisions.
- 4.24 We found that the reviewing lawyer made an appropriately detailed endorsement of the initial review decision and relevant mode of trial factors in over three-quarters of the cases we examined. This is significantly higher than the figures we have found in most other Areas. The poor quality of review endorsements has been the subject of critical comment by the Inspectorate on many previous occasions, and we are very pleased that the Area has broken the mould.
- 4.25 Having said that, we were disappointed generally with the quality of continuing review, as we have commented at paragraphs 4.20-4.22. We encourage the Area to develop the use of endorsements of summary trial and committal review as a way of focusing the lawyer's attention on the key issues in the case.

### **Mode of trial**

- 4.26 Our observations at court indicated to us that prosecutors provide sufficiently detailed information to the court to enable proper mode of trial decisions to be taken. On occasions, we thought prosecutors tended to say rather too much at this stage and went into the facts as though they were opening the case. Linking the facts more succinctly to the mode of trial guidelines would have been beneficial. Nevertheless, magistrates and court clerks told us that they found the prosecutors' representations helpful.
- 4.27 Some magistrates' court representatives suggested that prosecutors occasionally made inappropriate representations after an indication of a guilty plea in plea before venue proceedings, by seeking to persuade the court to commit the defendant for sentence. However, this was not the view of all court consultees. We did not see any evidence of this for ourselves. It may be a question of

prosecutors ensuring that they choose their words carefully, so that they draw to the court's attention the aggravating features of the offence and appropriate sentencing guidelines without appearing to press for a particular disposal. This requires thorough preparation and planning of the prosecutor's opening.

## **Bail**

- 4.28 We did not disagree with the prosecutor's decision regarding the opposition to bail in any cases in the file sample. However, we were concerned about some aspects of handling bail applications following our court observation and discussion with external consultees. Although some prosecutors presented bail applications competently, we saw other cases where the prosecutor's application was unstructured and weak. Some external consultees told us that prosecutors seemed unwilling to challenge a possibly inappropriate grant of bail by the police by opposing bail when the defendant appeared in court.
- 4.29 This is an area of performance where PTLs may wish to focus some of their advocacy monitoring. They may also consider that general refresher training for all lawyers, or specific training to address weaknesses identified through monitoring, would be appropriate.
- 4.30 We suggest that PTLs should satisfy themselves that the lawyers in their teams deal effectively with bail applications and should ensure that appropriate training and guidance is given where necessary.**

## **Dealing with sensitive cases**

- 4.31 Many cases have potentially serious consequences for the victim, defendant and witnesses. However, certain types of case, by their nature, require particularly sensitive handling. We were pleased to find that staff in CPS Derbyshire demonstrated a good awareness of the importance of careful handling of such cases.
- 4.32 All cases involving fatalities are overseen by the BCP. She is often contacted by the police at an early stage in the investigation and the police told us that they were impressed by the level of commitment and assistance that they are given. In some cases, the BCP retains conduct of the case throughout, but usually the day to day handling of the case is taken on by the teams, with the BCP kept informed of progress. Where the family of the deceased wish to meet with the prosecutor, it is usually the BCP or CCP who attends the meeting.
- 4.33 Domestic violence cases are handled well. In a significant number of domestic violence cases, the victim retracts her (or as is sometimes, but less frequently the case, his) complaint and wishes the proceedings to be dropped. The police and CPS need to consider such retractions very carefully. The mere fact that the victim no longer wishes to proceed should not automatically lead to the

proceedings being terminated. There may be over-riding public interest factors which require the case to continue. We were pleased to find that prosecutors applied this policy thoughtfully and sensibly. In one case, for example, the prosecutor decided to proceed with the case notwithstanding the victim's retraction. The defendant was convicted of assault on the basis of other evidence, and it later came to light that he had put pressure on the victim to retract.

4.34 We found that child abuse cases were generally handled well. The cases were reviewed by experienced lawyers and the transfer provisions under section 53, Criminal Justice Act 1991 were used to bypass committal proceedings. However, we were concerned that the notice of transfer was not served as quickly as it could have been in the three cases that we saw in the file sample. Although the transfer papers had been prepared well in advance, the prosecution waited for the defendant's next appearance in court before serving the documentation. This is unnecessary. We were told that this procedure is followed because it facilitates the transmission of the papers to the Crown Court. The Area should be striving to transfer these cases to the Crown Court at the earliest opportunity and, if administrative problems are hampering this aim, then the Area should work with the courts to ensure that they are overcome.

**4.35 We suggest that the CCP, BCP and PTLs should ensure that the Area does all it can, including liaising with the magistrates' courts and the Crown Court, to ensure that child abuse and child witness cases are transferred to the Crown Court at the earliest opportunity.**

4.36 The Area does not have a large number of cases involving racially motivated offences. The Area's own monitoring figures show that there were 14 current cases at the time of our inspection, with the majority from Derby itself. External consultees told us that prosecutors address the court fully on the aggravating features in these cases, although we were not able to verify this from our own observations. We can confirm, though, that the staff with whom we spoke were fully aware of the importance of careful review and charge selection and of the need to draw all relevant factors to the court's attention. We have already referred, at paragraph 4.16, to a case where effective review led to an increase in the charge to racially aggravated criminal damage.

### **Youth justice and persistent young offenders**

4.37 Youth justice has a high priority within the criminal justice system. Co-ordinated efforts are being made by all agencies to reduce the time taken to deal with youth offenders. The Government has set targets to halve the time between arrest and sentence for persistent young offenders from an average of 142 days to 71 days. This can only be achieved by all the relevant agencies working together in a co-ordinated manner.

- 4.38 Figures published by the Lord Chancellor's Department show that the national average length of time taken to complete cases involving persistent young offenders was 108 days in 1999. In Derbyshire, the average length of time was 142 days. We were pleased to see that a significant improvement was made in Derbyshire in the first quarter of 2000, with the average finalisation time reduced to 117 days. This compares very favourably with the same quarter of 1999, when cases took over 150 days to be completed in the county.
- 4.39 All agencies have signed a fast tracking protocol which sets out their respective roles and responsibilities. We noted that the Crown Court at Derby is listed as a partner in this joint approach, although no further reference is made to its involvement. Crown Court cases can take many months to finalise. All agencies will need to work closely together to improve the throughput of youth cases at the Crown Court if the Government's target is to be reached. We were encouraged to see that, at a meeting held in May 2000, the Crown Court representative raised questions about the identification of persistent young offenders and action was suggested to improve this. We hope that this can be developed further.
- 4.40 The Area has a small number of youth specialists who deal with the majority of cases involving young offenders, reviewing cases and presenting them in court. We were impressed by the level of knowledge of the specialists with whom we spoke. They are held in high regard by the other criminal justice agencies. The Area youth specialist co-ordinator was concerned about the lack of guidance on the new sentencing provisions introduced by the Crime and Disorder Act 1998 and so prepared notes for other lawyers on the key provisions of the new sentencing regime. These notes were particularly well received by his colleagues, one of whom told us that he had been able to point out a potentially unlawful sentence. **We commend this local initiative and consider it to be good practice.**
- 4.41 Youth Court user groups meet on a regular basis at each of the Area's youth courts. CPS youth specialists attend the meetings and an examination of the minutes showed that they make valuable contributions.

### **Discontinuance**

- 4.42 The Area's discontinuance rate in the year ending 31 March 2000 was 11%, which is below the national average of 12.2%.
- 4.43 We examined 98 cases that were stopped by the prosecution in the magistrates' court during March 2000 to establish the reasons for the termination and to ascertain whether the police were consulted about, and agreed with, the decision.

4.44 Of the 98 files examined, 37 cases were formally discontinued by notice sent under section 23, Prosecution of Offences Act 1985; 50 were withdrawn in court; and in six cases, the prosecution offered no evidence. In one case, the method of termination was unclear. Four cases should not have been included in the sample as they had been finalised at court by other means.

4.45 The reasons for termination are set out in the table below.

<b>Reasons for termination</b>	
<b>Reason</b>	<b>No. of cases</b>
<b>Evidential</b>	
Conflict of evidence	1
Essential legal element missing	21
Unreliable witness(es)	3
Identification unreliable	8
<b>Public interest</b>	
Effect on victim's physical/mental health	1
Defendant elderly or suffering significant ill health	3
Very small or nominal penalty (note that the majority of these cases involved minor road traffic offences)	31
Caution more suitable	3
<b>Unable to proceed</b>	
Case not ready/adjournment refused	2
Victim refuses to give evidence/retracts	9
Other civilian witness refuses to attend/retracts	1
Victim fails to attend unexpectedly	3
Documents produced at court	5
<b>Reason not known</b>	
	3

4.46 We were able to ascertain that the police had been consulted about the termination in 51 cases. They objected to the proposed termination in two of these cases. If such disagreements cannot be resolved by discussion, the reviewing lawyer refers the file to the PTL to consider the appropriateness of the proposed course of action. In 41 cases, we were unable to tell from the file whether the police had been consulted although, in a further two cases, it was clear that they had not been. The police did not have any particular concerns about the liaison arrangements over terminating cases, but they did tell us that, on occasions, they were notified of the reviewing lawyer's proposals very close to the hearing date.

- 4.47 We examined 25 of these 98 files in more detail to assess the timeliness of the decision to terminate proceedings, and to consider whether the evidential test was properly applied. We were concerned to find that in 11 cases, the decision to terminate should have been made at an earlier stage. This lends support to the view expressed by the police that we have referred to above. We disagreed with the evidential decision in one case. The defendant had caused damage to a parked car by carelessly riding his pedal cycle into it. He did not leave any details at the scene. He was prosecuted for riding a pedal cycle without due care and attention, but the reviewing lawyer discontinued the case on the basis there was no evidence of carelessness. We disagreed, and thought that the case should have proceeded.

### **Learning from experience**

- 4.48 In common with other Areas, staff in CPS Derbyshire complete failed case reports in relation to adverse cases and jury acquittals. These reports are compiled by the lawyer or caseworker at court, the reviewing lawyer, PTL and CCP. Where he considers it appropriate, the CCP calls for the file rather than relying on the often brief account of the case in the report. We saw several examples of effective analysis of cases carried out by the CCP and we were impressed by his judgment. We thought that he added a valuable measure of objective assessment of decisions to this process.
- 4.49 What is important, however, is that lessons learned from cases are disseminated effectively. Some staff told us that they did not feel that they were kept informed of the progress of their Crown Court cases, and others commented that they only heard about failed cases. Some discussion of casework issues takes place at team meetings, but staff felt this to be limited (often by time and the availability of team members).
- 4.50 We were interested to learn that the Area had set up a legal information group to examine various aspects of developing in-house legal expertise. The intention was that the group would take responsibility for the library and would look at how the Area could learn from its cases. Although the group has successfully carried out its plan to develop the library into a useful resource, it has not yet tackled the more difficult, but ultimately more important, task of drawing out learning points from casework. The Derbyshire Management Team (DMT) may wish to consider reconvening the legal information group and develop its remit to examine and disseminate learning points from all cases.

## **PREPARING CASES**

### **Advance information**

- 5.1 The police now provide three copies of each file for early first (EFH) and early administrative (EAH) courts: one for the CPS to work from; one to be served on the defence as advance information (AI); and the third to be provided to the Probation Service or Youth Offending Team to facilitate preparation of a pre-sentence report. We were told that there were problems in the past with timely provision of AI to the defence, but the new arrangements have eradicated those difficulties. AI is routinely provided now in all charge cases, including those where the law does not require it. Requests are still received from the defence in summons cases (such as careless driving) and we found that the prosecution had served AI in response to these requests in all cases in the sample.
- 5.2 Some external consultees told us that, although the initial documentation is now provided in good time, the prosecution is not as good at serving on the defence additional material that comes in from the police after the initial file has been submitted. We found mixed evidence of this in the file sample. In some cases, the file showed that additional material had been sent to the defence. In other cases it appeared that this had not been done, although it was not always clear from the file what had been served. Lawyers and caseworkers will want to ensure that they endorse details on the file of additional material served, so that a record exists of what the defence have been provided with.

### **Disclosure of unused material**

#### Overview

- 5.3 We were concerned about several aspects of the Area's handling of unused material. The deficiencies that we identified are not unique to Derbyshire. In many cases, we found that it took time to ascertain how unused material had been handled because not all relevant documentation was kept together. Often, we found that letters relating to disclosure were kept with other correspondence but the schedules and other documentation were kept elsewhere on the file.
- 5.4 The Inspectorate's report on the Thematic Review of the Disclosure of Unused Material (Thematic Report 2/2000) identified many of the issues we found in Derbyshire, but on a national scale. We were pleased to note that the Area is planning further training, jointly with the police, and that senior prosecutors have been working with the police to address some of the problems. In the following paragraphs, we deal with our specific findings in Derbyshire. We set out our detailed recommendation at the start of this section in order to focus on the issues of particular concern.



**5.5 We recommend that the DMT should review the Area's handling of unused material to ensure that:**

- \* **lawyers ask for proper descriptions of material;**
- \* **primary disclosure is made at the appropriate stage in all cases;**
- \* **the MG6C and MG6D are properly completed by the reviewing lawyer;**
- \* **details of witness convictions are obtained and disclosed; and**
- \* **papers relating to disclosure are kept together in the file.**

Primary disclosure

- 5.6 The police submitted schedules of unused material (the MG6C) in 73 of the 76 relevant cases (96.1%), but the material was not fully described in nearly 20% of these cases. Prosecutors told us that they do sometimes ask for better descriptions, but we saw little evidence of this in the files we examined. Decisions were taken on the basis of the inadequate descriptions provided by the police.
- 5.7 The reviewing lawyers correctly endorsed the schedule with their assessment of the material in just over half of the cases. In most of the remaining cases, we considered the endorsement to be inadequate rather than that incorrect decisions had been made. In two cases, however, we considered that there was material which potentially undermined the prosecution case but which was not indicated as such by the lawyer.
- 5.8 We were told that files do not always contain details of convictions recorded against prosecution witnesses or confirmation that the witnesses have no convictions. Lawyers told us that they do not always seek clarification of this from the police. It is important that full information about witness convictions is provided by the police, and Area staff should ensure that it is sought if it does not appear on the file.
- 5.9 Primary disclosure was timely in 86.6% of the cases that we examined, but we were unable to ascertain the position in nine cases. We saw one case at court where primary disclosure had not been made before the plea and directions hearing (PDH) and the prosecution failed to comply with the judge's order that it should be made within a certain period of time. This contributed to the adjournment of the trial and the judge was very critical of the prosecution's handling of the case. We share his concern.

Secondary disclosure

- 5.10 Defence statements were sent to the police in all but one of the relevant cases in the file sample. The Area has devised a fax frontsheet which is used for transmitting defence statements to the police. It is clear, it highlights the nature of the document and it emphasises to the police the importance of prompt action. The police have found the use of this frontsheet very helpful and **we commend it as good practice.**

- 5.11 Very few defence statements gave rise to secondary disclosure. Nevertheless, it is important that the defence are notified promptly of the result of the assessment of the defence statement, even when there is no additional material to be disclosed which might assist the defence. We found that an appropriate secondary disclosure letter had been sent in only 17 of the 25 relevant cases (68%).

#### Sensitive material

- 5.12 The police practice is to submit a sensitive material schedule (MG6D) routinely, even if it is used only to identify the existence of a document such as the crime report which is sensitive only to the extent that it may contain witness contact details. An MG6D was sent in 61 cases in the file sample. There was evidence that the prosecutor had considered the issues in only 36 cases (59%). Only two of the cases contained material that was genuinely sensitive, and the prosecutor failed to give proper consideration to the issues in one of these cases.
- 5.13 We examined the sensitive material that is kept in the Area office and we found that it was stored securely.

#### Summary trial preparation

##### General

- 5.14 We found that the mechanics of summary trial preparation were handled well by the Area. Witnesses were warned promptly in all relevant cases in the file sample. Section 9 statements were used appropriately, although we were told that police officers were sometimes warned unnecessarily for court when their evidence could have been agreed. We did see some cases in the file sample which tended to support this view. Some use is made of formal section 10 admissions, usually in cases involving driving disqualifications and station breath test procedures.
- 5.15 Pre-trial reviews are rarely held in any of the Area's magistrates' or youth courts, although discussion does take place about the issues in the case and witness numbers when the trial date is being fixed. We were interested to hear of an initiative being followed at Derby Magistrates' Court to agree evidence with the defence at an early stage. The prosecutor and defence solicitor discuss witness requirements in court when the trial date is being fixed and, if agreement is reached, the prosecutor completes a form detailing the witnesses whose evidence is accepted by the defence. A copy of the form goes to the defence solicitor. We were told that this enables short trial dates to be arranged in appropriate cases. We can see that this initiative could be used effectively in the youth court to reduce delays in cases involving persistent, and other, young offenders. **We commend it as good practice.**

## Further review

- 5.16 In the East and North Derbyshire teams, the lawyer who prosecutes the case when the trial date is fixed completes the list of witnesses to be warned and endorses instructions about the service of section 9 statements. We were told that this procedure is followed because delays can occur in returning files from court. The Derby team has not adopted this practice because lawyers return to the office after court and, consequently, the original reviewing lawyer completes the trial preparation.
- 5.17 We were concerned about the effectiveness of the further review of cases following their listing for trial. We consider that the difficulties we have referred to above contribute to a sometimes superficial analysis of evidential and tactical issues. Whilst we are pleased to note that witnesses are warned promptly, PTLs need to ensure that lawyers also carry out a thorough trial review. Our concerns in this regard give rise to the recommendation we make at paragraph 4.22. We do not feel that it would be unreasonable to expect reviewing lawyers to check that the cases for which they are responsible are trial ready, and to endorse their analysis of the issues on the file for the benefit of their colleague who prosecutes the trial. A simple analysis of the Area's PIs and staff in post figures indicates that each lawyer has about four summary trials a month to prepare, so we do not believe the additional burden would be too great.

## Cracked and ineffective trials

- 5.18 The magistrates' courts collect data on the number of cases listed for trial that do not proceed, and the reasons for the trial being ineffective. The data shows that between 60 and 70% of cases listed for trial do not proceed on the original trial date. There are many reasons for this, and it is by no means unique to Derbyshire. The most common reason is that the defendant pleads guilty on the day of the trial. However, we noted that the data shows that in around 15% of cases the prosecution dropped the charges against the defendant. This gives some support to the views we express above about ineffective and late trial review.
- 5.19 One consequence of the low rate of effective trials is that often, more than one trial is listed in the same courtroom. Sometimes two additional trials are listed. Statistically, it is likely that at least one of the trials will collapse, but difficulties arise if both, or all, trials are effective. In this situation, one trial is heard and the other cases are adjourned, resulting in wasted preparation time for the advocates and witnesses having to return to court on another occasion.
- 5.20 The trial data is shared with the CPS at court user group meetings. However, there is no consistency over when the information is provided: it might be at the meeting itself, or it might be in advance so that proper consideration can be given. What is clear is that it is court data which the court prepares and distributes. We consider that the CPS should encourage the courts to regard the monitoring of

cracked and ineffective trials as an issue to take forward jointly. It does have very significant resource implications for both agencies as well as for the police and for victims and witnesses.

- 5.21 We recommend that the DMT should seek to agree with the magistrates' courts a process of jointly monitoring the reasons for cracked and ineffective trials, and the timely sharing of data.**

#### Phasing the attendance of witnesses

- 5.22 All agencies are rightly concerned to reduce the time witnesses spend at court waiting to give evidence. In order to minimise waiting times, the magistrates' courts have been anxious to introduce a procedure for warning witnesses to attend at different times. We were told that the CPS has been reluctant to agree to this for cases lasting less than half a day because of the logistical problems of starting a trial without knowing whether all witness will attend. Whilst we have some sympathy for this view, this situation is encountered regularly in the Crown Court and should not be an insurmountable problem.
- 5.23 We were pleased to learn that an agreement has been reached with the courts to introduce the system from August 2000 on a trial basis, and to evaluate the results. This is an important initiative and we expect the Area to give it full support, so that a proper assessment can be made of its effectiveness. It is equally important, however, that every effort is made to reduce the level of cracked and ineffective trials because it is difficult to maximise the benefits of witness phasing while maintaining a practice of double and triple listing trials.
- 5.24 We suggest that the DMT should monitor the effectiveness of the witness phasing arrangements agreed with the magistrates' courts.**

#### Committal preparation

- 5.25 Committal papers are prepared by B1 caseworkers in most cases, working under the supervision of the reviewing lawyer. In order to reduce some of the pressure on the caseworkers, lawyers have recently been carrying out committal preparation in child abuse cases and cases where the defendant is in custody.
- 5.26 We were concerned to find that there was evidence of lawyers checking the work of caseworkers in only a third of the files in the sample. We also found only limited evidence of the reviewing lawyer analysing the evidential and tactical issues. We have commented in similar terms in relation to summary trial preparation, and our concerns here have also led to the recommendation at paragraph 4.22. There is much more scope for the reviewing lawyer to add value to the process by endorsing their detailed assessment of the case at the committal review stage. This will also contribute to an improvement in the quality of instructions to counsel, as the lawyer's analysis can be incorporated into the

instructions. We return to this issue in paragraph 5.33. As with summary trial review, we do not consider that this is an unreasonable expectation given that the PIs and staffing figures indicate lawyers are responsible, on average, for about one committal a week.

- 5.27 We found that cases are usually ready for committal on the date set by the court. Usually, an adjournment of six weeks is allowed for the preparation of committal papers and although papers are served in court on the next hearing, the defence are normally able to agree a committal at that time. The timely service of AI may contribute to the defence being able to consider the case at an early stage.
- 5.28 The Area's target for 1999-2000 was to serve committal papers within 14 days of receiving the committal file from the police (ten days in custody cases) in 69% of cases. This was not quite achieved over the year: timely service was made in 67%. However, there was a significant downturn in performance during the second half of the year, when timely papers were served in just over 50% of cases, compared with over 80% in the first six months. In our file sample, which was drawn mainly from cases committed in the second half of the year, service of committal papers was timely in only 46.7% of cases. The CCP and PTLs will want to ensure that the Area returns to the creditable performance achieved in the first six months of the year.

### **Quality of indictments**

- 5.29 The indictment was lodged in time in all cases in the file sample. External consultees and Area staff did not consider that there was a problem with the quality of indictments despite the need, on occasions, for amendments to be made. In the file sample, we found that the indictment was amended in ten out of 46 cases (21.7%). In four of the cases, the amendment was made to accommodate acceptable guilty pleas offered by the defendant or because counsel took a different view of the case from the reviewing lawyer. One amendment was needed to correct a minor cosmetic error. In the other five cases, the amendment was needed to change the level of charge. This proportion of amendments is comparable with the performance of other CPS Areas. It is an aspect of casework handling which requires development generally within the CPS. We hope that the greater level of involvement of the reviewing lawyer will lead to fewer amendments in the future.

### **Selection and instruction of counsel**

- 5.30 The Area instructs counsel mainly from the Nottingham Bar. The Area wished to expand its pool of available counsel given that there had been some difficulties in obtaining the services of counsel of sufficient seniority. Consequently, the Area has started using counsel from chambers in Birmingham, and this is starting to redress some of the imbalance in experience. In the small number of cases committed from Glossop Magistrates' Court to Manchester Crown Court, some use is made of the Manchester Bar.

- 5.31 Counsel is usually selected by the caseworker. Some lawyers are developing more experience of Crown Court work and are able to contribute to the selection process. Caseworkers liaise with chambers the day before the hearing to confirm counsel's availability. Where the counsel originally selected is unable to prosecute the case, discussion then follows about a suitable replacement. We found that this had occurred in just over half of the cases listed for trial in the file sample, but we were told that it does not cause problems in straightforward cases. It can, however, lead to counsel of insufficient experience or specialist knowledge in some serious cases.
- 5.32 The Area had a target of sending instructions to counsel within 14 days of committal (21 days in more serious cases where the brief fee is not standard) in 84% of cases in 1999-2000. In the file sample, instructions were timely in 85.7% of cases. However, the Area's own data shows that timely instructions were sent in 75.3% of cases over the year. As with the timeliness of committal papers, performance was good at the start of the year but declined thereafter.
- 5.33 Whilst the timeliness of instructions can be improved, our main concern was with the quality of the instructions. This is an area of performance that the Inspectorate has criticised in several previous reports and we considered that the quality of instructions in Derbyshire was particularly poor. An appropriately detailed summary of the issues was included in the instructions in only 22.2% of cases in the file sample; and the acceptability of pleas was addressed in only 10.3% of cases. We were disappointed with this finding, as we had made a recommendation in our 1997 report on this issue.
- 5.34 We were told that the Area will shortly introduce the revised Crown Court Case Preparation Package. This version of the package focuses more on identifying issues relevant to the case and minimises the use of standard paragraphs. Area managers are hopeful that it will lead to an improvement. We were also pleased to learn that the Area proposes to set up a working group to examine how to improve the quality of instructions. We consider this to be a positive approach, and we were particularly interested to learn that counsel may be invited to join the working group. This would provide a valuable perspective, and we encourage the Area to develop this idea further. It is clear that more work needs to be done by Area managers and staff to bring about improvements, but we are pleased that a start has been made.
- 5.35 We recommend that the DMT should take urgent steps to improve the quality of instructions to counsel.**

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

- 5.36 It is clear that the Area takes seriously its responsibility to provide appropriate coverage at the Crown Court. A duty lawyer attends court each day to liaise with counsel over the acceptability of pleas and other issues which arise. In addition, the higher court advocates (HCAs) are at court on a regular basis. The Area provides a caseworker to cover each of the courtrooms at Derby Crown Court. In our experience, this level of coverage is unusual: at most courts, caseworkers cover two or three courtrooms and many Areas are unable to provide a duty lawyer. Derby Crown Court is particularly well served in this regard.
- 5.37 We were told that the CCP has been discussing the level of coverage with the resident judge. The CPS is looking to reduce the amount of time spent in court by B1 caseworkers, and is exploring the possibility of using level A caseworkers to carry out some appropriate court tasks. Experienced caseworkers would remain in the Crown Court building, but would be able to devote time to other duties as well as being available to deal with queries that arise in court.
- 5.38 Although the number of caseworkers at the Crown Court is an important matter, the quality of coverage is equally important. We were told that in many cases, different caseworkers attend on each day of the trial. Counsel find that this lack of continuity can cause problems. Area staff told us that efforts are made to provide the same caseworker to cover the whole of long or complex cases. The CCP will want to take the opportunity of the review of caseworker coverage to examine the arrangements for securing continuity of coverage in suitable cases.

## **Plea and directions hearings (PDHs)**

### **Paper PDHs**

- 5.39 Derby Crown Court operates a paper PDH system. At least five days before the PDH date, the prosecution and defence must lodge completed questionnaires with the court. If either party fails to lodge their questionnaire in time, the case is listed in open court and the judge requires an explanation for the failure. When the questionnaires have been submitted, the judge considers the committal papers and the questionnaires and gives written directions accordingly.
- 5.40 We consider this to be a very interesting development, with much to commend it. However, judges and the Crown Court staff felt that the CPS do not lend the scheme the degree of support they would have wished. It depends on both prosecution and defence playing their part and, if it works well, it will save significant amounts of court time and money.

- 5.41 Whilst we are generally impressed by the paper PDH system, there are two aspects that we consider would benefit from some re-evaluation. Firstly, we note that all cases are included in the scheme although, if either the prosecution or defence wants an oral PDH, arrangements are made for the case to be listed. In our view, some types of case will almost always benefit from an oral hearing: child abuse and child witness cases; those involving fraud or young offenders; and cases with more than one defendant are examples. In such cases, listing arrangements and witness requirements can be better assessed if both parties are present.
- 5.42 Secondly, we have some concerns about the timing of the prosecution questionnaire. The CPS is asked to give an indication as to the acceptability of pleas. Often, the CPS will not have received the defence questionnaire at this stage and so will not have the benefit of seeing any defence offer of pleas. We are not convinced that it is appropriate for the prosecution to give, or be asked to give, an indication of acceptable pleas in the absence of a defence offer. We see merit in the argument that the case should proceed on the basis that the counts in the indictment reflect the prosecution's assessment of the appropriate charges and this should persist unless the defence make an acceptable offer of pleas to alternative charges.
- 5.43 We urge the CPS to seek to discuss these two issues with the court. Subject to clarification on these points, however, we encourage the Area to give its full support to this initiative.

#### Compliance with PDH orders

- 5.44 With the exception of some orders relating to unused material (see paragraph 5.9), we were satisfied that the Area generally complies well with orders made at PDH. Where the prosecution failed to comply with the judge's order on time, it was usually because information was awaited from the police. Appropriate steps were taken to pursue this information in all relevant cases.

#### **Custody time limits**

- 5.45 We examined ten cases which were subject to custody time limits (CTLs). A nationally produced ready reckoner is used by staff to calculate the review and expiry dates. These dates are endorsed on the file and are also entered into a diary. The review dates in three cases were incorrect. In two of these cases, the endorsed review date was earlier than the correct review date; the third case had incorrect review dates because the expiry date had been incorrectly calculated.
- 5.46 The expiry date in nine of the ten cases had been correctly calculated. In the other case, there were unclear file endorsements as to the custody status of each defendant and the commencement of the CTL for each charge. These factors are likely to have contributed to the wrong date being calculated. Fortunately this did not result in a CTL failure as both defendants were committed to the Crown Court before the time limits expired.



- 5.47 Staff informed us that they were aware of the importance of CTLs, and checks were carried out by managers in two of the three teams. We were concerned, however, that there was no uniform Area procedure for carrying out CTL management checks.
- 5.48 We recommend that the DMT should develop consistent and regular management checks of custody time limit procedures across all teams.**
- 5.49 When an extension to the CTL is necessary, the prosecution must give notice to the court and defence of its intention to apply for the CTL to be extended. We were told that notice is given automatically in most cases, with any available lawyer being invited to sign the letter giving notice. Some lawyers took the view that a proper assessment of the merits of the application should be made by the lawyer who takes the case in court. In our view, deciding whether to apply for an extension of the CTL is part of the continuing review of cases and should ordinarily be the responsibility of the reviewing lawyer. Where an application is to be made a full note of the reasons and merits of the application should be endorsed on the file.
- 5.50 We did not see any specific instructions on the merits of the application in any of the three cases in the file sample where notice had been given. In one team, a sheet of coloured paper is attached to the file jacket to draw the advocate's attention to the need to consider an extension of time limits. However, this is not used to provide an explanation of the reasons for the extension, or how the application might be presented.
- 5.51 We examined one case where an agent had failed to apply for a CTL to be extended despite notice having been given by letter. It appears that the agent did not realise that an application should have been made. Once again, there were no specific instructions on the file.
- 5.52 We recommend that lawyers giving notice of an application to extend custody time limits should endorse the file with specific instructions to the advocate about the reasons for the application.**

### **Providing information for pre-sentence reports**

- 5.53 In cases in the file sample, we found that it was often difficult to ascertain whether, and when, information was given to the Probation Service or Youth Offending Teams. The Probation Service told us that delays in service occur in a fairly large number of cases, although the CPS view was that this occurred only rarely.
- 5.54 There is some monitoring of CPS performance by the Probation Service, but this is by way of a snapshot survey of cases over a short period of time and appears to us to be rather confrontational. The CPS is given a list of cases where the Probation Service records show that no information has been provided, then Area staff check their own records and confirm or dispute the Probation Service view.

- 5.55 We were pleased to note that the BCP is renegotiating a local protocol with the Probation Service over the provision of information. This provides the opportunity to develop an effective system of jointly monitoring performance with less likelihood of provoking tension. We realise that all monitoring will have some impact on resources, but performance against commitments must be measured. A properly drafted protocol should strike the right balance in keeping the work involved to a minimum whilst meeting the needs of both parties.
- 5.56 We suggest that the BCP should seek to reach agreement with the Probation Service over joint monitoring of the timely provision by the CPS of information for pre-sentence reports.**

### **File endorsements and file management**

- 5.57 We found that details of court hearings and out-of-court work were satisfactorily endorsed in over 85% of cases. This is a good performance, although there is still room for improvement. We saw some cases in our court observation where important information had not been recorded on the file. In one case, for example, the defence raised an issue about the credibility of a key prosecution witness. The advocate failed to make a note on the file of the defence solicitor's comments. We have commented elsewhere in this report on shortcomings with regard to endorsements in relation to summary trial and committal preparation, CTLs and the service of AI.
- 5.58 File management had improved a little since our last inspection in 1997. However, we still found that it was difficult to find all documents in the files. Unnecessary duplicate copies of papers were not removed from the file jacket, and the file contents were not always arranged in a logical order. This makes preparation for court more time consuming and can result in important matters being overlooked.
- 5.59 We suggest that the DMT should provide guidance on file management and should monitor performance against that standard.**

### **Dealing with correspondence**

- 5.60 Some external consultees were concerned about the Area's ability to link correspondence to files and to provide a timely response. We examined the office systems for linking correspondence and we found them to be generally sound. There is more of a problem with ensuring that letters and other requests for information are actioned by lawyers and caseworkers. It is clear that the limited amount of time they spend in the office contributes to this. Nevertheless, improvements are needed and more effective action-dating and management checks will help to bring this about.
- 5.61 We suggest that PTLs and office managers should ensure that post is appropriately prioritised and that management checks are in place to promote prompt attendance to correspondence.**

## **PRESENTING CASES IN COURT**

### **The quality of advocacy in the magistrates' courts**

- 6.1 Prosecutors in Derbyshire normally prosecute in the courts served by their team. We observed that the advocates invariably arrived in court in good time and were therefore able to deal with other court users effectively before the court started.
- 6.2 Our overall finding from court observations was that the standard of advocacy for CPS lawyers in the magistrates' courts was satisfactory. While some lawyers were better than their colleagues in some aspects of performance, most advocates conducted themselves competently in all aspects of their work and were of assistance to the court.
- 6.3 However, we thought that there was room for improvement for a small number of advocates, particularly in the way they plan and prepare their cases, and in their approach to applications for remand in custody.
- 6.4 Our views were shared by external consultees, who were generally impressed. They considered that they were well served by competent and professional prosecutors, although we were told that performance is variable and the high standards of the majority are not achieved by all prosecutors.
- 6.5 We were told of an Area training course on advocacy. This course was developed by two Area lawyers from material used in the advocacy training programme and the HCA training courses. The main aim of the course was to update and refresh advocacy skills for lawyers who were not about to commence HCA training. We found that the course was well received, and many who attended derived benefits from it. We would encourage the extension of this course to all Area lawyers and regard it as a particularly impressive local initiative.

### **Designated caseworkers**

- 6.6 The two designated caseworkers deal with EFH courts. They prepare their cases at the police station the afternoon before court, along with the lawyer who is to conduct the EAH court. Generally, the court will also arrange for a traffic list to go with the EFH cases and this facilitates effective list building and maximises the DCWs' effectiveness.
- 6.7 We saw both DCWs in court and we were very impressed with their ability. We are also pleased to record that external consultees also commended their performance.

- 6.8 We were told of good mentoring arrangements for the DCWs. We were able to see this for ourselves during the court observations. There were effective discussions between the DCWs and their respective mentors before court. We were informed that the mentors have played a significant part in the development of the DCWs, and we are pleased to note that the mentors continued to offer assistance to the DCWs beyond their training. The Area has recently recruited a third DCW, who is now undergoing training. We are confident that she will benefit from the very good support provided to her colleagues.

### **Selection and use of agents**

- 6.9 The Area instructs solicitor agents who are often former, and very experienced, prosecutors. Counsel are also instructed to prosecute in the magistrates' courts. Agents are used mainly in trials. We were only able to observe one counsel agent and we thought that his performance was more than satisfactory. We received very favourable reports of two agents used regularly in Buxton and Glossop. Both agents were former senior prosecutors from another Area.
- 6.10 We were told that general administrative pre-court checks are carried out on files, but there are no specific checks on files going to an agent. Our attention was drawn to a file where the agent conducting a trial was not instructed specifically to apply for an extension of the custody time limit. We have considered this in paragraph 5.51.
- 6.11 The Area does not provide an information or training pack on CPS processes for agents. We were told that this does not cause any local difficulties because of the level of experience of agents and the fact that counsel are able to pick up procedures for handling CPS cases from more experienced colleagues in chambers. Nevertheless, this is something the CCP and ABM will want to keep under review: if the Area finds that the experience level of its agents falls, general guidance on procedures such as file endorsements and the extent of agents' authority and discretion may be required.

### **The quality of advocacy in the Crown Court**

- 6.12 We were told that the standard of advocacy in the Crown Court is variable and, on occasions, defence advocates appear to be more experienced. We saw seven prosecution advocates at the Crown Court at Derby. Our observations agreed with this information.
- 6.13 In most cases, counsel's performance was satisfactory. In one case, we thought that counsel's performance was very good indeed. We found that in some cases, however, counsel was unable satisfactorily to deal with an emerging situation or to answer queries from the judge. Lack of preparation or lack of foresight was apparent in some of these cases; in others, we concluded that lack of experience played a part.

## Higher Court Advocates

- 6.14 There are two CPS lawyers in Derbyshire with higher court rights of audience. They deal mainly with appeals from the magistrates' court and committals for sentence. We were very impressed with the performance of the one HCA whom we were able to see in court. This favourable impression was confirmed by the very complimentary comments we received about both HCAs from representatives of other agencies.

## Monitoring advocacy

- 6.15 Monitoring of advocacy in the magistrates' court for both Crown Prosecutors and agents was patchy. PTLs are usually able to observe their lawyers in court once a year for appraisal purposes, but the geographical spread of the magistrates' courts in the county means that this absorbs a fair amount of time and we were told that more extensive monitoring is rarely possible. There is no systematic monitoring of agents.
- 6.16 We encourage the regular monitoring of performance in court of in-house prosecutors and agents. We referred to the importance of monitoring in our Report on the Thematic Review of Advocacy and Case Presentation (Thematic Report 1/2000). It enables development points to be identified and addressed, not only for prosecutors of limited experience, but also for those who have been in post for many years. The Area's advocacy course provides a very useful framework through which training needs can be addressed.
- 6.17 In the Crown Court, formal monitoring is carried out when counsel applies for re-grading. Otherwise the monitoring is informal. There are arrangements for a paper record to be kept on particularly good or poor performance. In view of our concerns about the overall standard of advocacy in the Crown Court, we feel that more structured monitoring arrangements should be developed.
- 6.18 We recognise the resource difficulties faced by the Area in carrying out extensive monitoring, but we do feel that more needs to be done to support the development of advocacy skills. Much can be achieved by managers utilising the opportunities which arise naturally from their attendances at court for a variety of reasons. This does not involve additional resources. Focused monitoring on those aspects of performance where there is an identified need to improve is another method of carrying this forward.
- 6.19 We suggest that the CCP should ensure that there is structured and effective monitoring of the performance on prosecuting advocates in the magistrates' courts and the Crown Court.**

## **MANAGEMENT AND OPERATIONAL ISSUES**

### **MANAGEMENT OF THE AREA**

#### **General**

- 7.1 During the period following the establishment of the 42 CPS Areas, Derbyshire, in common with its counterparts, has had a considerable amount of work to do in order to establish its identity as an effective, efficient and independent unit of operation.
- 7.2 At the time of the inspection, the Area was organised into three geographically based teams, each managed by a PTL. In addition, there was an Area Secretariat, managed by a business support officer. The management team comprised the CCP, the ABM, a Level E Lawyer (the BCP), the PTLs and the level B1 line managers.
- 7.3 Our general view of the management approach is that it demonstrates a clear vision and sense of purpose at strategic level, which is being reinforced at operational level through the development of integrated systems, processes and methods of service delivery.
- 7.4 The Area was able to show evidence of an evolving management infrastructure, characterised by the Area Business Plan (ABP) and Action Plan, structured systems for two-way communication, effective financial planning processes and a commitment to improving individual performance, linked to organisational performance. These processes are essential in providing support to managers and in informing the way in which the Area conducts its core business.
- 7.5 We believe that the effective working relationship between the CCP, the BCP and the ABM has played a significant role in the Area's achievements so far.

#### **Derbyshire Management Team (DMT)**

- 7.6 At the first meeting of the Area management team in April 1999, the group agreed to change its name to the Derbyshire Management and Strategic Team. This was later shortened to the Derbyshire Management Team (DMT). Since then, changes implemented by the DMT have resulted in the restructuring of meetings, the inclusion of additional representatives and the revision of the group's operations.
- 7.7 As part of the revised meeting arrangements, the business managers from the three teams and the business support officer all now attend the DMT meetings. It was felt that this provided an important link to operational matters.

- 7.8 The standard meeting structure was revised to ensure a greater focus on major issues, with a standing item on performance. There are now structured monthly business meetings with weekly informal meetings, where DMT members update each other on more routine matters, movements and commitments. The timing of meetings is still being adjusted in order to maximise attendance and effectiveness.

### **Change management**

- 7.9 The major, most recent change management exercise relates to the planned development of the Criminal Justice and Crown Court Units. This has involved long term planning both with external partners, as well as with CPS staff. We have considered the Area's external relationships in paragraphs 7.58-7.66.
- 7.10 Within the Area, following a suggestion from an Area Sounding Board (ASB) Meeting, a weekend training session was arranged in which approximately sixty members of staff participated. A Project Group was then established to co-ordinate the work that would be required to prepare for the introduction of the new units. This undoubtedly helped to gain ownership for, and commitment to, the proposed new way of working. We found that this initiative was welcomed by all of those interviewed.
- 7.11 A large number of staff were keen to become members of the Project Group and the system for selection secured many high quality applications. However, as the number of places was limited, the AMT used feedback from staff in order to ensure that any unsuccessful applicants were given priority for membership on subgroups as well as for involvement in similar projects in the future. This shows a welcome willingness to make any necessary adjustments to processes in order to learn from experience.

### **Area Business Plan**

- 7.12 In addition to the ABP and Action Plan for 1999/2000, we were pleased to see that a plan for 2000/2001 had also been prepared in draft form and in advance of the guidance from the CPS Internal Resources and Performance Branch (IRPB). This indicates that there is a cycle of activity in relation to review and forward planning, and that the ABP is not simply seen as a paper exercise by management, but is used to identify Area priorities which are linked to strategic issues.
- 7.13 We were advised that, in accordance with a similar process from the previous year, once the draft ABP had been formally agreed, an action plan would be prepared and that this, together with the ABP (or a summarised version), would be distributed to all staff and discussed at team meetings.

## **Performance**

- 7.14 Discussion of performance is a regular feature of DMT meetings. PTLs give reports on the performance of their individual teams and generally discuss issues in relation to Area and national performance. Staff contribute to the debate at their own team meetings and receive feedback on the DMT discussion via copies of the DMT minutes. The Area has experimented with different ways of presenting information on performance, and this has proved to be the most effective in engaging staff.
- 7.15 However, it is important to the success of this approach that team meetings continue to take place on a regular monthly basis; this is also fundamental to the Investors in People (IiP) Action Plan. We were pleased to note that this issue features as an action in the draft ABP.

## **Performance measures**

- 7.16 There are three aspects of performance where the Area has been performing below its agreed targets. These are:
- \* complaints, which arose through an error in logging that has since been rectified;
  - \* delays in sending briefs to counsel; measures to improve performance include a review of casework duties in conjunction with Management Audit Services (MAS); and
  - \* timeliness of committal preparation, where actions to address the problem have been included in the draft ABP for 2000/2001.
- 7.17 The details of performance against targets are as follows:
- \* timely service of committal papers on the defence. The Area target was 69%, the actual achievement was 66.7%;
  - \* timely instructions to counsel. The Area target was 84%, the actual achievement was 75.3%;
  - \* timeliness of responses to complaints. The Area target was 87%, the actual outcome was 85%;
  - \* timeliness of replies to Parliamentary correspondence. The target of 100% was achieved;



- \* reducing adverse case outcomes. These are cases which result in findings of no case to answer in the magistrates' courts or non-jury acquittals in the Crown Court. Such outcomes may indicate a failure in the review process. The CPS therefore scrutinises the number of such outcomes assessed as foreseeable against the number of finalised defendants. There was no target for 1999/2000, which is to be the baseline for this measure. The outcome was:
  - (i) no case to answer: 0.01% - national outcome 0.01%
  - (ii) non-jury acquittals: 0.25% - national outcome 0.72%.

### **Communication strategy**

7.18 A communication strategy was established last summer. This focuses on improving internal networks and systems, which were seen to be a priority. A minimum standard for monthly team meetings was also set, as these were not taking place as regularly nor as frequently as required.

### **Meetings**

- 7.19 There is evidence to show that key strategic issues, as well as operational matters, are discussed at meetings that take place at all levels throughout the organisation. Some items raised initially at the Area Sounding Board and the Whitley Council, are referred up to the DMT for further consideration.
- 7.20 Finding a convenient time to hold team meetings has proved to be a problem in the past but there is now a commitment to ensure that these do take place on a regular basis. We would wish to encourage this approach. Despite the acknowledged difficulties for staff who are out of the office for considerable periods of time, it is important to convene meetings, albeit with a few apologies for absence, and to use notes of the meetings to update those staff at a later date.
- 7.21 Methods for improving internal communication have been proposed by staff as well as managers. One example, raised at the Area Sounding Board, was the suggestion that there should be greater opportunity for staff to meet regularly with members of the AMT. As a result, it has now been agreed that the CCP and ABM will attend team meetings at set intervals in order to strengthen face to face contact with staff. This is important because the current layout of the building, with the CCP, ABM and BCP being located away from many of the lawyers and caseworkers on a separate floor, could lead to the misapprehension that the most senior managers wished to keep their distance from the rest of the staff. This particularly contrasts with the former arrangements for the Branch office, where it was possible to have all staff located on the fifth floor.

- 7.22 We believe that the proposal for attendance at team meetings provides a constructive way forward and encourage the Area to implement it as soon as possible.

### **Monitoring and review**

- 7.23 We feel that the establishment of the communication strategy was an important step as it clarified and streamlined a number of processes. However, its overall success can only be judged in terms of ongoing monitoring and review with constant reinforcement to staff that effective communication is a shared responsibility.
- 7.24 This theme is reflected in the IiP assessment, which identifies the need to ensure regular feedback to staff and the importance of avoiding slippage in achieving objectives such as regularly convened team meetings.

### **Morale**

- 7.25 We received mixed feedback on staff morale within the Area. It was generally acknowledged that caseworkers were under particular pressure. This was partly due to the implementation of the Narey proposals, but also the result of a depletion in the number of caseworkers over a period of time and the need to travel to cover cases outside of Derbyshire.
- 7.26 Morale was discussed at an Area Sounding Board in August 1999. The ABM acknowledged the concerns that were expressed by staff and discussed practical steps that could be taken to improve the situation.
- 7.27 Following a recent meeting involving the CCP, the business support officer and caseworkers, a package of measures was agreed which included funding for an additional B1 caseworker and redistribution of some casework functions to reduce some of the workload on level B staff.
- 7.28 The proposed reinstatement of a B2 post to manage the Crown Court work may also assist in the realignment of some of the caseworkers' roles and responsibilities.
- 7.29 It has also been identified that staff at level A grade would like further development opportunities. MAS has been commissioned to examine existing staffing levels and systems in order to see what changes might help and to make recommendations on reallocation of tasks and responsibilities where necessary.
- 7.30 Overall, there appear to be good informal support networks in the Area particularly within teams.

## MANAGEMENT OF FINANCIAL RESOURCES

### Allocation of resources

- 7.31 The ABM has a strong financial background and this is demonstrated by the way in which financial management within the Area is approached. There is a clear understanding of the activity based costing (ABC) framework and the way in which this can be used effectively as a tool for planning and managing resources, not only at Area level, but also within individual teams.
- 7.32 Staff at all levels are expected to have some awareness of the budget situation and items for discussion appear on agendas for the full range of meetings. We are confident that the CCP and ABM have a clear overview of financial priorities across the Area, and note that PTLs contribute to the debate on budgets at DMT.
- 7.33 We found, generally, that there was sound financial monitoring with a commitment accounting system in place and major aspects of expenditure being profiled to assist with forward planning. Some modest provision was also made for the funding of possible future joint initiatives with other local agencies although with budget reductions and the removal of an Area contingency amount, there was understandably less opportunity for this than in the past.
- 7.34 As part of a review of budgets in February 2000, the Area notified the IRPB that there was a potential underspend of £30,000. This 'surrendering' of monies is part of an agreed formal process to ensure corporate financial responsibility and the maximisation of resources across the CPS as a whole.
- 7.35 The background to the underspend relates partly to the fact that the Area took a prudent approach to managing expenditure on running costs in order to facilitate the transition to a potential reduction in budget allocation for future years. Other factors contributing to the underspend included the uncertainty of pay settlements, often a problem because they are finalised so late in the year, which caused particular problems this year, as some were not agreed until the year-end.
- 7.36 The final underspend on the Area budget was £68,689. This was viewed by the Area and IRPB as acceptable, as it represented a 97.2% spend on the overall budget. We agree, but we were pleased to note the ABM's desire to refine the monitoring process in future years in order to bring expenditure into closer alignment with the set budget.

## **Case management plans**

- 7.37 Cases where the brief fee is over £5,000 should have a case management plan (CMP). CMPs enable the CPS to plan with counsel the amount of work that will be required to prepare the case for trial and to record the work that is undertaken. If the brief fee is over £10,000, the CMP is monitored by the Area Secretariat, although the Area has had only four cases in this category since April 1999.
- 7.38 If used well, a CMP will provide an effective project plan for the progress of a case as well as enabling a proper control to be kept on counsel's fees. We found that the CMPs are generally used satisfactorily to record work undertaken by counsel, but there was little evidence that they are used to plan and agree that work in advance. Area managers will want to ensure that CMPs are properly used to plan and control expenditure.
- 7.39 We recommend the DMT should examine the Area's use of case management plans to ensure that they are used effectively to agree the amount of work to be undertaken by counsel and to plan and monitor expenditure.**

## **MANAGEMENT OF HUMAN RESOURCES**

### **Induction**

- 7.40 An Induction Programme is in place for new staff and this includes initial meetings with the CCP and ABM. However, the National Induction Handbook requires updating. In addition, we were concerned to see that there appeared to be no formal induction for casual staff. Issues in relation to induction were also picked up in the IiP assessment, where an area identified for further continuous improvement was the review process for new starters.

### **Investors in People and training**

- 7.41 There is an impressive programme of training courses co-ordinated for the Family Group (which comprises the CPS areas of Leicestershire, Northamptonshire and Nottinghamshire as well as Derbyshire). However, the ABM was concerned that the programme may be a little over-ambitious as courses are often cancelled, which creates a poor impression. Our view is that, unless courses on offer have been developed as part of some objective analysis of organisational and individual training needs, time and effort may be wasted in preparing courses for which there is no demand. It is also difficult to establish through a process of evaluation whether they have met their objectives.

- 7.42 The Area attained IiP accreditation in February 2000. The assessor's report identified a number of strengths within the Area, such as effective communication links and clarity of Area objectives, but it also highlighted some aspects for further improvement. In particular, the Area will need to build actions into its ongoing IiP development plan to ensure that regular team meetings take place and that training is effectively evaluated. Within the draft ABP, the implementation of recommendations in the IiP report is already listed as a priority.
- 7.43 DMT minutes show that some work on analysing training needs has been undertaken by the Area Training Committee and that questionnaires were sent to all staff. Unfortunately, we were not able to identify a formal document which encapsulated this and which was shared with staff.
- 7.44 The IiP Assessment Report contained a suggestion that the Area should introduce a concise annual report to identify outcomes from training and development activity during the year and highlight improvements. The Area is currently considering how best it might respond to this proposal. It has in mind the preparation of a brief report to DMT with a view to this being disseminated to the other members of staff thereafter. We believe that the need for an annual report should be interpreted as a requirement for the Area to ensure that it has a training plan in place, based on a training needs analysis. This is fundamental to any process for evaluating training.
- 7.45 We recommend that a training needs analysis is undertaken and used to develop a training plan for the Area. This together with the evaluation of training outcomes will provide the basis of an annual report suggested in the IiP assessment.**

### **Sickness**

- 7.46 The Area has introduced a comprehensive procedure for sickness monitoring which ensures:
- \* input from PTLs;
  - \* absence reports containing appropriate information;
  - \* a trends analysis and data provided by the Area Secretariat;
  - \* return to work interviews; and
  - \* a double check system, where the ABM confirms that no further action can be taken at that stage.
- 7.47 **We commend this as an example of good practice in human resource planning.** However, we were told that although effective action had been taken in some individual cases, the new system has not yet had the impact anticipated, because some factors are outside of the Area's control.
- 7.48 Data available indicates a fairly steady lost time rate ranging from 6.59% to 6.74% between January 1999 and March 2000.

## **Staff appraisal**

- 7.49 The Area has a good record for completion of appraisal reports with 95% being submitted by the 31 May deadline. A special effort was required in order to achieve this result. The overarching framework for performance appraisal is well supported by staff within the Area, but concerns were expressed to us about the amount of work involved in the appraisal system. The appraisal of staff is, however, important for staff and managers alike. It inevitably requires a significant effort. In view of its concerns, the Area may wish to seek advice from Personnel Branch to ensure that its local implementation is resource effective.
- 7.50 We found that managers were aware of the procedures for dealing with ineffective performance. Service Centre staff confirmed that they were consulted for advice and that the correct procedure had been used to manage poor performers.

## **VICTIM AND WITNESS CARE**

- 7.51 There is a written multi-agency protocol in Derbyshire, established through the local TIG, on the treatment of victims and witnesses. The Area has addressed in its business plan for 2000/01 the need to develop this further.
- 7.52 The practice in the magistrates' courts of double and triple listing of trials requires the attendance at court of a number of witnesses for different trials at the same time, some of whom will not be called upon to give evidence through lack of court time or because trials are not always effective. This is not satisfactory. Prosecutors are aware of the need to make themselves available to speak with witnesses, but listing arrangements sometimes make this difficult and some prosecutors told us that they are not always able to spend as much time with witnesses as they would wish. In our court observations, where we were able to speak with witnesses, we found evidence that not all witnesses were satisfied with the level of contact they had with the prosecutor.
- 7.53 We have already referred, at paragraphs 5.22-5.24, to the witness phasing arrangements that are being introduced. This should reduce the number of witnesses who attend at the start of the day's business, but there remains a need for witnesses to be able to speak to the prosecutor about procedural matters if they wish to do so. We were encouraged by the fact that the courts have recognised that a short adjournment may be required in some trials to enable this to take place. We were also pleased to learn that the Witness Service is developing its role in the magistrates' courts. However, we think that the true benefits of witness phasing will only be realised if the agencies are able to address successfully the problem of cracked and ineffective trials and the consequent double and triple listing of cases. We have examined this issue at paragraph 5.18-5.21. If the listing of trials is not rationalised, there is a real danger of witnesses attending court at, for example, 11 or 12 o'clock, only to find that their case was disposed of at the start of the day's business.

- 7.54 The Witness Service representatives whom we consulted considered that the CPS staff dealt well with witness care issues. There is a good working relationship between the caseworkers and Witness Service in the Crown Court although, again, caseworkers are not always able to spend as much time as they would like with the witnesses or to update them as to what is happening in a case. Whilst the Witness Service willingly offer further assistance to the CPS in the Crown Court, the Area will want to ensure that caseworkers continue to introduce themselves and explain their role to victims and witnesses.
- 7.55 We were told of some counsel in the Crown Court who are very good at speaking to victims and witnesses in child abuse and rape cases and several who took time to explain to witnesses why a case had collapsed. However, we were told that, in the main, solicitor agents in the magistrates' court and counsel in the Crown Court remain reluctant to speak to witnesses.
- 7.56 Child abuse cases are dealt with well at the Crown Court, with pre-court visits arranged, separate waiting rooms and child witness attendance staggered. We were told that the Crown Court is now providing fixed court dates to ensure that cases are listed for trial as quickly as possible, although as we commented at paragraph 5.41, we can see real benefits in listing such cases for an oral PDH. The Area is also involved in drafting a protocol on the handling of child abuse investigations and child witness cases. This includes a section on victim and witness care at court. The draft protocol addresses important issues and the Area will want to ensure that this work is progressed.
- 7.57 The Area has no formal bilateral meeting with the Witness Service or Victim Support but there is a good level of informal contact. Formal issues are raised through the local TIG. We were pleased to note that CPS staff are involved in the training of new Witness Service volunteers.

## **EXTERNAL COMMUNICATION**

### **General**

- 7.58 Relationships with all criminal justice agencies are said to be cordial, professional and usually productive. CPS staff are well respected by their counterparts in other agencies. The CCP and ABM have set up a programme of meetings with key partners in the local criminal justice system to rationalise representation at inter-agency meetings. This has resulted in a more focused approach to liaison. The CCP represents the CPS at the Area Criminal Justice Strategy Committee. The BCP chairs the local TIG and the ABM also attends.

## **Crown Court**

- 7.59 The CCP meets regularly with the resident judge at Derby Crown Court on an informal basis. Formal liaison is carried out through a trilateral meeting between the CPS (usually the ABM and a PTL), senior Crown Court staff and the police. There is no Crown Court user group, but the trilateral forum is said to be effective. We hope that the two issues of current local concern (paper PDHs and court coverage by the CPS) can be taken forward through this meeting or through contact with the judiciary.

## **Magistrates' courts**

- 7.60 There is a good day-to-day working relationship between CPS and court staff. Formal liaison is through court user groups where the Area is represented by the appropriate PTL. The CPS is seen as playing a central part in developing and maintaining effective relationships. The youth courts have separate user group meetings which CPS lawyers, who are youth specialists, attend.
- 7.61 Our impression is that liaison is generally effective although three local issues need to be developed by the agencies working together. We have already referred to two of these issues: the arrangements for the phasing of witnesses and the monitoring of cracked and ineffective trials.
- 7.62 The third issue relates to the listing arrangements for EAH courts. We were told that the courts at Chesterfield and Derby sit without magistrates, the business being conducted by a senior court clerk. This is consistent with the principle of using the EAH to deal with administrative matters. However, adjourned cases are also listed in this court when issues such as mode of trial need to be determined. As the decision on venue can only be taken by magistrates, these cases are then moved to another courtroom where the prosecutor in that court has to present the case, often at short notice. The transfer of work between courtrooms is not uncommon and is often essential to ensure that business can be conducted effectively. However, there may be scope for discussing further with the court the listing arrangements for cases that will clearly need to be heard by magistrates.

## **Police**

- 7.63 There is a good relationship between CPS staff and their police counterparts at an operational level. This quality of relationship is replicated at senior levels. We were pleased to see the police bringing in the CPS at an early stage in serious and sensitive cases. Joint training has taken place, and more is planned, on key issues such as handling unused material and human rights legislation.



- 7.64 The Area and the police carry out joint performance management (JPM) on issues of mutual concern such as the timeliness and quality of police files and the reasons for adverse cases. JPM provides an effective framework for liaison meetings at team/divisional level as well as countywide. Through JPM discussions, the CPS and police have recognised that improvements are needed in the handling of unused material and cases involving identification evidence.

### **Media relationships**

- 7.65 Links with the local media have been strengthened recently through contacts with the police press office and the local press. This was identified as a priority in the ABP for 1999/2000 and was part of a process designed to manage public information at the local level more effectively. We were impressed by the proactive approach to managing media relationships which the Area has developed.

### **Community links**

- 7.66 CPS staff attend local schools to give talks on the criminal justice system and the work of the CPS. Staff also take part in careers fairs and have made themselves available to conduct mock job interviews for school pupils. Staff have also developed links with local voluntary organisations such as the Women's Institute and the Rotary Club.

## **SECURITY AND HEALTH AND SAFETY**

- 7.67 An examination of office security at St Peter's House revealed one or two concerns which we have drawn to the attention of Area management.
- 7.68 On the personal security front, we heard that there had been problems at more than one court.
- 7.69 We were pleased to learn that security has been improved at Derby and Ilkeston Courts, but were advised that there has been some concern expressed over security in the smaller magistrates' courts, especially for Saturday and bank holiday coverage. This issue should be included in the Area Review currently underway which is covering a range of health and safety issues across all of the courts. The business support officer is leading on the project, in conjunction with a Trades Union representative. We feel the question of staff safety should always be discussed with those responsible for the courts whenever there is cause for genuine concern.
- 7.70 In general, the clear desk policy has not been fully implemented, despite the CCP's lead.

**7.71 We recommend that the DMT should ensure that the clear desk policy is fully implemented.**

7.72 We believe that further attention is required in order to ensure that a greater number of staff wear their security passes as a matter of course. This has particular significance in buildings of shared occupancy, where there is a need to assist staff in challenging unidentified visitors.

## **ACCOMMODATION**

7.73 The office is based in a modern office block in the centre of Derby. It is shared with other organisations. The former Branch office is now accommodated on the fifth floor and one wing of the seventh floor has been taken over by the Area Secretariat, with offices also for the CCP, ABM and BCP, as well as a training suite.

7.74 There appear to be no major complaints from staff about the quality of accommodation, but concerns have been raised about uncomfortable working conditions in hot weather. Only the conference room has air conditioning.

7.75 Future accommodation needs are covered by a well-developed plan which forms part of the strategy for CJU and CCU and includes eventual co-location with the Police.

7.76 Access for people with a disability is poor. The CPS has reviewed the costs of rectifying this in the past. We believe that it is something that could have a significantly negative impact on the Area's ability to implement its Equality and Diversity Plan unless some improvements can be made. However, we recognise that initiating remedial action may be beyond the power of local management.

## **EQUALITY AND DIVERSITY**

7.77 A breakdown of the workforce by ethnicity, gender, disability, grade and number of hours worked was provided by the Service Centre. This indicates that 3.9% of the Area workforce is from the Asian community spread across grades A to D. The census benchmark for Derbyshire indicates that 3.28% of the local population are from black and minority ethnic communities. In terms of a practical recognition of the different religious and cultural needs of staff, a prayer room has been set aside within the Area office. We welcome this initiative.

7.78 There are 2.4% of the staff group in the Area with a disability. This compares with the national average across all Government departments of 3.6%.

- 7.79 New ideas for improving the recruitment of black and minority ethnic staff are identified in the Equality and Diversity Plan. Through liaison with the Derbyshire Black Police Officers' Association, a number of outreach initiatives are planned:
- \* through liaison with inner city schools the CPS will endeavour to explain and promote its work to a wide range of young people;
  - \* by developing a register of interest, a record of potential job applicants will be established, together with data on ethnicity, gender and disability to inform equal opportunities monitoring;
  - \* as part of a commitment to pre-employment training, assistance and support will be offered to interested parties who may wish to pursue a career with the CPS. This could include advice on completing the application form and conducting a mock interview.
- 7.80 However, as these proposals are still very much in a formative stage, we would expect to see a clearly defined plan for implementation. We note that reference is made to this in the Equality and Diversity Plan and in the draft ABP.
- 7.81 The strategy for addressing equality and diversity issues was evaluated at two levels: measurable short-term actions and longer-term requirements in relation to cultural change.
- 7.82 In respect of specific actions, the plan contains some good practical measures and the Area has used the Black Police Officers' Association as a source of advice and guidance, which is commendable. In addition to the recruitment measures, there are plans for the Black Police Officers' Association to facilitate some sessions with focus groups from within the workforce in order to encourage further debate and an exploration of issues in relation to race, disability and gender.
- 7.83 However, in order to ensure overall cultural change, it is likely that some long term planning will be needed, perhaps in conjunction with other members of the family group and almost certainly with some specialist input.
- 7.84 The CPS Equality video was shown to all staff at four special presentations introduced by the CCP and ABM. We were impressed by the commitment shown by the Area's senior management. We were told that staff feedback was generally positive. However, senior managers told us that some of the reaction to the video and subsequent discussion of the issues was mixed. They will want to ensure that any negative reactions engendered are handled positively and firmly, and placed within the local geographical context as well as within the overall priority framework of the CPS. Where necessary, senior managers should challenge inappropriate behaviour. Like other public sector bodies, the CPS has a wide range of issues to be addressed and must involve staff at all levels.

- 7.85 We recommend that the DMT should monitor the effectiveness of the Equality and Diversity Plan and should consider establishing a specific working group to do this.**

## **PERFORMANCE INDICATORS AND CASE OUTCOMES**

- 7.86 We were pleased to find that there were very few finalisation code errors in the cases in the file sample. The Inspectorate recently published a Report on the Thematic Review of Performance Indicator Compliance and Case Outcomes (Thematic Report 3/2000) in which we reported on a case outcome error rate of 8.1% in magistrates' court cases and 4.9% in Crown Court cases. The error rate in Derbyshire is significantly below this figure.
- 7.87 We were told that inputting errors had been identified by Area managers in some Crown Court cases. The Area uses the SCOPE computer system, which requires an entry to be made to record for each either-way offence whether the defendant elected Crown Court trial, or whether the magistrates deemed the charge not suitable for summary trial. If the defendant faces more than one such charge, this information must be accurately recorded for all charges. Some Area staff, on occasions, recorded the information only for the lead offence. This causes the system to default to a magistrates' court finalisation for those charges where the data has not been fully entered, thus depriving the Area of the credit of a Crown Court charge. This can have a significant impact on the analysis of Area caseload for the purposes of costings and budget allocation. We were informed that additional training and guidance had been given, and that further management checks have revealed an improved level of accuracy.

## **COMPLAINTS**

- 7.88 The Area maintains two complaints registers, one for parliamentary complaints and the second for all other complaints. Area practice is for the PTLs to deal with most complaints that originate from their teams, and for the CCP to deal with parliamentary complaints although he usually receives a detailed written report and draft reply from the PTLs in these cases.
- 7.89 We examined the registers and the files which generated the complaints since April 1999. The parliamentary complaints register was well maintained, but we did not feel that the register of non-parliamentary complaints was as well maintained. In some cases, it was difficult to follow the sequence of events or to identify when some of the key actions had been carried out. The registers contain only details of written complaints. We were told that, if an oral complaint is received, the complainant is invited to write to the Area in order to receive a considered response. Whilst this is sensible, it is also important that the details of oral complaints are recorded at the time they are first received and, if necessary, brought to the attention of a responsible person before the complainant leaves the building or before the telephone call is terminated.

- 7.90 We found that the majority of responses to the non-parliamentary complaints were full and dealt appropriately with the issues. There were variations in drafting style and not all responses were written in a style appropriate to the nature of the complaint. Some replies, for example, used unnecessarily complicated language. We noted that there had been little training for the PTLs on drafting replies to complaints. We think that the CCP should consider providing some structured guidance.
- 7.91 We were impressed by the quality of replies to parliamentary correspondence. The CCP has been trained in complaints handling and has considerable experience. This was evident in the quality of the replies. This gives us confidence that the CCP is in a good position to deal personally with providing instruction for others in the Area who handle complaints.
- 7.92 Complaints should be answered within three working days. Where this is not possible, an acknowledgement should be sent within that time and a substantive reply sent within ten days. We found that forty-four of the forty-nine responses to non-parliamentary complaints were timely (89.8%). All replies to parliamentary complaints were timely.

## **CONCLUSIONS, GOOD PRACTICE, RECOMMENDATIONS AND SUGGESTIONS**

- 8.1 The period since April 1999 has been one of substantial change in CPS Derbyshire. The CCP and ABM have been in post for just over a year and have developed a very effective working relationship. They have been helped in this by the commitment and experience of other members of the management team and all Area staff. We were impressed by the overall standard of service given by CPS Derbyshire, although there are aspects of performance (both internally within the Area and in its dealings with other agencies) that require attention.
- 8.2 The Area deals well with much of its casework. Prosecutors apply the Code tests properly in the large majority of cases and make appropriate decisions about the level of charge. Initial review is carried out well, in accordance with the local Narey arrangements for EFH and EAH courts, and the quality of review endorsements at this stage is significantly higher than we have found in many other Areas. We did have concerns about the quality and effectiveness of the continuing review of cases that go for summary trial or committal, and we feel that Area managers and lawyers need to develop this aspect of performance further. The apparent lack of analysis by the reviewing lawyer of cases listed for summary trial may well contribute to the high rate of cracked and ineffective trials in Derbyshire. Similarly, it is a factor which impedes the provision of good quality instructions to counsel in Crown Court cases, although there are also other matters that need to be addressed to ensure that the quality of instructions is improved.
- 8.3 We found that Area procedures for the preparation of cases are generally sound, although timeliness is an issue in a number of areas of activity such as the provision of advice, the service of committal papers, and the early termination of proceedings. Area staff are well aware of the importance of handling unused material properly, but in common with most other Areas, there is more to be done before CPS Derbyshire can be said to comply scrupulously with the prosecution's duties of disclosure.
- 8.4 The standard of advocacy in the magistrates' courts is satisfactory. Most advocates were competent in all aspects of their work. In the case of a small number of advocates, there was scope for better planning and preparation of their cases, and a need for a more structured approach to applications for a remand in custody. The Area has developed its own advocacy training course to cater for all levels of experience, which is a commendable local initiative. This, together with more focused monitoring of performance, should lead to the overall standard being improved further.
- 8.5 The Area has introduced two DCWs to deal with the EFH courts introduced as part of the Narey fast track procedures. A third DCW has recently been appointed and is now undergoing training. We found that the DCWs were fully engaged in their role and had the full confidence of the courts they were appearing in. In the Crown Court the Area has introduced two HCAs and we received very favourable reports about their performance.

- 8.6 As far as the organisation and management of the Area is concerned, the approach taken by senior managers demonstrates a clear vision and sense of purpose at the strategic level, which is reinforced at operational level by the development of integrated systems, processes and methods of service delivery. We were particularly impressed by the planning and control systems, which seemed to be very sound. The Area was awarded investors in people status following an assessment in January 2000, but there is a need for a more structured approach to the development of a training plan, an issue which was highlighted by the IiP assessor. The Area's approach to handling sick absence is very positive, with a trends analysis prepared by the Area Secretariat.
- 8.7 In terms of diversity, the Area has a minority ethnic representation of 3.9% of the workforce, which slightly exceeds the census benchmark for Derbyshire of 3.28% of the local population. There is a wide spread of grades of members of staff from minority ethnic groups. We were interested to note that the Area has developed close links with the Derbyshire Black Police Officers' Association and that this has been of positive assistance to the Area.
- 8.8 Area staff have built up effective working relationships with their criminal justice partners in other agencies. Relationships are good at senior and operational levels. There are currently five local issues of particular importance where the Area needs to work closely with other agencies to develop effective performance: the phasing of witnesses in the magistrates' courts; monitoring with the courts the reasons for cracked and ineffective trials; assessing the effectiveness of listing arrangements for EFH and EAH courts; the paper PDH system; and CPS coverage in the Crown Court. We are encouraged that senior managers in the Area recognise the importance of close co-operation with other agencies, and we are confident that these issues will be taken forward constructively.

### **Good practice**

- 8.9 We draw attention here to those Area practices or initiatives that deserve to be commended:
1. the Area youth specialist co-ordinator's initiative in producing notes for other lawyers on the key provisions of the new sentencing regime introduced by the Crime and Disorder Act 1998 (paragraph 4.40);
  2. the Area's fax frontsheet which is used for transmitting defence statements to the police (paragraph 5.10);
  3. early discussion of witness requirements by the prosecutor and defence solicitor when the trial date is fixed, with a view to reaching agreement on those witnesses whose evidence is accepted by the defence, and the recording of this information on a special form (paragraph 5.15);
  4. the Area's procedure for sickness monitoring which includes a trends analysis and data provided by the Area secretariat (paragraph 7.47).

## Recommendations and suggestions

8.10 The distinction between recommendations and suggestions lies in the degree of priority that the Inspectorate considers should attach to the proposals, with those matters meriting the highest priority forming the basis of recommendations:

8.11 We make the following recommendations:

1. the BCP and PTLs should ensure that advice is provided within 14 days of receipt whenever possible, and that where this target cannot be met the reviewing lawyer liaises with the police to agree an appropriate timescale (paragraph 3.14);
2. PTLs should ensure that all lawyers carry out timely, full and effective review of summary trials and committals, and that they endorse their analysis of the case on the file (paragraph 4.22);
3. the DMT should review the Area's handling of unused material to ensure that:
  - \* lawyers ask for proper descriptions of material;
  - \* primary disclosure is made at the appropriate stage in all cases;
  - \* the MG6C and MG6D are properly completed by the reviewing lawyer;
  - \* details of witness convictions are obtained and disclosed;
  - \* papers relating to disclosure are kept together in the file (paragraph 5.5);
4. the DMT should seek to agree with the magistrates' courts a process of jointly monitoring the reasons for cracked and ineffective trials, and the timely sharing of data (paragraph 5.21);
5. the DMT should take urgent steps to improve the quality of instructions to counsel ( paragraph 5.35);
6. the DMT should develop consistent and regular management checks of custody time limit procedures across all teams (paragraph 5.48);
7. lawyers giving notice of an application to extend custody time limits should endorse the file with specific instructions to the advocate about the reasons for the application (paragraph 5.52);
8. the DMT should examine the Area's use of case management plans to ensure that they are used effectively to agree the amount of work to be undertaken by counsel and to plan and monitor expenditure (paragraph 7.39);
9. a training needs analysis is undertaken and used to develop a training plan for the Area. This together with the evaluation of training outcomes will provide the basis of an annual report suggested in the IiP assessment (paragraph 7.45);



10. the DMT should ensure that the clear desk policy is fully implemented (paragraph 7.71);
11. the DMT should monitor the effectiveness of the Equality and Diversity Plan and should consider establishing a specific working group to do this (paragraph 7.85).

8.12 We also make the following suggestions:

1. PTLs should satisfy themselves that the lawyers in their teams deal effectively with bail applications and should ensure that appropriate training and guidance is given where necessary (paragraph 4.30);
2. the CCP, BCP, and PTLs should ensure that the Area does all it can, including liaising with the magistrates' courts and the Crown Court, to ensure that child abuse and child witness cases are transferred to the Crown Court at the earliest opportunity (paragraph 4.35);
3. the DMT should monitor the effectiveness of the witness phasing arrangements agreed with the magistrates' courts (paragraph 5.24);
4. the BCP should seek to reach agreement with the Probation Service over joint monitoring of the timely provision by the CPS of information for pre-sentence reports (paragraph 5.56);
5. the DMT should provide guidance on file management and should monitor performance against that standard (paragraph 5.59);
6. PTLs and office managers should ensure that post is appropriately prioritised and that management checks are in place to promote prompt attendance to correspondence (paragraph 5.61);
7. the CCP should ensure that there is structured and effective monitoring of the performance of prosecuting advocates in the magistrates' courts and the Crown Court (paragraph 6.19).

## **KEY STATISTICS**

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

## **EXTERNAL CONSULTATION**

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

## TOTAL NUMBER OF FILES EXAMINED FOR CPS DERBYSHIRE

<b>File category</b>	<b>Total number of files</b>
Advice	10
Appeals against conviction	5
Committals discharged	2
Committals for sentence (plea before venue)	5
Custody time limits	10
Judge directed acquittals	5
Judge ordered acquittals	30
Magistrates' courts lost at half-time	1
Random sample	94
Terminated cases	98
Terminated cases (one month)	25
Traffic	10

## ANNEX 2

Table for chart 1

Types of case	CPS Derbyshire		National	
	Number	%	Number	%
Advice	983	4.7	52,625	3.7
Summary motoring	6,893	32.8	526,517	36.7
Summary non-motoring	4,098	19.5	260,944	18.2
Either way & indictable	9,016	43.0	580,019	40.4
Other proceedings	0	0.0	14,089	1.0
<b>Total</b>	<b>20,990</b>	<b>100</b>	<b>1,434,194</b>	<b>100</b>

Table for chart 2  
Completed cases

Completed cases	CPS Derbyshire		National	
	Number	%	Number	%
Hearings	15,112	75.5	998,717	73.0
Discontinuances	2,324	11.6	166,861	12.2
Committals	1,365	6.8	87,885	6.4
Other disposals	1,206	6.0	114,017	8.3
<b>Total</b>	<b>20,007</b>	<b>100</b>	<b>1,367,480</b>	<b>100</b>

Table for chart 3  
Case results

Case results	CPS Derbyshire		National	
	Number	%	Number	%
Guilty pleas	12,466	82.1	824,888	82.2
Proofs in absence	1,323	8.7	117,396	11.7
Convictions after trial	995	6.5	43,852	4.4
Acquittals: after trial	389	2.6	15,001	1.5
Acquittals: no case to answer	19	0.1	1,779	0.2
<b>Total</b>	<b>15,192</b>	<b>100</b>	<b>1,002,916</b>	<b>100</b>

Table for chart 4  
Types of case

Types of case	CPS Derbyshire		National	
	Number	%	Number	%
Indictable only	378	15.7	28,162	22.6
Either way: defence election	67	2.8	18,572	14.9
Either way: magistrates' direction	972	40.4	40,097	32.2
Summary: appeals; committals for sentence	987	41.1	37,517	30.2
<b>Total</b>	<b>2,404</b>	<b>100</b>	<b>124,348</b>	<b>100</b>

Table for chart 5  
Completed cases

Completed cases	CPS Derbyshire		National	
	Number	%	Number	%
Trials (including guilty pleas)	1,254	88.5	74,256	85.5
Cases not proceeded with	136	9.6	9,616	11.1
Bind overs	14	1.0	1,533	1.8
Other disposals	13	0.9	1,426	1.6
<b>Total</b>	<b>1,417</b>	<b>100</b>	<b>86,831</b>	<b>100</b>

Table for chart 6  
Case results

Case results	CPS Derbyshire		National	
	Number	%	Number	%
Guilty pleas	1,023	80.9	55,407	73.3
Convictions after trial	140	11.1	11,553	15.3
Jury acquittals	85	6.7	6,881	9.1
Judge directed acquittals	17	1.3	1,777	2.3
<b>Total</b>	<b>1,265</b>	<b>100</b>	<b>75,618</b>	<b>100</b>

Chart 1: MC - Types of case

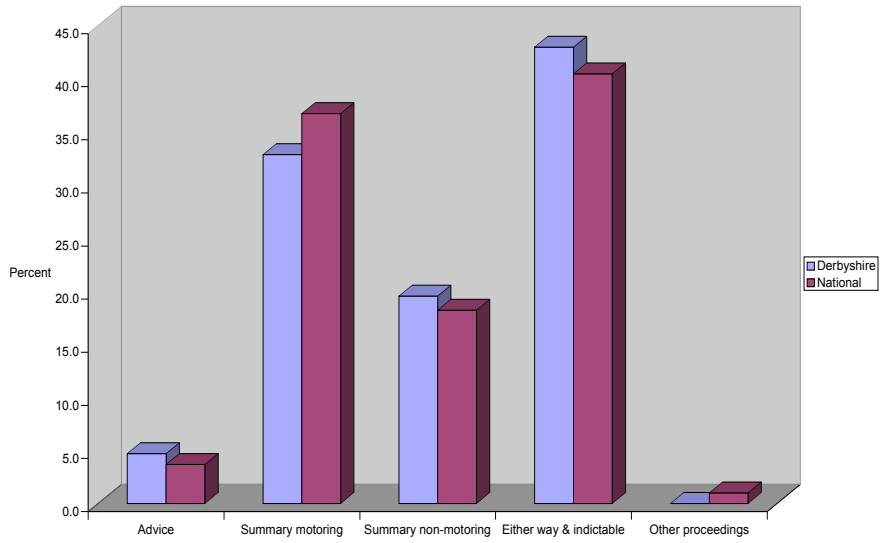


Chart 2: MC - Completed cases

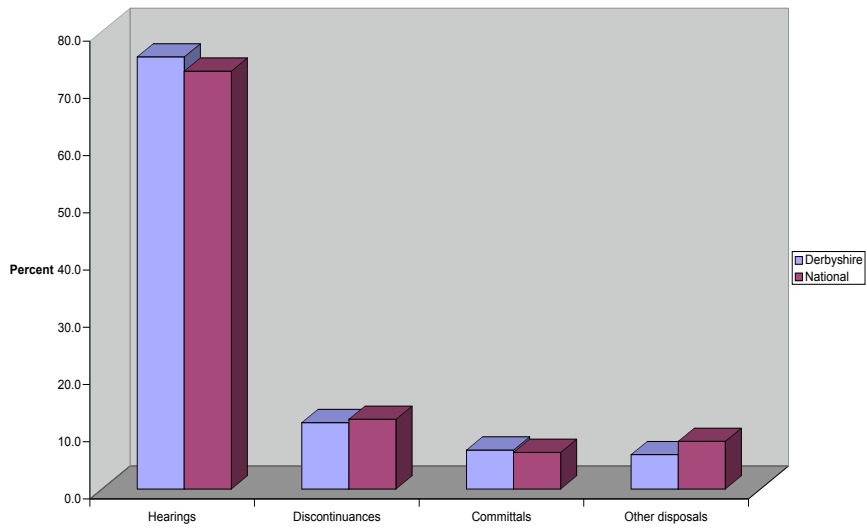


Chart 3: MC - Case results

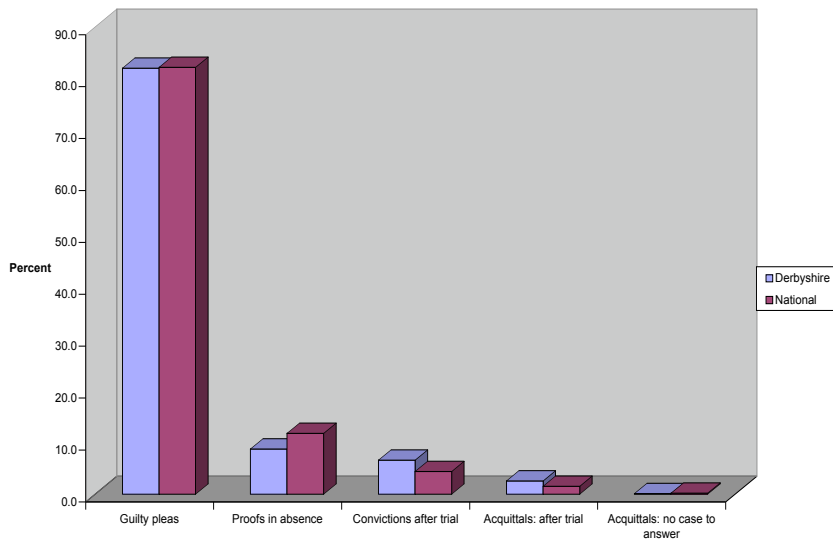


Chart 4: CC - Types of case

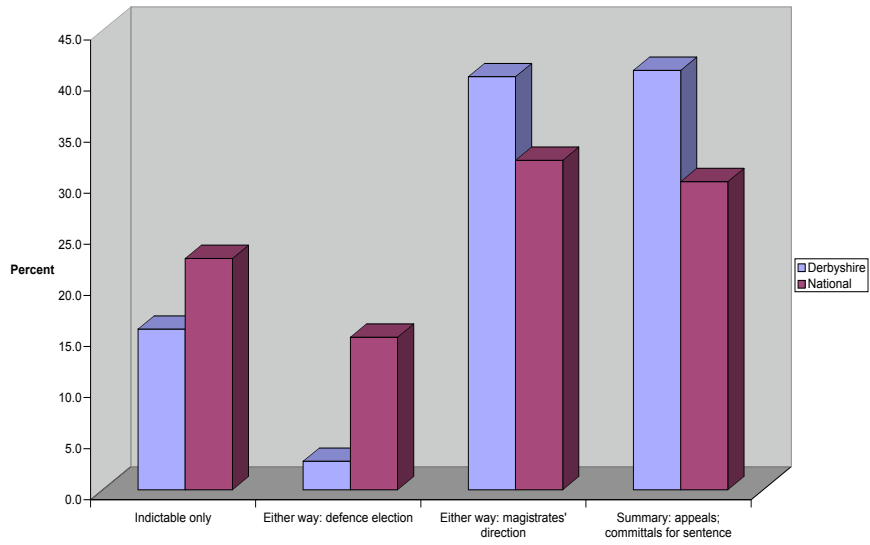


Chart 5: CC - Completed cases

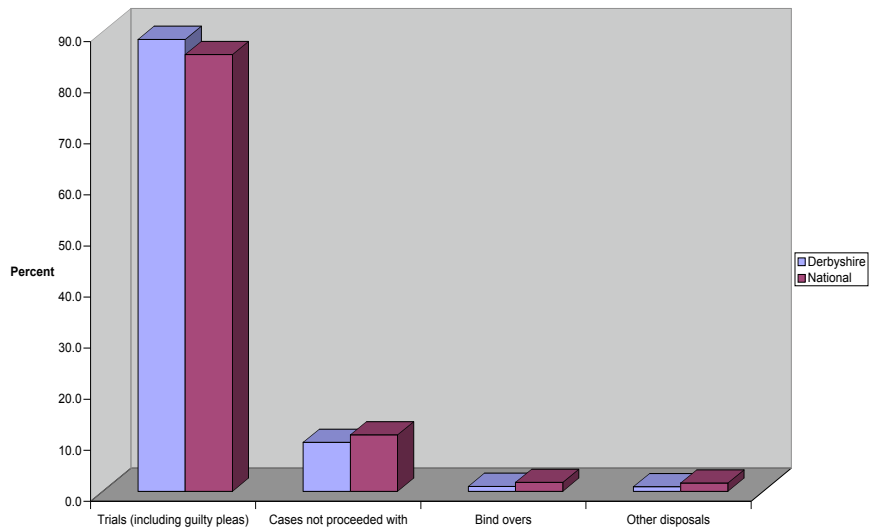
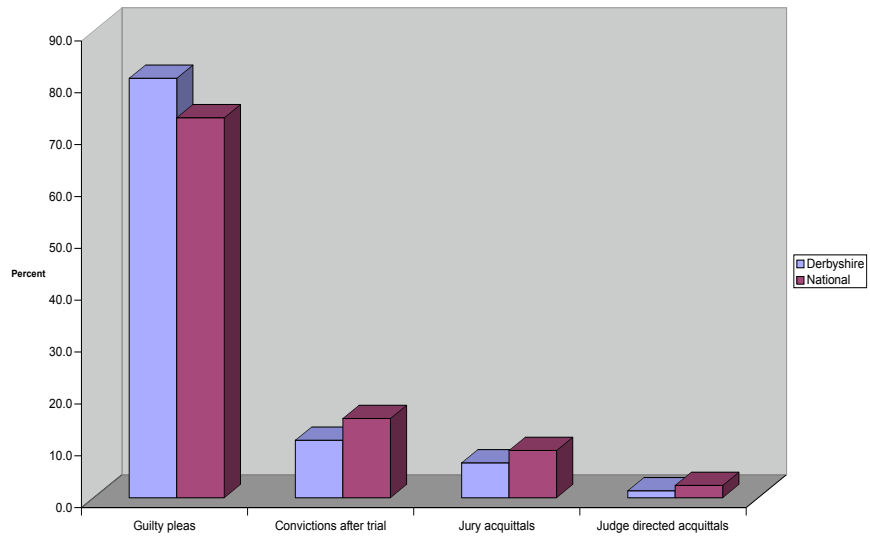


Chart 6: CC - Case results



**LIST OF REPRESENTATIVES OF LOCAL CRIMINAL JUSTICE AGENCIES WHO ASSISTED OUR INSPECTION**

**Judges**

His Honour Judge Appelby QC, Derby Crown Court  
His Honour Judge Wait

**Stipendiary Magistrate**

Mrs J Alderson, Derby Magistrates' Court  
Mr J Friel, Chesterfield Magistrates' Court

**Chairman of the Magistrates' Court Committee**

Mr D Gammage JP

**Justices' Chief Executive**

Mr A Fowler

**Magistrates**

Mrs D Allen JP, Chairman of the Derby and South Derbyshire Youth Panel  
Mr D Gammage JP, Chairman of the High Peak Bench  
Mr G Green JP, Chairman of the Derby and South Derbyshire Bench  
Mr K Gosling JP, Chairman of the West Derbyshire Bench  
Mr D Harrison JP, Chairman of East Derbyshire Youth Panel  
Mr J Hewitt JP, Chairman of the Glossop Bench  
Mr K Knights JP, Chairman of the Chesterfield Youth Panel  
Mrs E Minchin JP, Chairman of the Glossop, High Peak and West Derbyshire Combined Youth Panel  
Mrs A Roberts JP, Chairman of the Chesterfield Bench  
Miss M Whitehead JP, Chairman of the East Derbyshire Bench

**Justices' Clerks**

Miss D Barker, Clerk to the Justices, East Derbyshire  
Mr N Hallam, Clerk to the Justices, Derby & South Derbyshire  
Mrs A Watts, Clerk to the Justices, Chesterfield, High Peak, Glossop and West Derbyshire

## **Crown Court**

Mr M McAuley, Crown Court Manager, Derby Crown Court

## **Derbyshire Constabulary**

Mr J Newing, Chief Constable  
Mr A Goodwin, Assistant Chief Constable  
Chief Superintendent D Howarth  
Chief Superintendent G O'Neill  
Detective Superintendent J Langley  
Detective Chief Inspector C Barker  
Mrs S Cox  
Mrs A Glossop  
Mrs J Sharpe  
Mrs S Webb

## **British Transport Police**

Inspector J Arnold

## **Ministry of Defence Police**

WPC A Bowmer

## **Probation Service**

Dr S Goode, Chief Probation Officer  
Ms H Campbell, Assistant Chief Probation Officer

## **Derbyshire Youth Offender Service**

Mr I Johnson, Derbyshire County Council  
Ms S Ward, Derby City Council

## **Derbyshire Crime and Disorder Partnership**

Mr K Collett, Community Safety Officer, Derby City Council  
Ms N Sharp Hughes, Community Safety Officer, Derbyshire County Council

## **Victim Support**

Mr M Ladyman

**Witness Service**

Miss J Watson

**Counsel**

Mr W Everard

Miss H Kaur

Ms T Kirwin

Miss S Watkinson

Mr M Van Der Zwart

**Defence Solicitors**

Mr A Cash

Mr J Taaffe

Mr M Walker



## **CROWN PROSECUTION SERVICE INSPECTORATE**

### **Statement of purpose**

To promote the efficiency and effectiveness of the Crown Prosecution Service through a process of inspection and evaluation; the provision of advice; and the identification and promotion of good practice.

### **Aims**

- 1** To inspect and evaluate the quality of casework decisions and the quality of casework decision-making processes in the Crown Prosecution Service.
- 2** To report on how casework is dealt with in the Crown Prosecution Service in a way which encourages improvement in the quality of that casework.
- 3** To report on other aspects of Crown Prosecution Service where they impact on casework.
- 4** To carry out separate reviews of particular topics which affect casework or the casework process. We call these thematic reviews.
- 5** To give advice to the Director of Public Prosecutions on the quality of casework decisions and casework decision-making processes of the Crown Prosecution Service and other aspects of performance touching on these issues.
- 6** To recommend how to improve the quality of casework and related performance in the Crown Prosecution Service.
- 7** To identify and promote good practice.
- 8** To work with other inspectorates to improve the efficiency and effectiveness of the criminal justice system.
- 9** To promote people's awareness of us throughout the criminal justice system so they can trust our findings.