

# CPS DEVON & CORNWALL

THE INSPECTORATE'S REPORT ON  
CPS DEVON AND CORNWALL

DECEMBER 2006





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**Area Office**

Exeter (Hawkins House)

**Other Offices**

Exeter (Argal House), Plymouth, Truro

**Magistrates' Courts**

Barnstaple, Bodmin, Camborne, Exeter, Isles of Scilly, Launceston, Liskeard, Newton Abbott, Penzance, Plymouth, Torbay, Totnes, Truro

**Crown Court**

Exeter, Plymouth, Truro

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## PREFACE

Her Majesty's Crown Prosecution Service Inspectorate (HMCPsi) was established by the Crown Prosecution Service Inspectorate Act 2000 as an independent statutory body. The Chief Inspector is appointed by, and reports to, the Attorney General.

HMCPsi's purpose is to promote continuous improvement in the efficiency, effectiveness and fairness of the prosecution services within a joined-up criminal justice system, through a process of inspection and evaluation; the provision of advice; and the identification of good practice. It works in partnership with other criminal justice inspectorates and agencies, including the Crown Prosecution Service (CPS) itself, but without compromising its robust independence.

The main focus of the HMCPsi work programme is the inspection of business units within the CPS – the 42 Areas and Headquarters Directorates. HMCPsi has now undertaken two cycles of inspection, and an overall performance assessment of CPS Areas. We are now undertaking a programme of risk-based Area effectiveness inspections during 2006-07. The Areas to be inspected include the four assessed as "Poor" in the overall performance assessments and those which had Poor aspects of performance within their assessment. A risk model has been developed and updated performance information has been used to identify the Areas to be the subject of inspection. Our new Area Effectiveness Inspection Framework is designed primarily to stimulate improvement in performance; and also enable assurance to be provided as to whether performance has improved since Areas were last assessed. We have incorporated requirements to ensure that our inspection process covers matters contained in the inspection template promulgated by the Commission for Racial Equality.

In 2005-06 we undertook the overall performance assessment (OPA) of all 42 CPS Areas and published a summative report examining the performance across the CPS as a whole. In those reports we assessed the individual CPS Areas as "Excellent", "Good", "Fair" or "Poor". We will seek to assess improvement in performance achieved by them. However, as our evidence base will be wider than in those assessments, and as our risk-based inspections will not cover the whole range of performance in those Areas, we will not draw direct comparisons or rate Areas in these terms. We propose to undertake a second programme of overall performance assessments in 2007-08 which will include transparent ratings.

This series of inspections will not cover all CPS Areas, in particular we will not be inspecting those assessed as Good or Excellent in our OPAs. Those Areas may nevertheless be visited in the course of a rolling programme of casework quality assessment or as part of thematic reviews.

The Government has initiated a range of measures to develop cohesion and better co-ordinated working arrangements amongst the criminal justice agencies so that the system overall can operate in a more holistic manner. Public Service Agreements between HM Treasury and the relevant Departments set out the expectations which the Government has of the criminal justice system at national level. However, it is our experience that targets can frequently be achieved notwithstanding significant inefficiencies in the processes and without work necessarily being of a suitable standard. HMCPsi does not therefore necessarily accept that simply meeting the targets is indicative of satisfactory performance and we have made clear in our Framework the standards which we consider are applicable. The point also needs to be made that comparisons with the national average do not necessarily mean that the national average is considered an acceptable standard. If a particular aspect of performance represents a weakness across the CPS generally, it would be possible for an Area to meet or exceed the national average without attaining the appropriate standard.

The framework within which the criminal justice system (CJS) is managed nationally is reflected in each of the 42 criminal justice areas by a Local Criminal Justice Board. HMCPSI places great emphasis on the effectiveness of CPS relationships with other criminal justice agencies and its contribution to the work of these Boards. For this purpose, HMCPSI will work closely with other criminal justice inspectorates and conducts a number of joint inspections of CJS areas during each year.

The inspection process will focus heavily on the quality of casework decision-making and casework handling that leads to successful outcomes in individual cases. It will continue to extend to overall CPS performance. Consistently good casework is invariably underpinned by sound systems, good management and structured monitoring of performance. Inspection teams comprise legal and business management inspectors working closely together. HMCPSI also invites suitably informed members of the public, nominated by national organisations, to join the process as lay inspectors. These inspectors are unpaid volunteers who examine the way in which the CPS relates to the public, through its dealings with witnesses and victims, its engagement with the community - including minority groups, its handling of complaints and the application of the public interest test contained in the *Code for Crown Prosecutors*.

HMCPSI has offices in London and York. The London office houses the Southern Group and the Northern and Wales Group is based at York. Both Groups undertake thematic reviews and joint inspections with other criminal justice inspectorates. At any given time, HMCPSI is likely to be conducting up to six geographically-based or Directorate inspections and two thematic reviews, as well as joint inspections.

The inspection Framework we have developed can be found summarised at Annex A. The chapter headings in this report relate to the standards and the sub-headings relate to the criteria against which we measure CPS Areas.

The Inspectorate's reports identify strengths and aspects for improvement, draw attention to good practice, and make recommendations in respect of those aspects of the performance which most need to be improved. The definitions of these terms may be found in the glossary at Annex I.

## I INTRODUCTION

- I.1 This is Her Majesty's Crown Prosecution Service Inspectorate's report about CPS Devon and Cornwall (the Area) which serves the area covered by the Devon and Cornwall Constabulary. It has four offices, at Exeter (Hawkins House and Argal House), Plymouth and Truro. The Area Headquarters (Secretariat) is based at Hawkins House.
- I.2 Area business is divided on functional lines between Magistrates' Court Units (MCUs) and Crown Court Units (CCUs). There is one MCU and CCU at each office, except Hawkins House at which the Secretariat is based.
- I.3 At the time of the inspection in September 2006, the Area employed the equivalent of 123.3 full-time staff. The Area Secretariat comprises the Chief Crown Prosecutor (CCP), Area Operations Manager (AOM) and the full-time equivalent of six other staff. Details of the staffing of the other units is set out below:

Grade	Exeter MCU and CCU	Plymouth MCU and CCU	Truro MCU and CCU
Level E	1.0	-	-
Level D	2.0	3.0	2.0
Level C lawyers	17.3	9.2	10.6
Designated caseworkers	3.0	1.6	1.7
Level B1 caseworkers	11.0	8.8	9.0
Level A caseworkers	13.6	10.5	7.0
Witness Care Unit staff	1.0	1.0	1.0
<b>TOTAL</b>	<b>48.9</b>	<b>34.1</b>	<b>31.3</b>

A detailed breakdown of staffing and structure can be found at Annex B.

- I.4 Details of the Area's magistrates' courts' caseload in the year to 30 June 2006 are as follows:

Category	Area numbers	Area % of total caseload	National % of total caseload
Pre-charge decisions	6,011	19.9	32
Advice	124	0.4	0.2
Summary	15,702	52.1	42.1
Either way and indictable only	8,317	27.6	25.5
Other proceedings	0	0.0	0.2
<b>TOTAL</b>	<b>30,154</b>	<b>100%</b>	<b>100%</b>

These figures include the cases set out in the next table, as all cases commence in the magistrates' courts. In 2,874 of the 6,011 Area pre-charge decisions (47.8%) the decision was that there should be no prosecution. Overall, no prosecution decisions account for 9.5% of the Area's caseload. Where pre-charge advice results in the institution of proceedings, the case will also be counted under the relevant category of summary or either way/indictable in the caseload numbers.

1.5 The Area's Crown Court caseload in the year to 30 June 2006 was:

Category	Area numbers	Area % of total caseload	National % of total caseload
Indictable only	553	24.5	28.4
Either way offences	926	41.2	43.2
Appeals against conviction or sentence	293	13.0	10.3
Committals for sentence	481	21.3	18.1
<b>TOTAL</b>	<b>2,253</b>	<b>100%</b>	<b>100%</b>

1.6 A more detailed table of caseloads and case outcomes compared to the national figures is at Annex C and a table of caseload in relation to Area resources at Annex D. The Area has benefited from an increase of 16.3% in its budget since our last inspection (September 2004) from £4,885,597 to £5,834,440. Overall staff numbers have increased from 117 to 123.3, although the number of lawyers in post has dropped from 49.6 to 45.1. This has resulted in an increase in the number of contested magistrates' courts' trials per lawyer from 27.3 to 28.9 and an increase in the number of committals or "sent" cases from 30.8 to 33.6.

#### **The report, methodology and nature of the inspection**

- 1.7 The inspection process is based on the inspection Framework summarised at Annex A. The chapter headings in this report relate to the key standards and the section headings relate to the criteria against which we measure CPS Areas. The italicised sub-headings identify particular issues within those criteria.
- 1.8 There are two types of inspection. A full inspection considers each aspect of Area performance within the Framework, while a risk-based one considers in detail only those aspects assessed as requiring scrutiny. This is based on our overall performance assessment (OPA) and other key data.
- 1.9 The overall performance assessment of CPS Devon and Cornwall, undertaken in July 2005, assessed the Area as "Poor" and as a result of this it was determined that the inspection should be a full one.
- 1.10 Our OPA report identified a total of 39 aspects for improvement. In the course of this inspection, we have assessed the extent to which these have been addressed and a synopsis is included at Annex E.

- I.11 Our methodology combined examination of 123 cases finalised between April-June 2006 and interviews with members of CPS staff at all levels, criminal law practitioners and local representatives of criminal justice agencies. Our file sample was made up of pre-charge decision (PCD) cases, magistrates' courts' and Crown Court trials (whether acquittals or convictions) and some specific types of cases. A detailed breakdown of our file sample is shown at Annex F.
- I.12 We make a number of assessments about the quality of decision-making and case handling in the course of the file examination. Key assessments are shown in tables at the start of Chapters 2, 3 and 5. The Area's performance cannot yet be compared to findings across other inspections because this is one of the first in this programme of inspections.
- I.13 A list of individuals we met or from whom we received comments is at Annex G. The team carried out observations of the performance of advocates and the delivery of service at court in both the magistrates' courts and the Crown Court. We also carried out observations at charging centres.
- I.14 Inspectors visited the Area between 11-22 September 2006. The lay inspector for this inspection was Brenda Butler, who was nominated by Victim Support. The role of the lay inspector is described in the Preface. She examined files that had been the subject of complaints from members of the public, considered letters written by CPS staff to victims following the reduction or discontinuance of a charge and also visited some courts, with the opportunity to speak to witnesses after they had given evidence. Additionally she attended a number of victim focus groups. This was a valuable contribution to the inspection process. The views and findings of the lay inspector have been included in the report as a whole, rather than separately reported. She gave her time on a purely voluntary basis and the Chief Inspector is grateful for her effort and assistance.
- I.15 Our inspection of CPS Devon and Cornwall was carried out at the same time as a joint inspection of Devon and Cornwall criminal justice area by the criminal justice inspectorates. This enabled us to draw on a wider range of evidence than would usually be obtained.
- I.16 The purpose and aims of the Inspectorate are set out in Annex H and a glossary of the terms used in this report is at Annex I.



## 2 SUMMARY OF INSPECTION FINDINGS AND RECOMMENDATIONS

*This summary provides an overview of the inspection findings as a whole. It is broken down into sub-headings that mirror the chapters in the report which are based upon our inspection Framework which has been developed taking into account key issues across the criminal justice system and CPS initiatives (see Annex A). Other sub-headings deal specifically with Public Service Agreement targets and equality and diversity issues.*

### **Overview**

- 2.1 Devon and Cornwall has made significant improvements in a number of aspects since its "Poor" overall performance assessment (OPA), particularly those individual aspects which were rated as Poor. There is a clear vision of where the Area is going and this is planned through a highly structured change programme. Systems to improve resource management have been developed and implemented and a number of initiatives are in place to improve the budgetary position, including reducing the spend on agents in the magistrates' courts. There is a comprehensive performance management regime and clear accountability at unit level for performance. There is a robust governance structure and a clear commitment to corporacy at a senior management level. The Area's migration to statutory charging was a considerable achievement and it is now resourcing, as agreed with the police, four of the seven police charging centres.
- 2.2 At the time of our inspection it was clear that many aspects of casework were good, for instance case decision-making, the handling of most Crown Court casework, sensitive cases and hate crimes, and custody time limits. Others are much improved, for instance undertaking the prosecution's duty of disclosure. Nevertheless new initiatives and the change programme were impacting on the availability of resources to deliver key aspects of its casework to the appropriate standard. The Area's performance in securing successful outcomes is good, although the efficiency and effectiveness of the key intermediate stages need to be improved significantly, in particular the timeliness of summary trial and committal preparation as well as the quality of instructions to counsel. Some aspects of the delivery of pre-charge decisions (PCDs) need to be improved, including increasing the proportion of cases where face-to-face advice is given and the quality of action plans. Lawyers need to be more pro-active at the charging stage.
- 2.3 The Area Management Board recognised that there was a need, as an integral part of their change programme, for a wholesale review of key processes. This was particularly important in the light of the resource savings that had to be made.
- 2.4 The geographical size of Devon and Cornwall is a particular feature and the Area and its criminal justice partners consider that there are factors around the size and rurality of the counties, which raise particular issues and challenges. The travelling times between CPS offices, and from those offices to court centres, is such that it is important that time is used effectively, particularly 'downtime' at court. The transfer of cases between courts also has an impact by reducing case ownership and the effective deployment of resources.

- 2.5 Despite these difficulties there are actions that could be taken to improve efficiency. The CPS is in the process of installing video-links at each of its offices to reduce the need to travel to meetings. However, CPS accommodation facilities at magistrates' court centres are not adequate and there are no IT links. The Area has sought to address these issues, but at the time of our inspection they had not been resolved. With adequate facilities prosecutors would be able to update and review cases, communicate by secure e-mail and make more effective use of any court downtime.
- 2.6 The Area is structured along functional lines with a Magistrates' Court and Crown Court Unit at each office (Exeter, Plymouth and Truro). The three offices resource face-to-face charging advice at four of the seven police charging centres (Cambourne, Exeter, Plymouth and Torbay). Plans were well developed to implement face-to-face advice at a fifth centre (Newquay).
- 2.7 A re-structuring into geographical units is being planned for implementation in early 2007. This planning is being accompanied by a major re-examination of Area processes to try and identify efficiency savings. Many staff are looking to the re-structuring to ease the workload pressures they felt at the time of our inspection.
- 2.8 The Area's overall caseload was dropping. Magistrates' courts' caseload dropped by 8.7% in 2005-06 compared with 2004-05 and Crown Court caseload by 22.7% (the highest drop of all CPS Areas). The most recent figures indicate that the trend is continuing, although this will in part be due to cases being weeded out at the PCD stage.
- 2.9 Despite the undoubted pressures felt by staff, Devon and Cornwall's performance against high level targets is good. Four of the six expected benefits from statutory charging were being realised and the successful outcome rate in the magistrates' courts was better than found nationally. The effective trial rate in the magistrates' courts and Crown Court was particularly good. The level of Crown Court successful outcomes was dropping as was the Area's persistent young offender processing rate (which is a shared target with the other criminal justice agencies).
- 2.10 Overall we found that the Area had taken positive action to address previous weaknesses in key aspects of performance and that its direction of travel was now one of improvement.
- 2.11 We comment in further detail on the specific aspects of performance in the following sections.

#### **Pre-charge advice and decisions**

- 2.12 At the time of our overall performance assessment of CPS Devon and Cornwall, it appeared that migration from the shadow scheme to the statutory charging scheme in April 2006 was highly problematic and that there were serious risks to the scheme's future delivery and implementation. It is therefore to the credit of the Area that they were able to meet the requirements of statutory charging and migrate to the scheme by the due date.



- 2.13 In the course of this inspection we have, however, identified a number of concerns about the current operation of the scheme, including the lack of face-to-face provision of advice, the quality of prosecution action plans and the management of cases where the police are requested to obtain further evidence before a PCD can be made.
- 2.14 Overall decision-making at the PCD stage was good. The *Code for Crown Prosecutors* evidential test was applied correctly in 97.5% of cases in our sample and the public interest test in 99.1%. In some cases greater guidance should have been given on the wording of the proposed charges and the action plans setting out what further evidence was needed lacked detail.
- 2.15 The Area was meeting four of the six national targets for realising the benefits of statutory charging. The Crown Court discontinuance rate of 7.4% for PCD cases was significantly better than the national average (13.1%) and was meeting the national target of 11%. However in the magistrates' courts the rate was 17.5% compared with 15.9% nationally.

#### **Casework in the magistrates' courts**

- 2.16 The Area's effective trial rate is good and a smaller percentage of trials are ineffective or 'crack' than found nationally. The overall effective trial rate was 52.3% compared with 42.8% nationally. The unsuccessful outcome rate was also better than the national average (85.7% compared with 84.1%). Performance is discussed constructively with criminal justice partners.
- 2.17 The application of the *Code* tests at the committal review stage is sound but could be improved at the summary trial stage. The evidential test was applied correctly at the summary trial review stage in 94.2% of cases and the public interest test in all relevant cases. At the committal review stage the evidential test was applied correctly in 98.2% of cases and the public interest test in 98.1%.
- 2.18 Whilst the Area is achieving its headline targets the underpinning processes are not efficient or effective. There were delays in summary trial preparation which reduced the effectiveness of the pre-trial review process and many committals were prepared at the last minute, often after having been adjourned previously for that purpose.

#### **Casework in the Crown Court**

- 2.19 The Area's Crown Court effective trial rate of 61.9% is very good when compared with national performance (48.5%). A smaller percentage of trials are ineffective or crack than nationally. Performance is discussed constructively with criminal justice partners.
- 2.20 The Crown Court successful outcome rate was very similar to the national average (77.1% compared with 77.6%) although the performance was declining. This was due primarily to a higher than average acquittal after trial rate.
- 2.21 There was a need to improve both the involvement of lawyers in Crown Court cases and the case analysis in the instructions to counsel.

### **Presenting and progressing cases at court**

- 2.22 The quality of advocacy is satisfactory, with each advocate observed meeting the National Standards for Advocacy. Cases are well prepared and in contested cases prosecutors are alert to the issues in the case. In the relatively low proportion of cases that are serious, complex or sensitive we consider that prosecuting counsel should be instructed at an earlier stage.
- 2.23 Monitoring of advocates in the magistrates' courts had been re-introduced by the Area, although this was unlikely to be completed by the target time set by managers.

### **Sensitive cases and hate crime**

- 2.24 Overall, Devon and Cornwall handles sensitive cases and hate crimes well, although some aspects of the handling of cases involving allegations of rape could be better. There was a need to ensure that file ownership in these cases was maintained and that there was careful preparation at all stages.
- 2.25 The advice and decisions were good in the majority of the sensitive and hate crime files we examined, with CPS policy being applied correctly in most. However, lawyers needed to evidence better their assessment of the video recorded evidence of the victim in cases of child abuse.
- 2.26 Area Champions had been appointed in respect of the relevant categories of sensitive cases and hate crimes, but there was a need to develop their relationship with partner agencies, particularly the police, and to ensure that action is taken to improve case handling.

### **Disclosure of unused material**

- 2.27 The Area's overall performance in the handling of unused material and compliance with the duty of disclosure has improved since our last inspection and OPA, although the approach of some lawyers indicated a lack of understanding of the provisions. The consideration of sensitive material schedules and the use of disclosure record sheets, which should set out the prosecutor's reasoning behind disclosure decisions, needed to be improved.

### **Custody time limits**

- 2.28 The Area has systems for ensuring compliance with the custody time limit (CTL) regulations. There have been no failures in the last three years and the quality of applications to extend CTLs is a strength. In some cases the timeliness of the return of the file to the CTL co-ordinator needed to be improved and compliance checks need to be consistent across the Area.

### **The service to victims and witnesses**

- 2.29 The treatment of victims and witnesses at court is good. The timeliness of letters to victims explaining why cases have been dropped or charges substantially reduced, in accordance with the Direct Communication with Victims scheme, is good, although letters are not sent in all appropriate cases.

- 2.30 The provision of Special Measures in child witness cases is timely, but less so in those involving adult vulnerable and intimidated witnesses. The early identification of their needs should be improved, together with better consideration of what are the most appropriate measures having regard to all aspects of the case.

### **Delivering change**

- 2.31 The development of the Project Phoenix change management strategy is a sound foundation for delivering change within the Area. There is a clear vision for the future, with plans, targets and milestones in place to help achieve successful change. New governance arrangements have ensured that change is 'owned' at a senior level in the organisation and the development of committee structures to support business development involves a large number of Area staff. The change programme is having a resource drain at an operational level, although this 'short term pain' should result in numerous benefits.
- 2.32 There are sound processes and systems in place to support the change programme and resources have been dedicated to ensure that it is sustainable. A culture of risk management has developed in the Area, and a comprehensive and inclusive Learning and Development Plan has been drawn up, although this needs to be costed.

### **Managing resources**

- 2.33 The Area has made very substantial improvements since our OPA in the systems and processes used to account for and manage its resources. The Area Management Board receives accurate financial information which allows for considered decisions to be made. Area spend is on target and this represents a marked improvement on past performance.
- 2.34 Some action has been taken to address resource imbalances and the planned structural review gives the Area an opportunity to consider further necessary changes. Current imbalances, although small, are having an impact on the ability of some offices to meet caseload demands.
- 2.35 The process for the allocation of cases was not effective, which was leading to a lack of case ownership. Unnecessary time, often at the last minute, was spent by lawyers in familiarising themselves with the case.

### **Managing performance to improve**

- 2.36 An effective performance management system has been developed to enable the Area to manage its business. The introduction of unit performance exception reports and quarterly review meetings is consolidating a culture of performance management. There is evidence that the Area is using performance information to improve its systems and outcomes.
- 2.37 Performance information is shared with criminal justice partners, but some aspects of joint performance management with the police on statutory charging require further development and are not fully embedded.

- 2.38 The Area has recognised a need to improve the use it makes of CMS Management Information Systems. There are sound processes for assuring the quality of data and for disseminating performance information to staff, although some could be simplified.

#### **Leadership**

- 2.39 Devon and Cornwall's vision and values are set out clearly in its Business Plan and reinforced through the delivery of its change programme. The committee structure of the programme has helped develop corporacy at a senior level. Most staff are clear about what the Area is seeking to achieve and consider that there is meaningful consultation.
- 2.40 Staff are supportive of each other and within units there was no blame culture, despite the pressures that were clearly being felt at the time of our inspection.

#### **Community confidence**

- 2.41 There was a strong commitment amongst senior managers to engage with and secure the confidence of their local communities, although at the time of our inspection work needed to be done to structure this in a way that ensured the Area received the maximum value from the resources expended. There is constructive work with the Local Criminal Justice Board and the co-ordination of activity is developing.
- 2.42 The British Crime Survey states that 44.6% of local people had confidence in the criminal justice agencies in bringing offenders to justice, compared with the Area baseline figure of 44% in 2002-03.

#### **Added value of the CPS locally**

- 2.43 At a local level CPS Devon and Cornwall undoubtedly adds value. As we state at various parts of this report, the application of the *Code* tests at key stages is generally good. By the time of summary trial the prosecution is ready and the quality of advocacy meets national standards. Resources are now being deployed effectively and performance is well managed.
- 2.44 However, further value still needs to be added at key stages by improving the quality of action plans at the PCD stage, more timely dealing with correspondence, summary trial and committal preparation. Overall, lawyers need to be more pro-active at the PCD stage and evidence a better analysis of cases at the time of committal preparation.

#### **Equality and diversity issues**

- 2.45 The Area undertakes a range of outward-facing activity with local interest groups and minority communities with a view to increasing their confidence in the criminal justice system.
- 2.46 The creation of a People Equality and Diversity Committee and the post of Area Communications Equality and Training Manager contribute to equality and diversity issues being considered across all aspects of the Area's work. The proportion of staff from black and minority ethnic communities is higher than that found in the local workforce generally.

## RECOMMENDATIONS

2.47 We make recommendations about the steps necessary to address significant issues relevant to important aspects of performance, which we consider to merit the highest priority.

2.48 We have made ten recommendations to help improve the Area's performance.

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- 1 Unit Heads should, to improve the quality of pre-charge decisions:
- ensure that duty prosecutor action plans set out clearly the further evidence to be obtained by the police and how that evidence will strengthen the prosecution case; and
  - undertake an informed analysis of those cases where the duty prosecutor advises no prosecution to ensure that the *Code* tests are being applied correctly (paragraph 3.9).
- 
- 2 The Chief Crown Prosecutor should, to improve the management of pre-charge decision cases:
- ensure that cases are actively managed in which advice has been given to obtain evidence before a final decision is made;
  - agree with the police processes to increase the proportion of cases where face-to-face advice is provided; and
  - agree with the police systems to ensure decisions to charge are implemented so that defendants are charged (not summonsed) and brought before the court swiftly and that action plans are fulfilled within the agreed targets (paragraph 3.24).
- 
- 3 The Area Management Board should improve the process for the timeliness of summary trial review preparation (paragraph 4.5).
- 
- 4 The Area Management Board should improve the timeliness of the process for committal review and preparation and ensure that the allocated prosecutor undertakes a full *Code* test review before signing off the committal (paragraph 4.20).
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- 5 The Area Management Board should improve the process for the allocation of cases to lawyers to ensure that there is consistent case ownership throughout the life of the case (paragraph 4.30).
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- 6 The Area Management Board should, to improve case progression, review the roles and responsibilities of Case Progression Officers and ensure they are empowered to take all appropriate actions (paragraph 4.38).
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- 7 Crown Court Unit Heads should ensure that the case analysis in the instructions to counsel sets out clearly the issues in the case and how the case should be presented (paragraph 5.21).

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  - 8 Lawyers should ensure that the duties of initial and continuing disclosure of unused material are complied with in magistrates' courts' cases (paragraph 8.8).

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  - 9 Lawyers should make a timely and informed decision about the most appropriate form of Special Measures application to be made in respect of adult vulnerable and intimidated victims and witnesses (paragraph 10.3).

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  - 10 Unit Heads should use the Casework Quality Assurance scheme more positively to provide information on performance at regular and frequent intervals, including interim and annual performance appraisals, to ensure that the development needs are fully assessed and actions to improve are incorporated in Forward Job Plans (paragraph 13.19).
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2.49 We additionally identified 19 aspects for improvement within the Area's performance.

#### **Strengths**

2.50 We identified seven strengths within the Area's performance:

- 1 the effective trial rate in the magistrates' courts (paragraph 4.42);
- 2 the effective trial rate in the Crown Court (paragraph 5.25);
- 3 the chronology of the case in applications to extend custody time limits (paragraph 9.2);
- 4 the governance arrangements of the change programme (paragraph 11.19);
- 5 the Area's Training and Development Plan (paragraph 11.22);
- 6 the Performance Framework and the systematic actions to manage performance in the Area (paragraph 13.4); and
- 7 the Area's approach to engaging with organisations representing communities or interest groups (paragraph 15.4).

### 3 PRE-CHARGE ADVICE AND DECISIONS

*At the time of our Overall Performance Assessment of CPS Devon and Cornwall, it appeared that migration from the shadow scheme to the statutory charging scheme in April 2006 was highly problematic and that there were serious risks to the scheme's future delivery and implementation. It is therefore to the credit of the Area that they were able to meet the requirements of statutory charging and migrate to the scheme by the due date. It is to its further credit that it is achieving four of the six benefit realisation targets.*

*We have nevertheless identified a number of concerns about the current operation of the scheme, including the lack of face-to-face provision of advice, the quality of prosecution action plans and the management of cases where the police are requested to obtain further evidence before a pre-charge decision (PCD) can be made.*

*Overall decision-making at the PCD stage was good. However, in some cases greater guidance should have been given on the wording of the proposed charges and the action plans setting out what further evidence was needed lacked detail, which may contribute to the Area failing to meet the discontinuance target in the magistrates' courts.*

#### Quality of advice and decisions

- 3.1 We examined 123 pre-charge decision files and our findings on the quality of pre-charge advice and decisions are set out in the table below:

Pre-charge	Performance in the inspection programme to date*	Area performance
Advice and decisions complying with evidential test in the Code	-	97.5%
Advice and decisions complying with public interest test in the Code	-	99.1%
Appropriate alternative disposals and ancillary orders were considered and acted upon	-	84.6%
Prosecutor was active in identifying and remedying evidential defects	-	68.6%

\*See explanation at paragraph 1.12. This inspection was one of the first in the series and HMCPsI does not yet have a sufficient database for comparison.

- 3.2 The application of the Code evidential and public interest tests at the PCD stage was good. The evidential test was applied correctly in 119 of 122 cases (97.5%) and the public interest test in 113 of 114 relevant cases (99.1%).

- 3.3 In some cases the reviewing lawyer should have provided the police with more detail about the wording of the charges to avoid amendments having to be made at a later stage in the proceedings. We noted some cases, particularly those relating to sexual offences and harassment, where custody sergeants would have benefited from being provided with a draft of the proposed charge.
- 3.4 Lawyers should be pro-active at the PCD stage, adding value by setting out clearly what further evidence or information is needed to build the case to ensure there is a realistic prospect of conviction or to enable them to make an informed decision about whether the *Code* tests are met. They should also be identifying those cases which may be subject to asset recovery and exploring the needs of victims of witnesses.
- 3.5 The form MG3, which is used to record the prosecutor's decision, contains an action plan on which the further evidence or information required should be set out. In many cases the action plan was too vague, merely indicating that a witness statement needed to be taken or forensic evidence obtained. They did not set out clearly what evidence the prosecutor wanted, what points needed to be covered by that evidence, or how the evidence would strengthen the case. A clear action plan is important in all cases, but particularly where there has been no face-to-face discussion or where the officer in the case is inexperienced.
- 3.6 As part of our file examination we looked at five cases where the duty prosecutor had advised no prosecution. On the limited information available in these files the *Code* tests were applied correctly. However, it was apparent that some police officers preferred to get advice from CPS Direct (which provides out-of-hours pre-charge decisions) because they were perceived to be more willing to advise prosecution and also because officers preferred to speak directly with the advising lawyer. Cases dealt with by CPS Direct will usually involve defendants in custody where the lower threshold test is applied, as opposed to the full *Code* tests. It is therefore not surprising that they may be perceived as more willing to advise prosecution.
- 3.7 In the light of this we considered the volume of casework handled by CPS Direct. For the period April-August 2006 CPS Direct provided advice in 99 cases compared with 2,606 by CPS Devon and Cornwall. In 20 of the 99 cases (20.2%) they advised no prosecution. This is a significantly lower proportion of no prosecution advice than given by Devon and Cornwall lawyers, who made a no prosecution decision in 61.3% of cases in the year to 30 June 2006. We also considered the relative attrition rate (cases which result in an unsuccessful outcome) for cases where CPS Direct advised prosecution and those where the advice was given by CPS Devon and Cornwall. Overall the attrition rate for CPS Direct cases was 29% which was higher than CPS Devon and Cornwall (20.1%). These findings may reflect the fact that CPS Direct lawyers will usually apply the lower threshold test, not the full *Code* test.
- 3.8 Managers will wish to assure themselves that there are effective links with CPS Direct to discuss these issues. Whilst in-house duty lawyers are available to provide face-to-face advice when required, there is a need to increase police usage of this facility. This need is recognised at a strategic level by the CPS and the police.



- 3.9 Some monitoring of decisions not to prosecute has been undertaken by the police and discussed with the CPS and this process is now being embedded. There is a need for CPS Unit Heads to undertake an analysis of these cases, which should include the information on which the decision is based, not merely the duty prosecutor's decision as recorded on the MG3. In the light of our findings there should be a joint analysis with CPS Direct of their comparative case outcomes.

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## RECOMMENDATION

Unit Heads should, to improve the quality of pre-charge decisions:

- ensure that duty prosecutor action plans set out clearly the further evidence to be obtained by the police and how that evidence will strengthen the prosecution case; and
  - undertake an informed analysis of those cases where the duty prosecutor advises no prosecution to ensure that the *Code* tests are being applied correctly.
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### Bail/custody decisions

- 3.10 While on-site we considered the timeliness of the provision of PCD in cases where the suspect was in custody. It was difficult to assess this accurately as we could not always ascertain when the custody sergeant passed the case to the police case reviewer for consideration prior to advice being sought from the duty prosecutor.
- 3.11 Where we could make an assessment we found that it took between two to four hours. For some of this time the case papers would be with the police case reviewer. There is an expectation that advice should be given in less than three hours. Area managers will therefore want to satisfy themselves that the processes allow for advice to be given within this period.

### Operation of the charging scheme

- 3.12 Duty lawyers currently attend from 9am to 5pm at four police charging centres in Devon and Cornwall. The CPS office at Exeter services the Exeter and Torquay charging centres, the Plymouth office services Plymouth and the Truro office services Cambourne.
- 3.13 The Exeter charging centre also provides charging advice in respect of cases originating from the police charging centre at Barnstaple. Additionally there is a prosecutor rostered on a daily basis at the Truro CPS office, who provides charging advice on cases originating from the Launceston and Newquay police charging centres. The Area is planning to provide a duty lawyer at Newquay (which will also then deal with Launceston cases).
- 3.14 Papers for cases originating from Barnstaple, Launceston and Newquay are faxed to the appropriate office. There is also provision for face-to-face advice if required, although this means the officer in the case has to travel to the relevant office.
- 3.15 In the first five months of the statutory scheme the Area made pre-charge decisions in 2,606 cases. The split of work between the three CPS offices (Exeter, Plymouth and Truro) is illustrated in the following table:

**PRE-CHARGE DECISIONS APRIL-AUGUST 2006**

<b>Charging centre</b>	<b>CPS Office</b>	<b>Daily Prosecutor Coverage</b>	<b>Caseload</b>
Exeter/Torbay/Barnstaple	Exeter	2	910
Plymouth	Plymouth	1	772
Cambourne/Newquay/Launceston	Truro	2	924
<b>TOTAL</b>		<b>5</b>	<b>2,606</b>

- 3.16 Whilst each office has arrangements to provide additional coverage at peak times, the figures suggest that there is a need for a capacity review of the current levels of coverage. Our charging centre observations indicated that the demand for face-to-face decisions was particularly light at Torquay when compared with Exeter. The Area recognises the need to assess current coverage arrangements and proposes to undertake this following the post-implementation review of statutory charging by CPS Headquarters.
- 3.17 We visited each of the charging centres at least once during the course of our inspection and were concerned to note that, with the exception of Exeter, there was very little face-to-face advice being given to police officers. Generally the police only sought face-to-face advice when the suspect was in custody. In those cases where the police had bailed the suspect to obtain further evidence before submitting the file to the CPS, or where the file was re-submitted following earlier CPS advice, it was rare for there to be discussion.
- 3.18 The provision of face-to-face advice is important to the success of the scheme. It gives the prosecutor the opportunity to explore with the officer the circumstances surrounding the case and enables there to be clarity about what further evidence may need to be obtained. It will also provide longer-term benefits, for example improving the quality of case investigation and preparation, building better working relationships between the CPS and police, helping to break down any cultural barriers or misconceptions, and promoting a prosecution team ethos. Where not feasible, there should at least be a telephone discussion with the officer in the case.
- 3.19 The Area has effective systems for monitoring those cases where the police charge the defendant but which should be submitted first for a PCD. Prosecutors at court kept records of these cases and they are discussed at Prosecution Team Performance Management (PTPM) meetings.
- 3.20 The proportion of cases in which the duty prosecutor advises no prosecution, because either the *Code* evidential or public interest test is not met, is increasing and is substantially higher than the national average. In the year to March 2006, no prosecution was advised in 57% of cases compared with 37% nationally; for the year to June 2006 this had risen to 61% of cases compared with 39%. The true figure may be higher as some cases in this category were listed on the inactivity reports we discuss below. Whilst some of this increase may be attributable to the move to statutory charging in April 2006, it cannot account for the large disparity between the Area and national performance.

- 3.21 There is a need to ensure that on the one hand the police case reviewers are only submitting appropriate cases, and on the other that lawyers are seeking to build successful cases and not advising no prosecution prematurely.
- 3.22 The management of cases under the scheme needs to be improved to ensure that the police were carrying out necessary actions or were notifying the CPS that they were taking no further action. We found cases in which there was delay in police investigation, and in which this was compounded by the police proceeding by way of summons rather than charge.
- 3.23 We examined reports for each CPS unit which identified the number of PCD cases recorded on the CPS case management system (CMS) where there had been no activity for at least eight weeks. Cases on this list should be actively managed to ensure that the further evidence is being obtained, closed off if the police cannot obtain the evidence, or updated if the defendant is charged in accordance with the advice.
- 3.24 Whilst there were few cases recorded at the CPS office at Plymouth with more than eight weeks inactivity, the position was unsatisfactory at Exeter and Truro. There were over 140 outstanding cases at Exeter and 320 at Truro. In many cases the advice had been for the police to charge the suspect, but there was no indication that this had taken place. In others the decision had been that there should be no prosecution, but the cases were still on the report, indicating that they had not been finalised.

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## RECOMMENDATION

The Chief Crown Prosecutor should, to improve the management of pre-charge decision cases:

- ensure that cases are actively managed in which advice has been given to obtain evidence before a final decision is made;
  - agree with the police processes to increase the proportion of cases where face-to-face advice is provided; and
  - agree with the police systems to ensure decisions to charge are implemented so that defendants are charged (not summonsed) and brought before the court swiftly and that action plans are fulfilled within the agreed targets.
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- 3.25 In our file examination we noted that some cases had been recorded wrongly as subject to a PCD. Confusion can arise because the police case examiners use the same part of the form MG3 to record their views on a case as that used by the duty prosecutor. Cases which do not need to have a CPS PCD made on them can appear to have gone through that process. Managers will wish to satisfy themselves that administrators are alert to this when registering files on CMS.

- 3.26 The gender of suspects was recorded correctly on the MG3 and CMS, but performance was less satisfactory in respect of ethnicity. We noted that a number of MG3s were silent as to the ethnicity of the suspect particularly those where the advice was for no prosecution. Our finding is supported by the Area's ethnicity data which shows that for the last quarter of 2005-06, only 66.6% of PCDs had the suspects ethnicity assigned compared to 78.5% nationally.

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#### ASPECTS FOR IMPROVEMENT

Duty lawyers need to ensure that the ethnicity of the suspect is recorded on the MG3.

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#### Realising the benefits of pre-charge decision-making

- 3.27 The Area is realising four of the six benefits of the charging scheme (and is very close to achieving the national Crown Court guilty plea rate target). The most recent key outcomes against which the CPS measure performance are shown in the table below:

	Magistrates' courts' cases				Crown Court cases			
	National target March 07	National performance Q2 2006-07	Area target 2006-07	Area performance Q2 2006-07	National target March 07	National performance Q2 2006-07	Area target 2006-07	Area performance Q2 2006-07
Discontinuance rate	11%	15.9%	15.3%	17.5%	11%	13.1%	19.4%	7.4%
Guilty plea rate	52%	69.6%	76%	72.1%	68%	66.7%	74.6%	66.4%
Attrition rate	31%	21.8%	No target	20.1%	23%	22.6%	No target	18.9%

- 3.28 Devon and Cornwall needs to monitor closely its magistrates' courts' PCD discontinuance rate, as performance varies markedly from month to month and was worse than the national average in the second quarter of 2006, although performance in respect of the other benefits was better than that found nationally. The Crown Court discontinuance rate was particularly good.
- 3.29 The percentage of PCD cases that result in a conviction is increasing. In the year ending June 2006, 78.7% of PCD Crown Court cases resulted in a conviction, compared with 76.7% nationally. In the magistrates' courts 77.6% of cases resulted in a conviction, compared with 76.7% nationally.
- 3.30 Performance data on the charging scheme is included in the monthly Area performance pack and is considered in detail at Area management meetings. There is some discussion of the data at PTPM meetings (although until recently this has not been reliable), but not yet consistently across the Area. The PTPM reports are very large, because of the number of unique reference number (URN) identifiers used by the Devon and Cornwall Constabulary. Area managers recognise that this data would be a more useful indicator of performance if presented on a charging centre basis. We understand that agreement has been reached to reduce the number of URN identifiers, which should assist performance management.

## 4 CASEWORK IN THE MAGISTRATES' COURTS

*The successful outcome rate was better than the national average. Case decision-making at the committal review stage is sound, but could be improved at the summary trial stage.*

*Whilst the Area is achieving its headline targets the underpinning processes are not efficient or effective. There were delays in summary trial preparation which reduced the effectiveness of the pre-trial review process and many committals were prepared at the last minute, often after having been adjourned previously for that purpose.*

*The Area's effective trial rate is good and a smaller percentage of trials are ineffective or crack than found nationally. Performance is discussed constructively with criminal justice partners.*

### Quality of case decisions and continuing review

- 4.1 We examined 55 magistrates' courts' files from Devon and Cornwall and our findings are set out in the following table:

#### MAGISTRATES' COURT AND YOUTH COURT CASEWORK

	Performance in the inspection programme to date*	Area Performance
<b>Case preparation</b>		
Cases ready for pre-trial review	-	66.7%
Court orders complied with on time, or application made to court	-	88.9%
Correspondence from the defence dealt with appropriately	-	80.9%
Instructions to agents were satisfactory	-	33.3% (1 out of 3 cases)
<b>Level of charge</b>		
Charges that were determined by the prosecutor and proceeded without amendment	-	90.4%
Cases that proceeded to trial or guilty plea on the correct level of charge	-	98.4%
<b>Discontinuance</b>		
Discontinuance was timely	-	66.7%
Decisions to discontinue complying with the evidential test	-	100%
Decisions to discontinue complying with the public interest test	-	100%
Discontinued cases where the prosecutor properly sought additional evidence/information before discontinuing the case	-	88.9%

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**Cracked and ineffective summary trials**


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Cracked or ineffective trials that were foreseeable and the CPS took action to avoid the outcome	-	100%
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**Summary trial**


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Decisions to proceed to trial complying with the evidential test	-	94.2%
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Decisions to proceed to trial complying with the public interest test	-	100%
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Cases with timely summary trial review	-	59.6%
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No case to answers that were foreseeable, and the CPS took action to avoid the outcome	-	0% (0 out of 2)
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\* See explanation at paragraph 1.12. This inspection was one of the first in the series and HMCPSP does not yet have a sufficient database for comparison.

- 4.2 Our observations at court indicated that cases which had not been subject to a pre-charge decision were properly reviewed before the first hearing and that files were endorsed satisfactorily with the prosecutor's decision.
- 4.3 We examined 52 cases which were prepared for summary trial. The Code evidential test was applied correctly in 49 of the 52 (94.2%) and the public interest test in all relevant cases. It was apparent from our file examination that a significant percentage of cases were being reviewed at the last minute. Summary trial preparation was only timely in 31 of the 52 cases (59.6%).
- 4.4 In some cases the late receipt of the full file from the police contributed to the delay, but it was clear in others that the file had been received in reasonable time. Staff agreed that delays in reviewing summary trials were occurring and often this was done at the last minute. A consequence of this was that the review would not always be carried out by the lawyer to whom the case had been allocated (who may not have been the lawyer who made the PCD), which added to the time necessary to consider the evidence. Wherever possible, any allocation system should seek to retain the PCD lawyer as the allocated lawyer.
- 4.5 The Area recognises the needs to improve this aspect of performance and is undertaking a review of its summary trial preparation processes.

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**RECOMMENDATION**

**The Area Management Board should improve the process for the timeliness of summary trial review preparation.**

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**Successful outcomes**

- 4.6 The Area discontinues fewer cases than nationally and its overall conviction rate of 83.3% is also better than the national average. The key outcomes are shown below:

**CASE OUTCOMES IN THE MAGISTRATES' COURTS**

	<b>National performance 2005-06</b>	<b>Area performance 2005-06</b>
Discontinuance and bindovers	11.6%	13.6%
No case to answer	0.3%	0.2%
Dismissed after trial	1.6%	1.5%
Discharged committals	2.6%	0.3%
Overall conviction rate	82.8%	83.3%

The CPS has set itself a combined target for reducing the rates of unsuccessful outcomes in the magistrates' and Crown Court cases. We have transposed this in the table below into terms of successful outcomes, that is, the overall conviction rate.

**SUCCESSFUL OUTCOMES****(AS A % OF COMPLETED MAGISTRATES' COURT AND CROWN COURT CASES)**

<b>National target 2006-07</b>	<b>National performance 1st quarter 2006-07</b>	<b>Area performance 1st quarter 2006-07</b>
83%	83.6%	85.3%

- 4.7 The percentage of combined successful outcomes for Devon and Cornwall dropped slightly in 2005-06 to 83.2% compared with 84.5% in 2004-05, but performance improved in the first quarter of 2006-07 to 85.3%. The percentage of magistrates' courts' cases that resulted in a successful outcome dropped slightly in 2005-06 to 83.3%, compared with 85.6% in 2004-05. However, performance in the first quarter of 2006-07 improved to 85.7%. We discuss Crown Court performance in Chapter 5.
- 4.8 In 2005-06 the defendant acquittal rate was 27.7% of all contested cases, which was slightly worse than the national average (25.5%).
- 4.9 The Area has few cases that are dismissed by the magistrates on a submission of no case to answer; in 2005-06 this outcome arose in 0.2% of cases compared with 0.3% nationally. Performance was improving in the first quarter of 2006-07 with only five cases (0.1%) recorded in this category.
- 4.10 We examined two cases in this category (one of which had been wrongly recorded as an acquittal after full trial) and in each the outcome could have been avoided. The *Code* evidential test was not applied correctly in either, although in both it was correct to proceed at the PCD stage. There was a fatal flaw in the identification evidence in one which was not picked up at summary trial review and in the other it was clear at the latest by the summary trial review stage that the victim's evidence was unreliable.

- 4.11 Unsuccessful outcomes are analysed at unit level and shared with the police at PTPM meetings, although the quality of the analysis varied across the units. This analysis was shared with staff in the Plymouth Magistrates' Court Unit, but it was not apparent that this took place at the other offices.

#### Offences brought to justice

- 4.12 The target for increasing the number of offences brought to justice is shared with criminal justice partners. The performance is largely driven by the police, although there is scope for the CPS to influence it. The low proportion of convictions within the total offences brought to justice merits discussion with the police.

#### OFFENCES BROUGHT TO JUSTICE

	CJS Area performance 2005-06	
Against 2001-02 baseline	+28.6%	
Number	31,352	
Offences Brought to Justice made up of	National average 2005-06	Area figure 2005-06
Convictions	53%	45%
Taken into consideration	9%	9%
Cautions	25%	29%
Fixed penalty notice	8%	12%
Formal warnings for drugs	5%	5%

#### Discontinuances in the magistrates' courts

- 4.13 The percentage of cases discontinued increased to 13.6% in 2005-06, compared with 12% in 2004-05, while the comparative national performance was 11.6% and 12.5%. Performance in the first quarter of 2006-07 showed an improvement with the rate dropping to 11.3%.

- 4.14 We examined nine cases in which the proceedings were discontinued in the magistrates' courts. The Code tests were applied correctly in each case, but in four the decision to discontinue was not timely. Overall in 2005-06, 54% of cases were not discontinued until the third or subsequent hearing. In two of the nine cases we examined, further evidence should have been sought which might have prevented the proceedings being discontinued.

#### Committal preparation and discharged committals

- 4.15 The Area has few cases discharged at the committal stage because the prosecution are not ready and an adjournment is refused. There were five cases (0.3% of the committal hearings) in this category in 2005-06, compared with 2.6% nationally. It is clear that the willingness of the court to grant adjournments when committals are frequently not ready by the due date has been contributing to the low rate of discharged committals. However three committals were discharged in the first quarter of 2006-07.



- 4.16 Whilst performance was much better than the national average this needs to be seen in the context. Most discharged committals arise in a few mainly urban or metropolitan CPS Areas, with many Areas having none. In numerical terms therefore, Devon and Cornwall's performance is not good when compared to other similar Areas.
- 4.17 Performance in respect of committal preparation is similar to that found for summary trial review. The application of the *Code* tests is good, but timeliness is poor. The evidential test was applied correctly in 54 of the 55 cases examined and the public interest test in 53 of the 54 relevant cases. However, preparation was only timely in 72% of cases and applications to adjourn the committal hearing were common. Performance in respect of the more serious cases that were sent directly to the Crown Court was better and service of the prosecution case was timely in all but one case.
- 4.18 Some delay was due to the late receipt of police files, but there was also a lack of timely preparation by lawyers. We were told consistently that this was due to the court commitments of lawyers, together with the need to resource charging centres. This was leading to committals being prepared and copied at the last minute, including on the day of committal. As a result mistakes were being made and significant pressures being put on administrative staff. We noted one example of a committal being prepared on the day of the hearing where a statement favourable to the defence case was mistakenly included in the committal papers. The effect was to tie the prosecution to evidence which should have been made available to the defence and then probed or challenged in cross-examination. The prosecution cannot do this with its own evidence.
- 4.19 Once the case is adjourned for committal it is allocated to a prosecutor in the Crown Court Unit (CCU), who may not have been the lawyer who made the PCD. It was apparent that there was then little supervision of the file until the papers were received from the police, with correspondence being unanswered until the committal was prepared, which as we have indicated might not be until the day of the hearing.
- 4.20 The Area recognises that this aspect of performance needs to be improved and is taking steps to increase the involvement of caseworkers in committal preparation. At the time of our inspection this initiative was in its early stages and improvements were not yet apparent. In any event there remains a requirement for a lawyer (preferably the PCD lawyer for accountability, consistency and efficiency reasons) to review the case and assure themselves that the evidential basis of the case is sound and complete and the direction of the case is set. The evidence from our file examination indicated, and it was confirmed during our inspection, that this is not happening consistently and that due to urgency lawyers are signing off some committals without undertaking the necessary review.

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## RECOMMENDATION

**The Area Management Board should improve the timeliness of the process for committal review and preparation and ensure that the allocated prosecutor undertakes a full *Code* test review before signing off the committal.**

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**Youth cases**

- 4.21 Our observations of youth court proceedings indicated that overall cases are progressed effectively, with fewer ineffective pre-trial reviews than in cases involving adult defendants.
- 4.22 The Code tests were applied correctly in each of the seven youth cases examined, although in two of the seven the summary trial review was not timely.

**Persistent young offenders**

- 4.23 The Government pledged to halve the time taken in 1996 to deal with cases involving persistent young offenders to 71 days from arrest to sentence. This was achieved nationally in 2001. The table below shows recent performance data.

**OVERALL PERSISTENT YOUNG OFFENDER PERFORMANCE (ARREST TO SENTENCE)**

<b>National target</b>	<b>National performance (3 month rolling average to June 2006)</b>	<b>Area performance (3 month rolling average to June 2006)</b>
71 days	71 days	69 days

- 4.24 We noted in our overall performance assessment that the criminal justice area performance in processing cases involving persistent young offenders (PYOs) was declining. That decline has continued and, for April-June 2006, the average processing period from arrest to sentence for all cases was 69 days compared with 71 days nationally. Whilst this was still within the Government target, performance had slipped from 51 days for the period November 2005–January 2006. In magistrates' courts' cases performance had declined from 48 to 59 days.
- 4.25 It was clear that cases from the police's Basic Command Unit in Plymouth were having a significant impact on the overall criminal justice area performance, taking on average 90 days. We examined a sample of contested PYO cases dealt with in the Plymouth Magistrates' Court and found that each took at least 90 days from arrest to sentence.
- 4.26 This issue needs to be addressed urgently in the joint agency youth case progression groups, which meet regularly to consider PYO performance. We also understand that the Local Criminal Justice Board intends to look at ways of improving performance across the Area.

**ASPECTS FOR IMPROVEMENT**

The timeliness of persistent young offender cases, particularly at Plymouth Magistrates' Court.

**Case progression and effective hearings**

- 4.27 The data collated by Her Majesty's Court Service on time intervals indicates that trials are timely, although as we discuss above there is a need to improve the timeliness of PYO trials.

**TIME INTERVALS/TARGETS FOR CRIMINAL PROCEEDING IN MAGISTRATES' COURTS  
CHARGED CASES ONLY MARCH 2006**

	Initial guilty plea target 59 days		Trials target 143 days		Committals target 176 days	
	Cases within target (%)	Sample size (no. of defendants)	Cases within target (%)	Sample size (no. of defendants)	Cases within target (%)	Sample size (no. of defendants)
National	84%	6,367	63%	2,651	88%	1,030
Area	82%	143	66%	50	*	*

\* no data due to small sample

**TIME INTERVALS/TARGETS FOR CRIMINAL PROCEEDING IN YOUTH COURTS  
CHARGED AND SUMMONED CASES ONLY MARCH 2006**

	Initial guilty plea target 59 days		Trials target 176 days		Committals target 101 days	
	Cases within target (%)	Sample size (no. of defendants)	Cases within target (%)	Sample size (no. of defendants)	Cases within target (%)	Sample size (no. of defendants)
National	87%	5,340	87%	3,048	87%	216
Area	84%	116	94%	69	*	*

\* no data due to small sample

- 4.28 Our file examination and court observations confirmed that cases that had not been subject to a PCD were reviewed before the first hearing and that there were appropriate arrangements to review overnight custody cases. However, the process for allocating files to lawyers was complicated and inconsistent. There was little continuity in cases, and the fact that a lawyer had made the PCD did not mean that they would be allocated the file when it was received in the office. This meant that a new lawyer had to consider the case afresh to familiarise themselves with the facts and the issues. This lack of continuity could be compounded further if the case was adjourned for committal, when it could be allocated to another lawyer in the CCU.
- 4.29 Managers should also endeavour to roster the allocated lawyer to conduct the summary trial.
- 4.30 Whilst the proposed re-structuring of the Area into geographical units should help to improve the current position, it is clear that the allocation process needs to be addressed as a matter of urgency.

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**RECOMMENDATION**

The Area Management Board should improve the process for the allocation of cases to lawyers to ensure that there is consistent case ownership throughout the life of the case.

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### Case preparation

- 4.31 In every case where the defendant pleads not guilty the proceedings are adjourned to a pre-trial review (PTR) hearing, which will be between five and six weeks after the not guilty plea was entered. We observed PTRs where the allegation was of a minor motoring nature and all the prosecution evidence was to be served on the defendant by way of written statements, with no witnesses being called to give evidence in person. We do not consider, and the Area agrees, that a PTR hearing is necessary in cases of this type, which could be adjourned straight to a trial date. This would reduce both the number of hearings and the amount of preparation necessary for PTR courts.

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### ASPECTS FOR IMPROVEMENT

Magistrates' Court Unit Heads should develop, with Her Majesty's Court Service, criteria for those cases in which a pre-trial review would assist case progression.

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- 4.32 By the time of the PTR the prosecution team should have undertaken all the necessary actions to prepare for trial, including reviewing the summary trial file, obtaining witness availability, assessing the unused material and dealing with correspondence from the defence. As we have discussed above, summary trial review was not always timely and the prosecution was only ready in 37 of the 51 cases (72.5%) where a PTR was held.
- 4.33 The Area is taking initial steps to address this aspect of performance, in particular by rostering a prosecutor to ensure cases are ready for the PTR day at Torbay Magistrates' Court. Early indications are that this is leading to an improvement in PTR preparation, but our concern is that it reduces further the concept of case ownership and is a further strain on resources.
- 4.34 A trial readiness check form should be completed and sent to the magistrates' court in each case to confirm that all the necessary actions have been undertaken. Whilst we noted these forms on the files it was clear, and our inspection confirmed, that they are not sent routinely to the court. Efforts are being made to address this aspect of performance in respect of both prosecution and defence compliance and data collated by Her Majesty's Court Service (HMCS) indicates that in August 2006, 50% of forms were returned by the prosecution, which was a significantly better performance than in the preceding month.
- 4.35 Each office has a Case Progression Officer (CPO), although the Truro post was vacant at the time of our inspection. There had been three CPOs at Exeter (which deals with approximately 50% of the Area's magistrates' courts' caseload) but two posts were not maintained when the period of additional funding for them ended. The Area is planning to re-introduce one of the posts.
- 4.36 The CPOs work closely with their counterparts in HMCS and endeavour to ensure that the necessary actions are undertaken to progress cases to trial. We found, however, that in many cases there was delay while they waited for the prosecutor allocated to the case to answer queries relating to witness availability or to confirm that the case was trial ready.

- 4.37 Senior managers recognised there was an urgent need to re-assess the roles and responsibilities of the CPOs. We consider that they could be empowered to take more decisions without first referring the case to a prosecutor, for example arranging for cases to be listed for an application to adjourn when it was clear that the trial could not go ahead. This would have the benefit of reducing the burden on lawyers and also assist in reducing those cases where the trial was vacated very close to the trial date. The Area is assessing this issue as part of its process mapping of summary casework.
- 4.38 During our magistrates' court observations we noted occasions when the agent at court could not contact the allocated prosecutor to discuss issues that needed resolving. Whilst the Area has a duty lawyer, our observations indicate that urgent queries are not being routed to them, and this led to unnecessary adjournments and criticism.

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#### RECOMMENDATION

The Area Management Board should, to improve case progression, review the roles and responsibilities of Case Progression Officers and ensure they are empowered to take all appropriate actions.

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#### ASPECTS FOR IMPROVEMENT

Magistrates' Court Unit Heads and Office Business Managers should ensure that, in the absence of the allocated lawyer, urgent queries are dealt with by the duty lawyer.

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#### Effective, ineffective and cracked trials

- 4.39 There is a shared target to reduce the rate of ineffective trials. These adversely affect victims and witnesses if they have attended court, and delay the conclusion of the individual cases. We consider it important to raise the rate of effective trials and reduce the rate of cracked trials.

#### TRIAL RATES IN THE MAGISTRATES' COURTS

	National target 2006 – 07	National performance Year ending June 2006	Area target 2006 – 07	Area performance Year ending June 2006
Effective	N/A	42.8%	N/A	52.3%
Ineffective	19.4%	20.6%	18%	19.6%
Cracked	N/A	36.6%	N/A	28.1%

- 4.40 Whilst the preparation of cases for trial is not as efficient or effective as it should be, the level of ineffective trials is good, although there has been a slight increase in those attributable to the prosecution. The table also illustrates that the Area has a much better cracked trial rate than the national average. The good cracked and ineffective trial performance is reflected in the effective trial rate, which is substantially higher than the national average.

- 4.41 For the year to July 2006 3.2% of ineffective magistrates' courts' trials were due to witness problems, against the Area's No Witness No Justice (NWNJ) baseline of 3.4%. Overall performance is improving. However, the number of cracked trials caused by witness absence is increasing. For the year to July 2006 4.5% of magistrates' courts' cracked trials were due to witness problems, against the Area's NWNJ baseline of 3.4%, although performance is slightly better than the national baseline (4.6%).
- 4.42 Unit Heads undertake an analysis of all cracked and ineffective trials and these are discussed with their counterparts in HMCS. The thoroughness of the analysis varies across the units.

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#### STRENGTHS

The effective trial rate in the magistrates' courts.

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#### **Use of the case management system – Compass CMS**

- 4.43 The use of CMS to record the full file review at the summary trial stage has improved significantly. We noted in our overall performance assessment that the use of CMS was very poor in this aspect. However, data for August 2006 shows a compliance range of 47%-77% across the Magistrates' Court Units, with performance improving.
- 4.44 We did a snapshot check of the CMS outstanding task list while on-site and noted that in the Exeter MCU, the completion of the full file review was an outstanding task in 255 cases, although performance was much better in Plymouth and Truro (59 and 83 cases respectively), which is reflected in the performance data.
- 4.45 Whilst the timeliness of the recording of hearing outcomes was adequate, there was a need to improve the timeliness of case finalisations on CMS.
- 4.46 Reports on full file review performance are submitted to the Unit Heads and discussed at Area management meetings.

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#### ASPECTS FOR IMPROVEMENT

The use of Compass CMS for full file reviews in summary trial cases in Exeter Magistrates' Court Unit.

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## 5 CASEWORK IN THE CROWN COURT

*The Crown Court successful outcome rate had for some time been rather better than the national average, but has declined in the first quarter of 2006-07 to be broadly in line with the national average. There was a need to improve both the involvement of lawyers in Crown Court cases and the case analysis in the instructions to counsel. Continuing review needs to be undertaken to ensure action to deal with new issues and changes in circumstance takes place.*

*The Area's Crown Court effective trial rate is very good when compared with national performance and a smaller percentage of trials are ineffective or crack than nationally. Performance is discussed constructively with criminal justice partners.*

### The quality of case decisions and continuing review

- 5.1 We examined 55 Crown Court case files from Devon and Cornwall and our findings are set out below:

#### CROWN COURT CASEWORK

	Performance in the inspection programme to date*	Area Performance
<b>Committal and service of prosecution papers</b>		
Decisions to proceed at committal or service of prosecution case stage complying with evidential test	-	98.2%
Decisions to proceed at committal or service of prosecution case stage complying with public interest test	-	98.1%
Cases with timely review before committal, or service of prosecution case	-	72.0%
Instructions to counsel that were satisfactory	-	64.3%
<b>Case preparation</b>		
Cases ready for plea and case management hearing	-	87%
Court orders complied with on time, or application made to court	-	90.7%
Correspondence from defence dealt with appropriately	-	94.5%
<b>Cracked and ineffective trials</b>		
Cracked or ineffective trials that were foreseeable and the CPS took action to avoid the outcome	-	100%

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**Level of charge**


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Indictments that were appropriate and did not require amendment	-	81.5%
Cases that proceeded to trial or guilty plea on the correct level of charge	-	96.4%

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**Judge ordered and judge directed acquittals**


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JOA/JDAs that were foreseeable and the CPS took action to avoid the outcome	-	80%
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**Trials**


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Acquittals that were foreseeable and the CPS took action to strengthen the case (or terminate it sooner)	-	100%
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\*See explanation at paragraph 1.12. This inspection was one of the first in the series and HMCPSI does not yet have a sufficient database for comparison.

5.2 Once cases reach the Crown Court we found that the involvement of the allocated lawyer varied substantially. In the more serious and sensitive cases, for example those involving allegations of child abuse, prosecutors were usually pro-active and worked closely with counsel. Conversely, in one serious case involving an allegation of rape, the allocated prosecutor had endorsed counsel's advice to the effect that they did not have time to deal with the matters raised and that they would have to be dealt with by another prosecutor. This leads to another prosecutor either spending a considerable amount of time reviewing the case afresh, or making an uninformed decision.

5.3 In the generality of cases it was difficult to ascertain any lawyer involvement, except in relation to the disclosure of unused material.

**Successful outcomes**

5.4 The Area's overall conviction rate in the Crown Court for 2005-06 was 81.2% compared with 80.2% in 2004-05. In both years performance was better than the national average. However, performance in the first quarter of 2006-07 declined to 77.1%. The key outcomes are shown in the following table:

**CASE OUTCOMES IN THE CROWN COURT**


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	National performance 2005-06	Area performance 2005-06
Judge ordered acquittals	13.8%	12.1%
Judge directed acquittals	1.7%	0.9%
Acquittals after trial	8.3%	6.5%
Overall conviction rate	76.7%	81.2%

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- 5.5 Performance in respect of the percentage of cases that resulted in a judge directed acquittal (JDA) improved significantly in 2005-06, but declined in the first quarter of 2006-07. The rate in 2005-06 was 0.9%, compared with 1.7% in 2004-05. In both years performance was better than the national average, but in the first quarter of 2006-07 performance had declined to 1.3%. There was one JDA case in our file sample which was properly brought to trial.

#### **Discontinued cases and judge ordered acquittals**

- 5.6 In 2005-06 12.1% of Crown Court cases were dropped by the prosecution. This included 'sent' cases that were discontinued before the prosecution case was served. Performance had declined from 2004-05 when only 10.1% of cases were dropped. However, in both years performance was better than the national average. The decline in performance has continued in the first quarter of 2006-07 when 14% of cases were dropped. We have discussed in the previous chapter our concerns about hurried committal preparation, which is reflected in these figures.
- 5.7 We examined nine cases which were dropped by the prosecution, including one that was discontinued before the prosecution case was served. In two of the nine, the decision to drop those cases should have been taken before they reached the Crown Court. Both suffered from a lack of case ownership with at least three lawyers having conduct of the case at some stage of the proceedings.
- 5.8 There was a report setting out the reasons for the unsuccessful outcome in every relevant case. Most contained a detailed report by the caseworker setting out why the case had not been successful, although there was less evidence of analysis by the reviewing lawyer. Each report had been signed off by the Unit Head and there was good evidence of analysis by the Plymouth Crown Court Unit, but less so in the other CCUs.

#### **Serious and complex cases**

- 5.9 Devon and Cornwall has appropriate systems to ensure serious and complex cases are allocated to sufficiently experienced lawyers and caseworkers. As we have noted, the evidence of prosecutor involvement in the handling of these cases is more extensive than in respect of other casework.
- 5.10 The Area Serious and Complex Casework Committee meets once a month and is chaired by the CCP. All serious cases are discussed and monitored, with lessons to learn and legal guidance disseminated to staff. The Committee also sits as the case management panel for Very High Cost Cases. The Area casework locator also enables the CCP to have oversight of the difficult or media-sensitive cases or those that may require out-of-Area handling, and to reviewed these and provide feedback.
- 5.11 The Area is considering how to deal with serious and complex cases in the future as part of its planning for re-structuring.

### **Youth cases**

- 5.12 Devon and Cornwall has few Crown Court cases involving youths. We were satisfied that there were appropriate systems for dealing with them and that these cases were prioritised. The Crown Court had shorter timescales for cases involving youths, including those where they were jointly charged with an adult.

### **Appeals and committals for sentence**

- 5.13 The Area has appropriate processes for dealing with appeals and committals for sentence, almost all of which are dealt with by its Higher Court Advocates.

### **References to the Court of Appeal in relation to unduly lenient sentences**

- 5.14 There were no cases in our file sample in which a sentence was referred to the Court of Appeal on the grounds that it was considered to be unduly lenient. We did, however, see cases where the issue was considered, and the appropriate steps taken when the decision was not to send the case to the Attorney General. We were told of a recent referral which resulted in the defendant's sentence being increased.

### **Asset recovery (proceeds of crime)**

- 5.15 There was a need to improve performance in relation to proceedings where the defendant's assets were liable to confiscation. Duty lawyers need to be more alert at the pre-charge decision stage to whether the case will fall into this category. The Area recognises that there is a need for refresher training and this has been built into the 2006-07 Training and Development Plan.
- 5.16 There were 24 confiscation orders made against a target of 26 in 2005-06, with seizures totalling £916,240 against a target of £986,403. The target for 2006-07 is 26 orders and the seizure of £1,531,178. Performance to date suggests that the Area is unlikely to meet the target, although we recognise that some of the factors which influence performance are outside the control of the prosecution team. However, the CPS can contribute to achieving the targets by ensuring that asset recovery cases are identified at the PCD stage and restraint orders applied for where appropriate.

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### **ASPECTS FOR IMPROVEMENT**

The identification of appropriate cases for asset recovery.

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### **Case progression and effective hearings**

- 5.17 In 47 of the 54 cases (87%) examined, the prosecution had undertaken all the necessary actions by the time of the plea and case management hearing (PCMH). Court directions were complied with in a timely manner in 39 of the 43 cases (90.7%) where they were made. There was one case in our file sample in which the PCMH was adjourned unnecessarily because of a lack of communication between the allocated prosecutor and counsel.
- 5.18 There was a clear record on the file of what took place at the PCMH and other court hearings.

### Case preparation

- 5.19 The indictments drafted at the committal stage or when the prosecution case was served reflected the seriousness of the allegation. However, they were subject to later amendment in ten of the 54 cases (18.5%) examined, including some which had been through a PCMH. Some amendments were minor, but reflected a lack of care in case preparation, although others (particularly sexual offences) involved substantial changes to how the case was presented. Late amendments were more likely in those cases where counsel was not instructed until after the PCMH. We discuss this in more detail in the chapter on Presenting and Progressing Cases.
- 5.20 The quality of the case analysis in the instructions to counsel was poor in 20 of the 56 cases (35.7%) examined and the prosecutor's view on acceptable pleas was set out in 21 of the 29 relevant cases (72.4%). Some analyses merely referred counsel to the police summary or contained a couple of sentences that did nothing to convey what the case was about or the prosecutor's analysis of the issues involved. This suggested that there was little lawyer involvement in drafting the case analysis, which was confirmed while we were on-site. Whilst the involvement of caseworkers in the preparation of committals may assist timeliness, it nevertheless is important that the allocated lawyer considers the case at that stage and sets out clearly what the issues are, how they consider the case should be presented and whether alternative pleas are acceptable.
- 5.21 Bad character and hearsay applications were made in appropriate cases and we noted in our file sample that in all but one relevant case, lawyers did not make blanket bad character applications but selected the type of case and character evidence appropriately.

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### ASPECTS FOR IMPROVEMENT

The allocated prosecutor should check the proposed indictment carefully at the committal review stage to reduce the proportion of cases where it has to be amended.

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### RECOMMENDATION

**Crown Court Unit Heads should ensure that the case analysis in the instructions to counsel sets out clearly the issues in the case and how the case should be presented.**

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### Effective, ineffective and cracked trials

- 5.22 There is a shared target with criminal justice system partners to reduce the level of ineffective trials. These adversely affect victims and witnesses if they have attended court, delay the conclusion of individual cases and waste available court time.

**TRIAL RATES IN THE CROWN COURT**

	<b>National target 2006–07</b>	<b>National performance year ending June 2006</b>	<b>Area target 2006–07</b>	<b>Area performance year ending June 2006</b>
Effective	N/A	48.5%	N/A	61.9%
Ineffective	14.2%	12.9%	12%	8.7%
Cracked	N/A	38.5%	N/A	29.4%

5.23 The Area has a very low ineffective trial rate and performance improved in 2005-06 and again for the year ending June 2006 to 8.7% (12.9% nationally). The cracked trial rate is improving year on year and, for the year ending June 2006, performance improved still further to 29.4% (38.5% nationally). Although the ineffective trial rate is very low, the proportion that were ineffective due to witness problems was increasing, although there were fewer cracked trials due to this reason.

5.24 This good performance was leading to an effective trial rate which is consistently better than the national average. For the year ending June 2006 performance improved to 61.9% (48.5% nationally).

5.25 Our inspection confirmed that the Area, in conjunction with its colleagues in HMCS, puts a high priority on avoiding cracked and ineffective trials. Performance was discussed regularly and improvement action taken.

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**STRENGTHS**

The effective trial rate in the Crown Court.

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**Use of the case management system**

5.26 Compass CMS was used to prepare the committal package in almost all cases. The use of the system to record the full file review was also much better than in magistrates' courts' cases and generally indicated consideration of the key issues. In our file examination there was evidence of a full file review on CMS in 80% of cases. A snapshot of outstanding CMS tasks taken while on-site confirmed these findings and the Area performance data for August 2006 shows a compliance range of 80%-100%.

5.27 CMS usage for Crown Court full file reviews was very good, with a 90% compliance rate. Devon and Cornwall has been commended by CPS Headquarters for achieving its 2006-07 targets, which reflects the significant turnaround in performance.

## 6 PRESENTING AND PROGRESSING CASES AT COURT

*The quality of advocacy is satisfactory, with each advocate observed meeting the National Standards for Advocacy. Cases are well prepared and in contested cases prosecutors are alert to the issues involved. In the relatively low proportion of cases that are serious, complex or sensitive we consider that prosecuting counsel should be instructed at an earlier stage.*

*Monitoring of advocates in the magistrates' courts had been re-introduced by the Area, although this was unlikely to be completed by the target time set by managers.*

- 6.1 The CPS has set standards for its advocates, internal or external. These National Standards of Advocacy were updated in August 2003 and contain standards, guidance and prompts. Paramount is that prosecution advocates act - and are seen to act - in the public interest, independently of all other interests; fairly, fearlessly and in a manner that supports a transparent system which brings offenders to justice, respects the rights of the defendant and protects the innocent. We assess advocates against these standards, bearing in mind that the court sessions will vary from trials, to bail applications, to pleas of guilty and remand courts.

### **Advocates ensure cases progress and hearings are effective**

- 6.2 The attendance of prosecutors in the magistrates' courts and Crown Court is usually timely, allowing sufficient time to discuss any issues with the court and the defence and to speak with witnesses.
- 6.3 The evidence from other court users about whether prosecution advocates are able to progress cases at court was mixed. This was borne out by our own observations, for example, agents at court are not always able to contact a CPS prosecutor in order to resolve an issue in a case, which can result in an unnecessary adjournment.
- 6.4 Overall, prosecution advocates are well prepared. The Area has appropriate systems for ensuring files are delivered to agents at least the day before the hearing. In-house lawyers are usually able to prepare their magistrates' court lists in the office the day before. However, Higher Court Advocates (HCAs) were preparing cases in their own time because they did not have sufficient time to do so when they were in the office.
- 6.5 Since our overall performance assessment, Devon and Cornwall has reduced caseworker coverage at the Crown Court, with between one and two caseworkers covering all courts on most days. Caseworkers are now instructed by Area managers to leave at the close of the prosecution case in all but the most serious of cases. This was causing concern amongst counsel where, for example, there was no support to deal with issues that may be raised during the defence case. We recognise that the Area must prioritise the use of its resources to obtain maximum value, but managers will wish to satisfy themselves that appropriate support is available when needed by counsel and HCAs (who should receive the same level of support).

6.6 In order to develop HCA Crown Court experience and to assist in meeting usage targets, they now conduct the PCMH in all but the most serious of cases. The intention is that they will then follow contested cases through to trial. However, at the time of our inspection the Area had few HCAs who were experienced enough to undertake the full range of Crown Court work. This was resulting in counsel being instructed in most contested cases after the PCMH, either because of a lack of HCA experience or because they did not have the time to conduct the case.

6.7 We noted that this approach was leading to late changes in how the prosecution case was presented and amendments to the indictment. Area managers told us that it was unlikely that counsel instructed would attend the PCMH and therefore case preparation was more effective if undertaken by HCAs. Whilst we accept that may be an issue, which should in any event be addressed, counsel should be instructed at an early stage in those cases where a not guilty plea is likely and it is clear that an HCA will not be conducting the trial, and this is particularly so in serious, complex or sensitive cases.

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#### ASPECTS FOR IMPROVEMENT

To ensure consistency in case presentation and preparation, in contested cases trial counsel should be instructed before the plea and case management hearing.

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#### The standard of advocacy

6.8 We assessed 28 advocates against the National Standards of Advocacy and our findings are illustrated in the following table:

Advocacy	Outcome Level	CPS advocates/ designated caseworkers in the magistrates' courts	Counsel/solicitor agents in the magistrates' courts	Higher Court Advocates and other CPS advocates in the Crown Court	Counsel in the Crown Court
		Number	Number	Number	Number
Assessed as above	1				
normal requirements	2				
Against CPS	3+	1	1	1	
National Standards	3	11	3	5	4
of Advocacy	3-	2			
And those assessed as	4				
less than competent	5				

Assessment:

1 = Outstanding; 2 = Very good, above average in many respects

3+ = Above average in some respects; 3 = Competent in all respects;

3- = Technically competent, but lacking in presence or lacklustre

4 = Less than competent in many respects; 5 = Very poor indeed, entirely unacceptable

- 6.9 Court users considered that overall the quality of advocacy was competent or better in both the magistrates' courts and Crown Court. This was confirmed by our own observations.
- 6.10 We observed a total of 18 advocates in the magistrates' courts including in-house lawyers, designated caseworkers and agents. All except two were competent in all respects, with two being above average. The two who were below average were lacking in presence and lacklustre and failed to address the court properly on a number of issues, such as bail and mode of trial.
- 6.11 In the Crown Court, we observed ten advocates, comprising HCAs, an in-house lawyer and counsel. All advocates were competent in all respects and one HCA was better.
- 6.12 HCA usage is improving, although in 2005-06 the Area failed to meet its counsel's fees savings target by 28.1%. In the first quarter of 2006-07 performance improved, although the Area still fell short of its savings target by 17%. There are 15 HCAs in Devon and Cornwall but only five have undertaken trials recently, with the majority covering preliminary hearings, PCMHs and bail applications.
- 6.13 The court facilities available to prosecution advocates were inadequate at most of the magistrates' courts but were better at the Crown Court. Basic facilities available to the prosecution such as telephones and fax machines are absent at some courts, there is no IT equipment and advocates often have to share rooms with other agencies. This impacts on their ability to progress cases at court effectively and undertake any late case preparation. It also makes it difficult at some, but not all, court centres for the prosecutor to utilise any downtime effectively. Area managers have sought better facilities at the magistrates' court centres, but HMCS have been unable to accommodate these requests.
- 6.14 Following a gap of about three years, advocacy monitoring was re-introduced in July 2006, initially for agents and in-house prosecutors (but to be extended in due course to counsel at the Crown Court). Unit Heads or accredited national advocacy trainers are to monitor each advocate's performance on at least two occasions. At the time of our inspection, very little monitoring had taken place, and the Area would have been hard pressed to complete the programme by the target date of the end of September 2006. There needs to be a sustained effort to implement advocacy monitoring if it is to become embedded.





## 7 SENSITIVE CASES AND HATE CRIMES

*Overall, the Area handles sensitive cases and hate crimes well, although there was a need to maintain case ownership in rape cases and ensure careful preparation at all stages.*

*The advice and decisions were good in the majority of the sensitive and hate crime files we examined, with CPS policy being applied correctly in most. However, lawyers needed to evidence better their assessment of the video recorded evidence of the victim in cases of child abuse.*

*Area Champions for sensitive cases and hate crimes need to develop their relationship with partner agencies, particularly the police, and ensure that action is taken to improve case handling.*

### **Quality of advice and decisions**

- 7.1 Sensitive cases include offences of homicide, rape, child abuse and domestic violence; hate crime includes racially aggravated and homophobic offences.
- 7.2 We examined 23 cases involving an allegation of domestic violence. The CPS domestic violence policy was applied correctly in 21 of the 23 cases, with lawyers making the necessary enquiries and considering all relevant issues. In two cases relevant background information was not sought with regards to previous reports of domestic violence and there was a failure to consider other options before a case was dropped.
- 7.3 The Area deals appropriately with racially and religiously aggravated and homophobic cases, applying the principles of the Code and CPS policy correctly. Out of nine racist incident cases in our file sample, only one was discontinued for evidential reasons. An unsuccessful outcome in one case could have been avoided with greater scrutiny of the evidence at the pre-charge decision stage.
- 7.4 In two of the five rape cases in our file sample, the recording and timeliness of the full file reviews could have been better. Although the cases were dealt with correctly CPS policy was not followed in one case, in that there was no report from counsel following an acquittal, although the case had been well handled. In another the police had not seized potentially probative evidence, despite being alerted to this need by the duty lawyer at the PCD stage. In another rape case involving a youth defendant, the committal preparation had not been done prior to the committal hearing and consequently had to be prepared by the prosecutor at court.
- 7.5 In the year ending 30 June 2006, 22 finalised Crown Court cases involving allegations of rape were flagged on CMS. There was a successful outcome in 13 of the 22 cases (59%). The rest were either dropped by the prosecution or the defendant was acquitted by the jury.

- 7.6 Generally, child abuse and child witness cases are handled effectively. The needs of children as victims, witnesses and defendants are considered in accordance with CPS policy, although in most cases this could be done earlier, as there was little evidence of this being considered at the PCD stage.
- 7.7 The Area has an arrangement with the police to ensure that cases involving video recorded evidence are submitted to the local office for advice, as opposed to the charging centre. This is to allow the prosecutor sufficient time to view the evidence before making a charging decision.
- 7.8 However, lawyers noted their viewing of the video recorded evidence of the child witness in only one of seven relevant cases. It is vital that the reviewing lawyer views the evidence and records their qualitative assessment of this evidence.

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ASPECTS FOR IMPROVEMENT

The endorsement on the file of the reviewing lawyer's assessment of the quality of the child's video recorded evidence.

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**Specialists and experts**

- 7.9 Area Champions have been appointed for all categories of sensitive and specialist cases, although the Area Rape Co-ordinator had only just taken up post. However, there is little evidence of any ongoing activity in these roles or of work with partner agencies, such as the police.
- 7.10 Lawyers who are considered sufficiently experienced to deal with rape cases have observed trials at the Crown Court in order to get a better understanding of the issues that are likely to arise.

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ASPECTS FOR IMPROVEMENT

The development of the role of Area Champions and the strengthening of their relationship with partner agencies.

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- 7.11 There is a list of lawyers designated to deal with sensitive and specialist cases, but the process for their designation as specialists is unclear. All lawyers are allocated sensitive cases on an ad hoc basis based upon their experience and ability. In some of the files that we examined, a lack of case ownership was apparent; in one case a rape specialist had passed a rape case on to a non-specialist who had not previously dealt with the file. The Area must ensure that specialists have sufficient expertise to deal with sensitive and specialist cases and that case ownership and continuity in the handling of these cases is embedded.

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ASPECTS FOR IMPROVEMENT

The development of a cadre of experienced specialist lawyers who are proficient in the handling of sensitive and specialist casework.

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- 7.12 The Area training programme takes account of sensitive and specialist cases. Training needs are identified through the Casework Quality Assurance scheme (CQA), feedback from Area committees and community groups and the review of training plans.
- 7.13 CPS policies and, to a lesser degree, HMCPSP thematic reviews are taken into account when devising Area practice and procedures for the handling of sensitive cases.
- 7.14 The Area undertakes an analysis of hate crime cases and there is a monthly review of all sensitive cases by the CCP. There is a system in place whereby racially aggravated cases are referred to the Area Special Casework Lawyer if the reviewing prosecutor has decided to reduce the charge or discontinue the case. Hate crime performance data is shared with local interest groups and at Local Criminal Justice Board level, and the Area's commitment to improving performance has been recognised by the local interest groups.

### **Outcomes**

- 7.15 In 2005-06 43.2% of hate crimes prosecuted by Devon and Cornwall resulted in an unsuccessful outcome against a target of 38%. The comparative national rate was 38%. However, Area performance improved in the first quarter of 2006-07 to 34.7%.
- 7.16 Performance in respect of specific types of hate crime is improving. In 2005-06, 44.6% of cases involving an allegation of domestic violence resulted in an unsuccessful outcome compared with 40.3% nationally. Area performance improved to 36.3% in the first quarter of 2006-07, which was slightly better than the national average (36.8%).
- 7.17 There was an unsuccessful outcome in 29.4% of racially and religiously aggravated cases in 2005-06, compared with 25.8% nationally. Again performance improved (to 25%) in the first quarter of 2006-07, although it was still slightly worse than the national average (24.1%).
- 7.18 The Area deals with very few homophobic crimes and therefore the data should be treated with caution. In 2005-06 41.7% of homophobic crimes resulted in an unsuccessful outcome compared with 29% nationally, but there were no unsuccessful outcomes in the first quarter of 2006-07.

### **Anti-Social Behaviour Orders**

- 7.19 All the Area's prosecutors have received training on the Anti-Social Behaviour Order (ASBO) protocol with the police. There is an ASBO Champion and a lead prosecutor in each office.
- 7.20 Applications for ASBOs upon conviction are dealt with appropriately and there is some liaison with Community Safety Partnerships in respect of stand-alone ASBO applications.

### **Identification and management of sensitive cases**

- 7.21 File management and monitoring of sensitive cases occurs through the analysis of adverse cases, as well as the CQA process. The Area monitors finalised racially and religiously aggravated and homophobic cases. We examined the relevant logs and were satisfied they were being completed correctly. High profile and media interest cases are analysed by the Area's Serious Casework Committee, which meets once a month.
- 7.22 A specialist Domestic Violence Court operates at Exeter Magistrates' Court but to date there has been no evaluation carried out as to its effectiveness and impact as a whole. An independent advisor has been appointed who informs victims quickly of hearing outcomes and provides updated information to prosecutors.
- 7.23 We observed the court on two occasions and noted that some cases were transferred into other courtrooms, which defeats the object of the court. Specialist lawyers are not always covering this court, although those we observed dealt with cases sensitively. Overall, we did not notice a substantive difference in the operation of this court compared to those which handled more general casework, save that interim adjournments were shorter.
- 7.24 Attempts were made to introduce fast-track procedures for domestic violence cases at Plymouth Magistrates' Court, but this was not successful. Systems are not established to support its effective operation.
- 7.25 The identification and flagging of sensitive cases and hate crimes on file jackets and CMS is good. Out of 25 racist incident cases examined on CMS, only two were not flagged. Cases are flagged at the PCD stage and checked again in the office, both at registration and at any subsequent review.

### **Safeguarding children**

- 7.26 The needs of children as victims, witnesses and defendants are incorporated into Area plans. There are local protocols with partner agencies regarding the handling of cases involving child witnesses and the Area has appointed a Child Witness Co-ordinator.
- 7.27 The Area Champion does not attend the Local Safeguarding Children Boards either as a standing member or on an ad hoc basis, but receives updates from the Boards, although these are not disseminated to staff.

## 8 DISCLOSURE OF UNUSED MATERIAL

*The Area's overall performance in the handling of unused material and compliance with the duty of disclosure has improved since our last inspection and overall performance assessment, although the approach of some lawyers indicated a lack of understanding of the provisions. The consideration of sensitive material schedules and the use of disclosure record sheets, which should set out the prosecutor's reasoning behind disclosure decisions, need improvement.*

### Decision-making and compliance with the duties of disclosure

- 8.1 The quality of decision-making and compliance with the duty of disclosure is improving, although there is room for further improvement in respect of magistrates' courts' cases. The following table illustrates the performance trends:

#### ASSESSMENT OF COMPLIANCE WITH DISCLOSURE PROVISIONS

	Area performance in last inspection (May 2004)	Overall findings for all CPS Areas 2002-05 programme	Area performance in OPA (July 2005)*	Area performance in this inspection
Initial (or primary) disclosure dealt with properly in magistrates' court cases	33.3%	71.6%	60%	61.2%
Continuing (or secondary) disclosure dealt with properly in magistrates' court cases	No assessment	No assessment	No assessment (1 out of 3 cases)	33.3%
Initial (or primary) disclosure dealt with properly in Crown Court cases	62.5%	79.9%	70%	83.3%
Continuing (or secondary) disclosure dealt with properly in Crown Court cases	77.3%	59.4%	71.4%	84.2%
Disclosure of sensitive material dealt with properly in magistrates' court cases	No assessment	60%	No assessment (4 out of 4 cases)	100%
Disclosure of sensitive material dealt with properly in Crown Court cases	60%	77.8%	No assessment	54.5%

\* Based on a small file sample

- 8.2 In some magistrates' courts' cases there was no evidence of any consideration of disclosure. In other magistrates' courts' and Crown Court cases lawyers were not endorsing the schedule to indicate that they had considered relevant material, or the endorsements did not comply with the provisions. In some the prosecutor had endorsed the schedule to indicate that the defence could inspect items that were clearly not disclosable, because they did not undermine the prosecution or assist the defence, and nor did the material come within the Attorney General's Guidelines on Disclosure (April 2005). In one case the schedule indicated that every item could be inspected.

- 8.3 Use of the disclosure record sheet needs to be improved and was only completed correctly in 33 of 105 cases (31.4%). In most cases it was only partially completed, if at all.
- 8.4 By the time of summary trial or committal review the schedules submitted by the police usually contained sufficient detail, although those included with the papers submitted at the PCD stage were less adequate. In one case we observed at court there were no items listed on the non-sensitive schedule, but a number on the sensitive schedule. Of the items listed one was clearly not sensitive and the others, for example the crime report, could have been edited to remove personal details. This indicates a lack of understanding by the police of the correct approach to be adopted.
- 8.5 A defence statement was received in 55 cases. In 34 of the 55 (61.8%) the defence case was adequately set out and identified relevant documents the defence considered should be disclosed. Inadequate defence statements contained either a blanket denial of the allegations or included a standard form 'shopping list' of document requests. Although caseworkers said that inadequate defence statements are sent back, this did not occur in any of the cases in our file sample.
- 8.6 Lawyers were good at sending the police a copy of the defence statement, However in some cases the police did not send a further declaration confirming whether or not there was anything more that needed to be considered, or the prosecutor did not inform the defence of their decision about whether anything else was disclosable. There is a continuing duty on the lawyer to consider whether unused material should be disclosed throughout the life of the case, but particularly on receipt of the defence statement.
- 8.7 Area managers recognise that in some cases disclosure is made, often late in the day by trial counsel, which does not comply with the provisions or accord with the Lord Chief Justice's Protocol for the control and management of unused material in the Crown Court. They are engaged in discussions with the local judiciary and Bar to ensure that the approach taken by the prosecution is clear and consistent.
- 8.8 There is a protocol which sets out how the disclosure provisions apply to third party material. Usually this is Social Services material which is most often relevant in cases involving allegations of child abuse. There were five cases in our file sample in which the issue of third party disclosure arose and all were dealt with correctly, although we observed a case at court where the start of the trial was delayed because of late third party disclosure.

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## RECOMMENDATION

**Lawyers should ensure that the duties of initial and continuing disclosure of unused material are complied with in magistrates' courts' cases.**

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## ASPECTS FOR IMPROVEMENT

Disclosure record sheets should be used consistently by lawyers to record their decisions.

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**Sensitive material**

- 8.9 Of the Crown Court cases examined, 22 had sensitive material schedules, although the items listed on them were usually documents which were sensitive because they contained personal details of victims and witnesses, and which were non-sensitive in an edited form. Evidence of consideration of these schedules was not as apparent as those which listed non-sensitive material. We found that the sensitive schedules were only dealt with correctly in 12 of the 22 cases (54.5%). The Area has appropriate systems for the secure storage of sensitive material.
- 8.10 No cases in our file sample involved sensitive material of a type that required a Public Interest Immunity application to be made.

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**ASPECTS FOR IMPROVEMENT**

Lawyers should consider the sensitive material schedule, view items that are sensitive and endorse the schedule with their decision on disclosure.

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**Action to improve**

- 8.11 The Area's own CQA data in respect of the application of the disclosure provisions shows 100% compliance with the duty of disclosure across most of the units except Plymouth Magistrates' Court Unit where the assessment on initial disclosure is similar to our finding. Managers when assessing performance should give proper consideration to all aspects of the duty.
- 8.12 Devon and Cornwall has a Disclosure Champion who has delivered advanced disclosure training to the police, but there has been no joint training. The Area's Learning and Development Plan includes the provision of refresher training on disclosure and notes that there is a need to ensure that lawyers and caseworkers are fully conversant with practice and procedure.





## 9 CUSTODY TIME LIMITS

*The Area has systems for ensuring compliance with the custody time limit (CTL) regulations. There have been no failures in the last three years and the quality of applications to extend CTLs is a strength.*

*In some cases the timeliness of the return of the file to the CTL Co-ordinator needed to be improved and compliance checks need to be consistent across the Area.*

### **Adherence to custody time limits**

- 9.1 The Area has had no recorded CTL failures in the last three years.
- 9.2 Six files were examined on-site and applications to extend the CTLs were referred appropriately to lawyers for consideration. CTL extension applications were made in good time with detailed chronologies in the Crown Court cases.

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### STRENGTHS

The chronology of the case in applications to extend CTLs.

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### **Area custody time limit systems**

- 9.3 The Area has a written CTL system which was implemented three years ago. It complies with CPS national guidance, although there are slight differences in interpretation between the units.
- 9.4 Each office has a CTL Co-ordinator who checks entries made on CMS by administrators and enters the information into a diary or log. The correct two week and four week action dates are used in the magistrates' courts and Crown Court and these are noted on a front sheet on each file.
- 9.5 File checks on-site showed there were some errors. One co-defendant was being monitored when not in custody and revised expiry and action dates had not been endorsed on a file following an extension being granted.
- 9.6 In two offices relevant files were not returned consistently to the Co-ordinator after alterations in bail status and these only became apparent when the relevant action date checks were reached. On two of the six files examined, where bail had been granted, the diary and front sheet were not updated as the action date had not been reached. A case in the main file sample showed a defendant entering custody and being released on bail after seven days. This period of custody had not been recorded on the front sheet or entered onto CMS.
- 9.7 Training took place when the revised CTL system was implemented but none has been carried out since. There has been no further review of the system, although another is planned.

- 9.8 The Co-ordinators make efforts to involve the courts in reconciling CTL dates and send lists, or letters on each case, to notify them of expiry dates. There is liaison with some court staff in updating records, but feedback is not always received on the information provided. Agreement on a draft protocol has yet to be reached with the magistrates' courts and court endorsements note that the defendant is in custody but no agreed expiry date is noted. Endorsements on three Crown Court files examined showed that caseworkers ensure the court is reminded of expiry dates when fixing cases for trial.
- 9.9 Compliance checks made by the Area Office Business Managers are not consistent and in one unit no checks are made. No assurance is sought by more senior managers that the system is being operated correctly.
- 9.10 The Co-ordinator in each unit checks the information input by administrators into CMS but the CMS printout is not used in each unit. One unit uses this as a list to ask the courts to reconcile expiry dates, but another types a list from the diary instead of printing the report. There were some errors in CMS inputting and a few expiry dates in each Crown Court Unit were marked as 'unknown'. A number of CTL tasks had remained imminent on cases even though the case had been updated with another correct expiry date. These updating errors may cause a lack of confidence in CMS accuracy.
- 9.11 The CTL Champion took part in the review three years ago and drafted the initial instructions.

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#### ASPECTS FOR IMPROVEMENT

Office Business Managers should ensure that all cases where the bail/custody status has changed are returned to the Custody Time Limit Co-ordinator to ensure that records are updated quickly.

Management assurance checks on the custody time limit system should be consistent across the Area.

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## 10 THE SERVICE TO VICTIMS AND WITNESSES

*The treatment of victims and witnesses at court is good and the timeliness of letters to victims, explaining why cases have been dropped or charges substantially reduced, in accordance with the Direct Communication with Victims (DCV) scheme is good, although letters are not sent in all appropriate cases.*

*The provision of Special Measures in child witness cases is timely, but less so in those involving adult vulnerable and intimidated witnesses. The early identification of their needs should be improved, together with better consideration of what are the most appropriate measures having regard to all aspects of the case.*

### Meeting the needs of victims and witnesses

#### *Special Measures*

- 10.1 Special Measures applications are made in appropriate cases and are timely in those involving child witnesses. However, they were often late in cases involving vulnerable and intimidated adult witnesses, because of a late identification of their needs. The police were not flagging up the possibility of the use of Special Measures at the pre-charge decision stage and duty lawyers were not making the necessary enquiries. In some cases it was only when the Witness Care Unit (WCU) officer made contact with the victim or witness that their needs were identified.
- 10.2 Our file examination indicated a number of cases where Special Measures applications for adults were granted close to the trial date. The most appropriate Special Measures are not always considered and video links are routinely applied for in the first instance, when in the overall context of the case they may be less effective than, for example, screens. We accept that some court rooms in the Area are not easily adapted for the use of screens.
- 10.3 Understandably, and rightly, lawyers want to ensure the victim or witnesses' trauma in giving evidence is reduced as far as possible. Distancing them from the process, through applying for video links, is often perceived as the best way of achieving this aim. However, the overall aim is to achieve justice for the victim through conviction of the guilty. Lawyers need to make timely and informed decisions about whether in some cases the remoteness of the victim, whilst reducing the trauma, may not assist to achieve that justice. We were also told of cases where the victim, having been told of all the options, made the informed choice that they wanted to be in court, although behind screens.

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### RECOMMENDATION

**Lawyers should make a timely and informed decision about the most appropriate form of Special Measures application to be made in respect of adult vulnerable and intimidated victims and witnesses.**

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### **Witness Care Units**

- 10.4 Devon and Cornwall has three WCUs and the national No Witness No Justice (NWNJ) national team signed over governance of these to the Area after a final review in June 2006. The police intend to introduce three new units, one for each Crown Court centre (based on the previous Crown Court liaison offices), splitting the magistrates' courts' and Crown Court work.
- 10.5 There are few CPS staff in the units; of a full complement of approximately 60 staff, only three are CPS employees, with one based in each unit. These staff attend CPS team meetings, but have no formal liaison role.
- 10.6 There is good liaison between CPS Case Progression Officers (CPOs) and WCU managers to discuss individual cases and witness difficulties, but when the CPO is temporarily absent there is a lack of formal communication.
- 10.7 Witness requirements are notified quickly to the WCU by the CPS and witnesses are usually warned in good time. However, some warnings have been inaccurate and instances were noted where witnesses had been warned for the incorrect time or for hearings other than the trial, which caused unnecessary distress.
- 10.8 We also noted a case during our court observations when the victim and some of the witnesses had been warned wrongly by the WCU to attend at 11am when the trial was due to start at 10am, although the CPS had provided the WCU with the correct information. There was no information on the file to indicate this and the prosecutor was unable to clarify the position in the time allowed by the court. The court dismissed the case, and understandably the victim was very upset when he attended.
- 10.9 The WCUs rely on the magistrates' courts for updated results of hearings. This information is sometimes not supplied quickly enough to meet timeliness targets. Good work is being done with the courts to improve this and the WCU provide a good service in notifying witnesses of the progress of their case. Specific procedures are in place to ensure that vulnerable and intimidated victims and witnesses are notified quickly of hearing outcomes.
- 10.10 We found that there was a need for greater clarity between lawyers and WCU staff about the quality of information lawyers needed to enable them to make an informed decision when there were witness availability issues. This was leading to a delay in decision-making or premature referral of cases to the prosecutor. In some parts of the Area there was also a lack of clarity about whether the WCU or the CPS were responsible for notifying the Witness Service when a trial was not going ahead as planned. CPS and WCU staff would benefit from some job-shadowing and joint training activity.

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### **ASPECTS FOR IMPROVEMENT**

To improve the timeliness and quality of decisions, Unit Heads and Witness Care Unit managers should agree the information to be provided to lawyers about the availability of victims and witnesses.

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### Direct Communication with Victims

- 10.11 DCV data for 2005-06 showed that the Area attained an average compliance rate of 100% of the proxy target set by CPS Headquarters. Although only three out of 20 cases examined on CMS prior to the inspection were flagged appropriately this does not appear to affect the Area's good performance. We were, however, concerned that a prosecutor considered it was not appropriate to send a letter where a committal was discharged, even when a positive decision was made not to re-instate the either way offence. In another case the owner of a small commercial premises should have received a letter.
- 10.12 DCV timeliness is good and in 2005-06 the Area sent 71% of letters within five days, compared to a national average of 65%, and this figure had improved in the first quarter of 2006-07 to 78%. Timeliness varies between units and is best in the unit where the Co-ordinator checks all files back from court. The Area has carried out its own review of DCV systems and found that lawyers are not always available to complete the letters in time. These cases are passed to the Unit Heads in their absence and Co-ordinators issue reminders in respect of outstanding letters.

### No Witness No Justice

- 10.13 Briefing information on the Code of Practice for vulnerable and intimidated victims was sent to all staff in April 2006, but awareness of individual responsibilities in relation to vulnerable and intimidated victims and witnesses was poor. The systems for prioritising DCV letters to comply with the *Code* were not widely understood and compliance is not being monitored. We saw examples while on-site of DCV letters which had not been prioritised in accordance with the *Code*. The Area is planning to provide further awareness training.
- 10.14 NWNJ issues are discussed at the Local Criminal Justice Board Victims and Witnesses Sub-group where all agencies are well represented. Improvements have been made in the provision of results from the magistrates' courts and the supply of witness availability information to the courts. There has been inter-agency work around the introduction of the Victim's Code.
- 10.15 Cracked and ineffective trial data is analysed at the Sub-group meetings and WCU performance is discussed. The CPS is represented by the Head of the CPS Victims and Witnesses Committee, whose terms of reference include improving communications with the WCUs.



## 11 DELIVERING CHANGE

*The development of the Project Phoenix change management strategy is a sound foundation for delivering change within the Area. There is a clear vision for the future, with plans, targets and milestones in place to help Devon and Cornwall achieve successful change. New governance arrangements have ensured that change is owned at a senior level in the organisation and the development of committee structures to support business development involves a large number of Area staff. The change programme is having a resource drain at an operational level, although this 'short-term pain' should result in numerous benefits.*

*There are sound processes and systems in place to support the change programme and resources have been dedicated to ensure that it is sustainable. A culture of risk management has developed in the Area and a comprehensive and inclusive Learning and Development Plan has been drawn up, although this needs to be costed.*

### **Purpose and planning**

- 11.1 To address some of the concerns raised in the overall performance assessment an extensive change programme has been developed, known locally as Project Phoenix. The Area Business Plan is key to driving the programme of change forward. It sets out a clear vision for Devon and Cornwall, as well as including actions and outcomes to deliver improvement and change. The vision is one of improvement, with the goal of moving the Area to be an organisation that will be fit for 2006 and beyond.
- 11.2 The Plan sets out in simple terms the key deliverables for the Area with a clear link to the 11 strategic objectives which are broadly in line with the operational objectives of the Overall Performance Assessment Framework and the CPS Performance Framework. The underpinning operational objectives are supported by targets and milestones ensuring that there are clear lines of accountability for delivery against the overall strategic aims of the Plan.
- 11.3 At a strategic level the Area shares its Business Plan with others in the criminal justice system. There are Local Criminal Justice Board processes to ensure that, where possible, the objectives of the various elements of the criminal justice system are complementary. The Area has used this process, as well as bi-lateral arrangements with the police and court service, to ensure that the key objectives of its change programme do not cut across the objectives and targets of others. Wider criminal justice system planning is also accompanied by a series of protocols which set out expectations and service levels. These are documents which are often used to facilitate agreement and resolve differences.
- 11.4 By way of example, the recent implementation of statutory charging was overseen by a strategic group which was jointly chaired by the Chief Crown Prosecutor and Assistant Chief Constable. Delivery plans and progress reporting ensured that joint planning priorities could be established and implemented within both organisations.

11.5 There are sound processes within the Area for the management of risk, which is assessed, discussed and managed in a systematic manner. Initial work with the CPS Business Improvement Division around change management and risk management has been effectively implemented into the Area's plans and strategies.

11.6 The Risk Register forms part of the Plan. This allows the senior team to review risk on a regular basis and also ensures that the Business Change, Finance and Performance Committee can assess the likelihood of risks and report concerns on an exception basis to the senior team.

### **Change management**

11.7 The Area has introduced governance arrangements which support the delivery of the vision and operational objectives. There are seven committees accountable for delivery of the targets and milestones outlined in the action plans to support the change programme, each of which is chaired by a senior manager.

11.8 To ensure that there was an inclusive approach all staff were invited to apply for committee membership. Whilst this approach was welcomed, there was some concern by staff that the resource commitment to delivering actions and targets included in each committee's action plans, over and above front line business, was an additional burden. Area managers had recognised this pressure and there were arrangements in place to provide additional support to committees. However, the managers need to be aware that additional business demands on already thinly spread resources may be undermining some of the positive drive that exists in the Area.

11.9 There was a clear understanding within the senior team of the accountability for delivery of their committee's targets and how these linked to the overall aims of the Area Business Plan and vision. There was evidence during the early days of the change programme that there was not a universally held understanding of the processes in place to manage the change programme, with a number of committees failing to report against their action plans. The additional support provided by the Project Manager has improved this, with all committees now undertaking the correct reporting processes and being on-track to complete actions as defined in plans.

11.10 Part of the role of the Project Manager is to ensure that milestones and actions are being completed in line with the objectives of the Plan, which is reviewed effectively at Area Management Board (AMB) meetings. Additionally, the delivery of the operational objectives within the programme is also monitored by the Business Change, Finance and Performance Committee. This two-tier process of accountability at both committee and AMB level ensures that any slippage in delivery can be escalated and addressed. This structure also allows for change and development activity to be fed into plans, ensuring that the Area can react to initiatives and process development using the business planning process.



- 11.11 These arrangements have removed any need for unit business and team plans, but the Area has ensured that there is still a clear link between individual job objectives and its strategic objectives. Staff understood clearly how individual job objectives fitted with the overall aims of the Area.
- 11.12 The change programme has established a sound basis for the implementation of a number of key changes across most of the Area's business. The measurable outcomes around statutory charging, effective trials and other key targets are showing performance improvement. The change programme is also central to improving process efficiency. Through the committee structure the Area is undertaking a major process mapping exercise, which should ensure that it can establish operational efficiencies and move to a structure with operational processes that consolidate some of the early changes brought about through the change programme, for example the development of a comprehensive performance management regime.
- 11.13 Although the implementation of much of the change is at an early stage, there is evidence that sound foundations are being built. However, in some cases the Area needs to guard against delivering only the steps in the change plans and ensure that the focus is on improving the outcomes rather than the process.
- 11.14 Devon and Cornwall recently commissioned an independent peer review of the effectiveness of its implementation of statutory charging. This formal review identified that improvements could be made and these findings are being considered by the Charging Project Steering Group as part of the wider change programme.
- 11.15 The structure of the change programme has also created a significant overarching review process. Highlight reports from each of the committees outlining delivery against milestones and targets is considered on a formal basis by the Area Change Programme Manager and the Business Change, Finance and Performance Committee. This formal review mechanism ensures that project inter-dependencies can be managed and identified and that the Area can review, learn and implement improvement in a coherent and managed way.
- 11.16 Within the change programme stringent instructions for the operation of the systems accompanying it have been established. Templates for recording change, review and reporting have been created and are starting to become well embedded within the programme. Terms of reference exist for all committees and there is a clear understanding of the responsibilities of those involved.
- 11.17 The AMB needs to be alert to the danger of 'over managing' the change process, although it is recognised that the creation of a formal system to manage change when starting from a low baseline has certain advantages. The change management systems need to be continually reviewed to assess the validity of such an approach as it may be too complicated and onerous when many involved in the process have significant casework commitments.

- 11.18 As well as the appointment of a change manager the Area has also appointed an Area Communication, Equality and Training Manager (ACET) to support the effective communication of the change process. Although the Area is supporting the change process with this additional and dedicated resource, there were a number of staff who were not clear about the expected benefits of the change programme, or how the different committees are linked. Work is needed on communicating clear messages about the change programme to those not involved in committees and also address a feeling of resentment within a significant minority of staff about the connotations of the nomenclature of "Phoenix".
- 11.19 Some misunderstandings of the benefits of the change programme are reflected in the view of some staff that the proposed re-structure of the Area will alone result in significant improvements to working practices. Staff perceive that the primary benefit of re-structuring will be a reduction in the resource pressures that are currently being felt. This misapprehension needs to be dispelled by the AMB or there may be a risk of losing the impetus of the change programme and the goodwill of staff.

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#### STRENGTHS

The governance arrangements of the change programme.

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#### **Staff skills and training**

- 11.20 The Area has a comprehensive Training and Development Plan for 2006-07. It covers a wide range of topics, some of which relate to core legal training, but others are aligned to staff Personal Development Plans.
- 11.21 The Plan is inclusive and details training for staff across the grades. All staff are required to complete, by the end of November 2006, at least one of three of the modules from the E-learning Prosecution College (Equality and Diversity, the Threshold Test or the Victim's Code).
- 11.22 At the time of our inspection the Plan had not been costed. Managers will want this done to ensure that, having regard to the Area's budget, those aspects which are regarded as priorities are covered first.

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#### STRENGTHS

The Area's Training and Development Plan.

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## 12 MANAGING RESOURCES

*The Area has made very substantial improvements since our overall performance assessment in the systems and processes used to account for and manage its resources. The Area Management Board receives accurate financial information which allows for considered decisions to be made. Area spend is on target and this represents a marked improvement in past performance.*

*Some action has been taken to address resource imbalances and the planned structural review gives the Area an opportunity to consider further necessary changes. Current imbalances, although small, are having an impact on the ability of some offices to meet caseload demands.*

*The process for the allocation of cases was not effective, which was leading to a lack of case ownership. Unnecessary time, often at the last minute, was spent by lawyers in familiarising themselves with cases.*

### **Use of resources and budget control**

- 12.1 We expressed significant concerns in the overall performance assessment about a lack of a strategy or system to control costs and manage the Area's budget. The arrival of a new senior management team in the final quarter of 2005-06 was accompanied by a short-term stabilising strategy for reducing the Area's overspend as well as the development of a longer term strategy to control and manage resources effectively in the future.
- 12.2 Budgets have been devolved to Unit Heads in 2006-07; budget allocation was decided by using some limited historical data and staff profiles. There is an understanding at Unit Head level of the responsibilities of managing the staff and agent budgets, although this is not yet operationally effective across the Area. Unit Heads are assisted in managing their budgets by the Office Business Managers at each site, although there was a need for further training to enable them to undertake this new role.
- 12.3 To assess the accuracy of budgets and to reconcile monthly expenditure the Area has introduced a system which collates monthly expenditure both locally and centrally. This data is used at senior management level to assess profiled expenditure and to identify any corrective action or to address specific issues of concern. The Area is able to demonstrate an accurate picture of committed expenditure as well as having a system to control and manage costs.
- 12.4 Devon and Cornwall has been awarded additional funding (a business rejuvenation fund) to implement the extensive change programme. There has also been an allocation of a £250,000 budget underpin to address some of the resource constraint they face. The rejuvenation funding has been used to create a number of key posts to help drive change and implement effective systems and processes. This limited funding stream, although part of the overall Area budget allocation, is being managed effectively and is being spent for its intended purpose. The output from the change programme (outlined in Chapter 11) clearly demonstrates that the Area is improving its performance and systems through an effective use of this additional funding.

## ASPECTS FOR IMPROVEMENT

The Area needs to ensure that adequate training in budget management and awareness is delivered to all staff who have responsibility for the monitoring and management of Area budgets.

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### **Value for money principles**

- 12.5 The Business Plan identifies actions to refine value for money principles across the Area. The Business Change, Finance and Performance Committee considers actions which will result in closer scrutiny of the way that Area resources are managed, distributed and deployed. Linked to this scrutiny and control are clear systems for accurately accounting for resources and an Area Resource Manager has been appointed, with responsibility for financial and human resource management across Devon and Cornwall.
- 12.6 Changes have been made to ensure that there is more effective use of staff resources, for example increasing the number of designated caseworkers (DCWs) and putting controls on agent spend. These important changes demonstrate that the Area is willing to take decisions that will maximise its use of resources and bring value for money.
- 12.7 The Area is also looking at other ways to use its budget effectively. Proposed video links between offices will save on the time currently taken to travel to meetings. Careful management of the stationery orders and central purchase control on some expenditure has already resulted in substantial savings.
- 12.8 A stock take of graduated fee payments has been conducted to assess the amount of outstanding fees, as well as re-inforcing the message of the importance of timely payment. The Area adopted a system, which had been commended as good practice, from another CPS Area to manage this work. This action showed immediate improvement, with timeliness of fee payments improving to 82.8% for the final quarter of 2005-06 compared with 39.8% for the first three quarters of the year.
- 12.9 Prosecution costs budgets, with clear instructions on their management, have been allocated to units using historical data. The Area has been active in re-emphasising the rules governing the use of counsel in magistrates' courts' cases, and wider issues of control, in light of the changes proposed to Programme Costs in 2007-08. Each office manager is experienced in fee negotiation and manages High Cost Cases effectively, under the overall co-ordination of the Area Resource Manager.
- 12.10 The latest figures for prosecution costs (September 2006) show an improved spend against profile of 85%, which reflects the further allocation of funds received by all Areas.

**STAFF DEPLOYMENT**

Designated caseworker deployment (as % of magistrates' courts' sessions)			Higher Court Advocate savings (per session)	
National target 2006-07	National performance 1st quarter 2006-07	Area performance 1st quarter 2006-07	National performance 1st quarter 2006-07	Area performance 1st quarter 2006-07
17.2%	11.6%	5.4%	£314	£217

- 12.11 An intrinsic part of the change programme (and Area improvement strategy) is a comprehensive review of staff structures and working practices to determine whether they are fit for purpose and to enable Devon and Cornwall to work effectively and efficiently. There is evidence both at office and Area level that there is regular planning and discussion of staff structures and workloads.
- 12.12 A separate Delivery Plan for the proposed structural changes project has been developed and responsibility for delivery has been allocated to the Business Change, Finance and Performance Committee. There was evidence that the Area has invested a huge amount of effort into getting to grips with the true position of staffing and performance outputs. Systems have been put into place and work with the CPS Business Improvement Division has helped the Area understand where staff structures did not reflect the correct workload balances. Some of this imbalance has been tackled by changing the staffing profiles at administrative levels and by appointing four additional designated caseworkers (DCWs).
- 12.13 Whilst this is a good start to redressing some of the imbalances within the Area there is clearly still some way to go. Re-structuring is an opportunity to address imbalances between caseload and lawyer and administrative staff resourcing across the offices. Although these imbalances may only be slight, it is essential that the Area does not let the current shape influence any decisions with regard to the best organisational shape for the future.
- 12.14 Lawyer deployment targets have been set for sessional coverage at court and at charging centres. Deployment expectations are being achieved and are in line with other CPS Areas. Devon and Cornwall has set a substantially reduced budget for agent spend in 2006-07 of £176,000, compared to an outturn spend of £244,000 in 2005-06. There was an agent overspend against profile of £13,465 for the period April-August 2006 (representing 53% of budget). The position at the Truro office was of concern as it had already spent its full annual budget. The Area exception reports for August do not highlight this as an issue. Close management control needs to be taken if the reduced agent target for 2006-07 is to be met.
- 12.15 During the course of the inspection we observed lawyers at court and within charging stations. In some instances there were substantial periods of 'downtime' which could have been used to better effect. There are obvious resource pressures in the Area, and a better use of downtime across the Area could help alleviate some of these. We recognise that undertaking complex work under these circumstances would not always be suitable, and that there is a lack of suitable accommodation at some court centres, but there are a number of tasks that can be undertaken when this situation arises.

- 12.16 At present the deployment of DCWs is low, but as part of the overall strategy to increase efficiency the Area has trained and appointed four additional DCWs, who should be fully effective from September 2006. A two week snapshot review of the court listing arrangements indicated that only 22 out of 64 available court sessions were covered by DCWs. The increase in their availability should free up lawyer resources. Usage figures in the Area should increase substantially in the second half of the year. Work with Her Majesty's Court Service to amend the court listing matrix has also been undertaken to ensure that enough DCW compliant courts will be in the matrix, which should assist effective deployment.
- 12.17 The Area has 13 Higher Court Advocates (HCAs) with two more lawyers being trained. A number of them conduct trials, although committals for sentence, applications and plea and case management hearings make up the majority of their work.
- 12.18 The Area's HCA savings target for 2006-07 is £145,000. In the first quarter of 2006-07, £30,231 was saved against a target of £36,224 (83%). HCA deployment targets and performance are regularly reviewed at AMB and unit exception reports highlight problems and issues for discussion at a strategic level.

#### SICKNESS ABSENCE (PER EMPLOYEE PER YEAR)

National target 2006	National performance 2006	Area performance 2006
7.5 days	8.8 days	10.6 days

- 12.19 The Area is struggling to meet its sick absence reduction target. Since 2004-05 there has been average of ten days sickness absence per member of staff. Current performance in 2006-07 (using a rolling average of the last 12 months) is 10.6 days. It is recognised that this is a problem and work has taken place to introduce consistent management information across the Area. Unit and Area level data is included in the performance pack and training on attendance management has been given to all line managers. The Area has also been pro-active in using health referrals where appropriate.
- 12.20 The Area operates the flexible working scheme in accordance with national guidelines and part-time work is offered subject to business needs. This generally works well, although there were concerns about the availability of administrative staff on Fridays in the Plymouth office. Managers will wish to satisfy themselves that the business needs of the Area are being met.

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#### ASPECTS FOR IMPROVEMENT

Prosecutors at court and charging centres should make effective use of any downtime

A reduction in sick absence levels.

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## 13 MANAGING PERFORMANCE TO IMPROVE

*Devon and Cornwall has developed an effective performance management system to enable it to manage Area business. The introduction of unit performance exception reports and quarterly review meetings is consolidating a culture of performance management in the Area. There is evidence that performance information is being used to improve its systems and outcomes.*

*Performance information is shared with criminal justice partners, but some aspects of joint performance management with the police on statutory charging require further development and are not fully embedded.*

*The Area has recognised a need to improve the use it makes of CMS Management Information Systems. There are sound processes for assuring the quality of data and for disseminating performance information to staff, although some could be simplified.*

### **Accountability for performance**

- 13.1 Managing performance is about practical ways to improve how things are done in order to deliver better quality services and to improve accountability. Managing performance is not just about information systems, targets, indicators and plans; it is also about getting the right focus, leadership and culture in place. There are some key issues in developing effective performance management arrangements:
- focus and strategy;
  - defining and measuring achievement;
  - reviewing and learning to sustain improvement; and
  - managing activities and resources.
- 13.2 The Area has made significant improvements since our overall performance assessment (OPA). Of the 39 aspects for improvement identified in that report, 19 have been achieved and substantial or limited progress made in the others. Achieving the realisation of most of the benefits of statutory charging and improving the effectiveness of lawyers' use of CMS are examples of where improvements have been made in key aspects of performance.
- 13.3 Our OPA highlighted that the performance information available at the Area and unit level was often raw data, irregularly provided and not analysed, significantly reducing accountability. There was no systematic process to assess performance or take decisions from the basis of sound performance figures. The new senior management team took immediate action to create an Area Performance Framework which would produce data and enable analysis on a full range of the Area's business. This framework complemented the operational objectives outlined in the Area Business Plan as well as ensuring that the 15 key national CPS performance indicators could be monitored and assessed.

- I3.4 The Performance Framework analyses Devon and Cornwall's performance against both local and national targets. There is also evidence that the Area is comparing itself and benchmarking its performance against other 'like' CPS Areas. They have adopted systems and processes from other Areas where they have been identified as good practice, and used other Areas' experts to train staff and improve local processes.

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#### STRENGTHS

The Performance Framework and the systematic actions to manage performance in the Area.

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- I3.5 Personal development objectives have been drafted at team level. They are general and, although linked to the Area Business Plan, could not be used to manage individual performance. The Area needs to ensure that there are systems in place to assess personal performance.

#### **Joint performance management with criminal justice system partners**

- I3.6 There are effective links between the performance officer for the Local Criminal Justice Board (LCJB) and the Area. Data is shared to ensure that there is an accurate reflection of those matters for which CPS are the main contributors. Data from the LCJB is actively shared within the Area at all levels. Adverse case analysis, cracked and ineffective trial analysis and pre-charge data are used to identify trends and implement improvement.
- I3.7 CPS senior managers are actively involved in LCJB sub-groups. Some of these groups have specific responsibility for performance, for example the Local Criminal Justice Operations Group, whilst others look at specific aspects of work in an attempt to produce consistent practice across the criminal justice area and disseminate good practice. Although CPS managers play an active part in the LCJB Plymouth Local Delivery Group, there was some doubt expressed about the clarity and aims of this sub-group. This is something that is recognised at LCJB level and the Area needs to work with its criminal justice partners to ensure that the resources expended in contributing to this sub-group deliver measurable benefits.
- I3.8 Joint work around cracked and ineffective trial performance at the operational level has resulted in performance improvement. Analysis at the operational level ensures that trends can be identified and learning points implemented by those doing the work.
- I3.9 Work with police partners in Prosecution Team Performance Management (PTPM) meetings is at an early stage. There have been difficulties experienced in producing usable PTPM reports. The Area has worked with the police to address this issue and agreement has recently been reached to rectify this problem. Joint meetings are being held with the police to discuss discontinued cases and issues of process control. These meetings are yet to be fully effective.



### **Performance information and analysis**

- 13.10 Performance information is produced in both numerical and graphical formats. The Area performance pack is saved on the shared drive and is available to all staff. Key performance information is shared at team meetings and graphs and performance data are attached to notice boards, although some of the notice board information was complex and required a good level of knowledge to be able easily to identify trends.
- 13.11 The Area has created a Performance Officer post (funded in part by the Area rejuvenation fund) with responsibility for the collation, management and analysis of Area data. Data is broken down to unit level and combined to assess overall Area performance. Using this performance data at both Area Management Board (ABM) and office meetings the Area has very quickly developed a performance focus.
- 13.12 Monthly performance analysis is used to alert Unit Heads of concerns about unit performance. The Performance Officer produces monthly exception reports and Unit Heads are required to submit a report to the AMB addressing the issues raised in the reports. This process is in the early stages of development and in some cases it was apparent that the process was producing a justification of the performance issue, rather than an analysis of the reasons and the steps needed to improve. However, this process has been integral to ensuring that a performance culture is now firmly embedded in the Area.
- 13.13 Internal quarterly performance reviews between the Chief Crown Prosecutor and Unit Heads recently commenced. This process is used in part to hold units to account for performance and to ensure that action can be taken to drive improvement across the Area. Monthly office meetings between Unit Heads and Office Business Managers are also used to take corrective action to improve performance. The comprehensive range of performance data gathered in the Area allows for managers to take corrective action on the basis of sound data; this is a marked change since the OPA.
- 13.14 The Area recognises that it can improve the effectiveness of its CMS Management Information System (MIS) licence holders. Training has been arranged with the CPS Avon and Somerset MIS expert. Whilst there is a very basic grasp of MIS, being able to generate targeted MIS performance reports would be of benefit. Some aspects of unit performance could be interrogated with a greater degree of specificity using MIS reports.

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### **ASPECTS FOR IMPROVEMENT**

All Management Information System (MIS) licence holders should be trained to use the system effectively to produce management reports which can be tailored to target performance improvement.

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- 13.15 Although there is an obvious weakness around the production of MIS reports, a performance officer has been appointed in each office. They are responsible for providing local performance figures, assessing the quality of data and ensuring that there is an element of local ownership.

### **Casework Quality Assurance and Improvement**

- 13.16 At the time of our OPA the Area was only operating the Casework Quality Assurance (CQA) scheme on a limited basis. It has now been restored fully and in the first quarter of 2006-07 the return rate of completed forms was 83%, which is considerably better than the national average of 71%.
- 13.17 However, the assessments of performance across the units were not sufficiently robust, for example the Area assessment of the quality of summary trial preparation and instructions to counsel was much higher than we found. If the scheme is to be an effective performance tool it is important that managers make realistic assessments of the quality of casework handling.
- 13.18 For the CQA scheme to be fully effective it is important that staff receive regular feedback on how they have been assessed and any shortcomings discussed or examples of good performance highlighted. We found that staff across the Area were not familiar with the process, and some had only recently been given assessment forms in relation to their cases which were examined under the scheme. It was clear that the use of the CQA scheme as a method of driving up performance (and praising good work) was not embedded across the Area.
- 13.19 We highlighted this issue in our thematic review of the CPS Casework Quality Assurance Scheme (August 2005) and we include here by way of emphasis the recommendation made in that report.

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### **RECOMMENDATION**

**Unit Heads should use the Casework Quality Assurance scheme more positively to provide information on performance at regular and frequent intervals, including interim and annual performance appraisals, to ensure that the development needs are fully assessed and actions to improve are incorporated in Forward Job Plans.**

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## 14 LEADERSHIP

*The Area's vision and values are set out clearly in its Business Plan and re-inforced through the delivery of its change programme. The committee structure of the programme has helped develop corporacy at a senior level. Most staff are clear about what the Area is seeking to achieve and consider that there is meaningful consultation.*

*Staff are supportive of each other and within units there was no blame culture, despite the pressures being felt at the time of our inspection.*

### **Vision and management**

- 14.1 The Area's vision and values are set out and delivered through the Business Plan and underpinned by the change programme. All the Area managers are involved in delivering that programme through its committee structure and there are clear lines of accountability.
- 14.2 Managers were clear about what was expected of them to deliver the Area's vision, although the same level of clarity was not apparent in all operational staff. It is important that what the Area is seeking to achieve is communicated clearly and linked to the expected benefits. We were told consistently that the volume of communications about the change programme was daunting and could lead staff to having a negative view about what was being achieved.
- 14.3 Area managers recognise this issue and the Area Communications Equality and Training Manager is developing a Communication Strategy with a view to simplifying how key messages are delivered.
- 14.4 There were some concerns that the change in the roles and responsibilities of senior managers had made them less visible to staff within the units. We recognise that the delivery of the change programme is resource intensive and has seen unit managers less involved in casework, nevertheless it is important that the leadership within units is visible.
- 14.5 The Chief Crown Prosecutor and Area Operations Manager visit each office on a regular basis and make themselves available to staff to discuss issues. We were given examples of where queries raised during these meetings were answered promptly, which helped to foster a constructive consultative process.
- 14.6 Unit team meetings are held, although their regularity varied across the Area. Minutes of meetings are displayed on notice boards and they indicate that key issues including performance are discussed.
- 14.7 At a strategic level there is an acknowledgement of the Area's commitment to making the criminal justice area initiatives succeed. Senior managers took the lead in analysing court scheduling arrangements with a view to maximising the effective use of resources. At a local level there have been successful negotiations in respect of the court sitting matrix for Plymouth and Truro.

14.8 There is a CPS presence on each of the Local Criminal Justice Board sub-groups, with senior managers either chairing or playing a key role in those which relate directly to Devon and Cornwall's core business. We have also referred previously in this report to the involvement of staff in case progression and cracked and ineffective trial meetings with their criminal justice partners.

#### **Governance**

14.9 The Area has a clearly defined governance structure. The Area Management Board (AMB) meets regularly in the minutes of those meetings reflect the discussion of core business. Below the AMB, the committee structure of the change programme ensures that senior managers are responsible for delivering performance improvements.

14.10 Unit Heads are now accountable for the performance of their units and this is re-inforced by the exception reporting structure. Whilst this was still developing, we found that managers were now clearly aware of how their units were performing and where improvement was required.

14.11 The Unit Heads are supported by Office Business Managers who span the operational units at each site. There is a constructive working relationship between the managers and unit heads, who meet regularly on a formal and informal basis to deal with unit issues.

#### **Ethics, behaviours and the approach to equality and diversity**

14.12 While on-site the Area's commitment to promoting dignity at work was evident through the use of posters in various parts of offices. Despite the pressures that all staff felt under there was a very supportive attitude at all levels within the units.

14.13 The minutes of AMB meetings indicated that senior managers are thanked for their work, and the recently introduced newsletter recognises good casework outcomes. There was less evidence of a more general recognition of what staff at all levels had achieved. At all times, and particularly at times of substantial change, it is important that management's appreciation of the work done by staff is made visible.

14.14 Since our inspection a rewards and recognition policy is being developed to help address this issue.

14.15 The proportion of staff from the black and minority ethnic community is much higher than that represented in the local workforce.

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#### **ASPECTS FOR IMPROVEMENT**

There should be more overt recognition by senior management of the achievements of staff.

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## 15 SECURING COMMUNITY CONFIDENCE

*There was a strong commitment amongst senior managers to engage with and secure the confidence of their local communities, although this needs to be structured in a way that ensures the Area receives the maximum value from the resources expended. There is constructive work with the Local Criminal Justice Board (LCJB) and the co-ordination of activity is developing.*

*The British Crime Survey indicated that 44.6% of local people had confidence in the criminal justice agencies in bringing offenders to justice, compared with the Area baseline figure of 44% in 2002-03.*

### **Engagement with the community**

- 15.1 As part of the Area's change programme a People, Equality and Diversity group had been set up which deals with inward and outward facing activity. Additional funding was secured to create a post of Area Communications Equality and Training Manager, who has drawn up a Community Engagement Action Plan as part of the Area's 2006-07 Communication Strategy. The plan is challenging but sets out clearly what the Area hopes to achieve, together with the desired outcomes.
- 15.2 The Area is developing productive contacts with umbrella organisations to help identify the individual organisations which represent varying communities or interest groups.
- 15.3 Managers and some other staff are undertaking a wide range of community engagement activity. Some is clearly challenging, for example addressing local lesbian, gay, bisexual and transgendered groups and diversity forums. The Area is also taking the lead, under the auspices of the LCJB, in organising a conference for the elderly and carers on the fear of crime. This will be a high profile event for the CPS, with significant media interest.
- 15.4 To assist the co-ordination of community engagement activity, an Area-wide electronic diary system has been developed to enable staff to record their engagement activity and also evaluate its success. This is an innovative approach, although at the time of our inspection not everyone was aware of how it operated.

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### STRENGTHS

The Area's approach to engaging with organisations representing communities or interest groups.

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### **Minority ethnic communities**

- 15.5 At a local level work has started on engaging with the Iraqi/Kurdish community in Plymouth, following a number of unsuccessful case outcomes involving members of those communities as either defendants or victims. This is a good example of a community engagement activity which has a clear link to the core business of the Area.

**Complaints**

- 15.6 The Area deals with complaints in a timely manner. The responses to complaints were generally well written and dealt with the issues raised and we were pleased to note that managers were open when there had been a CPS failing, but were prepared - where appropriate - to defend the action of staff.
  
- 15.7 We also noted in one case that the letter had been tailored to meet the specific needs of the recipient.

**Public confidence in the CJS**

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**PUBLIC CONFIDENCE IN EFFECTIVENESS OF CRIMINAL JUSTICE AGENCIES IN BRINGING OFFENDERS TO JUSTICE (BRITISH CRIME SURVEY)**

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CJS area Baseline 2002-03	Most recent CJS area figures in 2006-07
44%	44.6%

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- 15.8 The criminal justice area's performance is variable and it failed to meet its target for 2005-06 of 48.6%. However, as we have noted above, CPS Devon and Cornwall are increasing their activity and working closely with the LCJB.
  
- 15.9 To improve public confidence the Area is developing its relationship with the media and is seeking to be more pro-active in securing positive coverage of its work. We saw good evidence of re-active approaches to misleading press coverage, one of which led to a detailed correction.

## ANNEX A: AREA EFFECTIVENESS INSPECTION FRAMEWORK

### Standards and Criteria

#### 1 Pre-charge advice and decisions

**Standard:** *Pre-charge advice and decisions are of high quality; an effective pre-charge decision scheme has been fully implemented and resourced within the Area; and benefits are being realised.*

**Criteria 1A:** Pre-charge advice and decisions are of high quality, in accordance with the Director's Guidance, the *Code*, charging standards and policy guidelines.

**Criteria 1B:** Pre-charge decision-making operates effectively at police charging centres and is accurately documented and recorded.

**Criteria 1C:** The Area is realising the benefits of the charging scheme.

#### 2 Case decision-making and handling to ensure successful outcomes in the magistrates' courts

**Standard:** *Magistrates' courts' cases are reviewed, prepared and managed to high standards so that the proportion of successful outcomes increases, and hearings are effective.*

**Criteria 2A:** Case decisions are of high quality and successful outcomes are increasing.

**Criteria 2B:** Cases progress at each court appearance.

**Criteria 2C:** The Area contributes effectively to reducing cracked and ineffective trials and increasing the proportion of effective trials.

**Criteria 2D:** The Area uses CMS to contribute to the effective management of cases.

#### 3. Case decision-making and handling to ensure successful outcomes in the crown court

**Standard:** *Crown Court cases are continuously reviewed, prepared and managed to high standards, so that the proportion of successful outcomes increases, and hearings are effective.*

**Criteria 3A:** Case decisions are of high quality and successful outcomes are increasing.

**Criteria 3B:** Cases progress at each court appearance.

**Criteria 3C:** The Area contributes effectively to reducing cracked and ineffective trials, and increasing the proportion of effective trials.

**Criteria 3D:** The Area uses CMS to contribute to the effective management of cases.

#### 4 Presenting and progressing cases at court

**Standard:** *Prosecution advocates ensure that every hearing is effective, and that cases are presented fairly, thoroughly and firmly, and defence cases are rigorously tested.*

**Criteria 4A:** Advocates are active at court in ensuring cases progress and hearings are effective.

**Criteria 4B:** The standard of advocacy is of high quality and in accordance with national standards.

**5 Sensitive cases and hate crimes**

**Standard:** *The Area makes high quality decisions and deals with specialised and sensitive cases, and hate crimes effectively.*

**Criteria 5A:** Area advice and decisions in specialised and sensitive cases, and hate crimes are of high quality, in accordance with the Code and policy guidance.

**Criteria 5B:** The Area identifies and manages sensitive cases effectively.

**6 Disclosure**

**Standard:** *The Area complies with the prosecution's duties of disclosure of unused material and disclosure is handled scrupulously.*

**Criteria 6A:** The Area's decision-making and handling of unused material complies with the prosecution's duties of disclosure.

**7 Custody time limits**

**Standard:** *In all cases, custody time limits are adhered to.*

**Criteria 7A:** Custody time limits are adhered to in all relevant cases.

**Criteria 7B:** Area custody time limit systems comply with current CPS guidance and case law.

**8 The service to victims and witnesses**

**Standard:** *The Area considers victims' and witnesses' needs throughout the entirety of the prosecution process and appropriate liaison, information and support is provided at the right time.*

**Criteria 8A:** The Area ensures timely and effective consideration and progression of victim and witness needs.

**Criteria 8B:** The Area, with its criminal justice partners, has implemented the "No Witness No Justice" scheme effectively.

**9 Delivering change**

**Standard:** *The Area plans effectively, and manages change, to ensure business is well delivered to meet CPS and CJS priorities.*

**Criteria 9A:** The Area has a clear sense of purpose supported by relevant plans.

**Criteria 9B:** A coherent and co-ordinated change management strategy exists.

**Criteria 9C:** Area staff have the skills, knowledge and competences to meet the business need.

**10 Managing resources**

**Standard:** *The Area allocates and manages resources to deliver effective performance and provide value for money.*

**Criteria 10A:** The Area seeks to achieve value for money, and operates within budget.

**Criteria 10B:** All Area staff are deployed efficiently.



## 11 **Managing performance to improve**

**Standard:** *The Area systematically monitors, analyses and reports on performance, and uses performance information to promote continuous improvement and inform future decisions.*

**Criteria 11A:** Managers are held accountable for performance.

**Criteria 11B:** The Area is committed to managing performance jointly with CJS partners.

**Criteria 11C:** Performance management arrangements enable a complete assessment of Area performance, and information is accurate, timely, concise and user-friendly.

**Criteria 11D:** Internal systems for improving/raising the quality of casework are robust and founded on reliable and accurate analysis.

## 12 **Leadership**

**Standard:** *The behaviour and actions of senior managers promote and inspire CPS staff and CJS partners to achieve Area and national objectives.*

**Criteria 12A:** The management team communicates the vision, values and direction of the Area well.

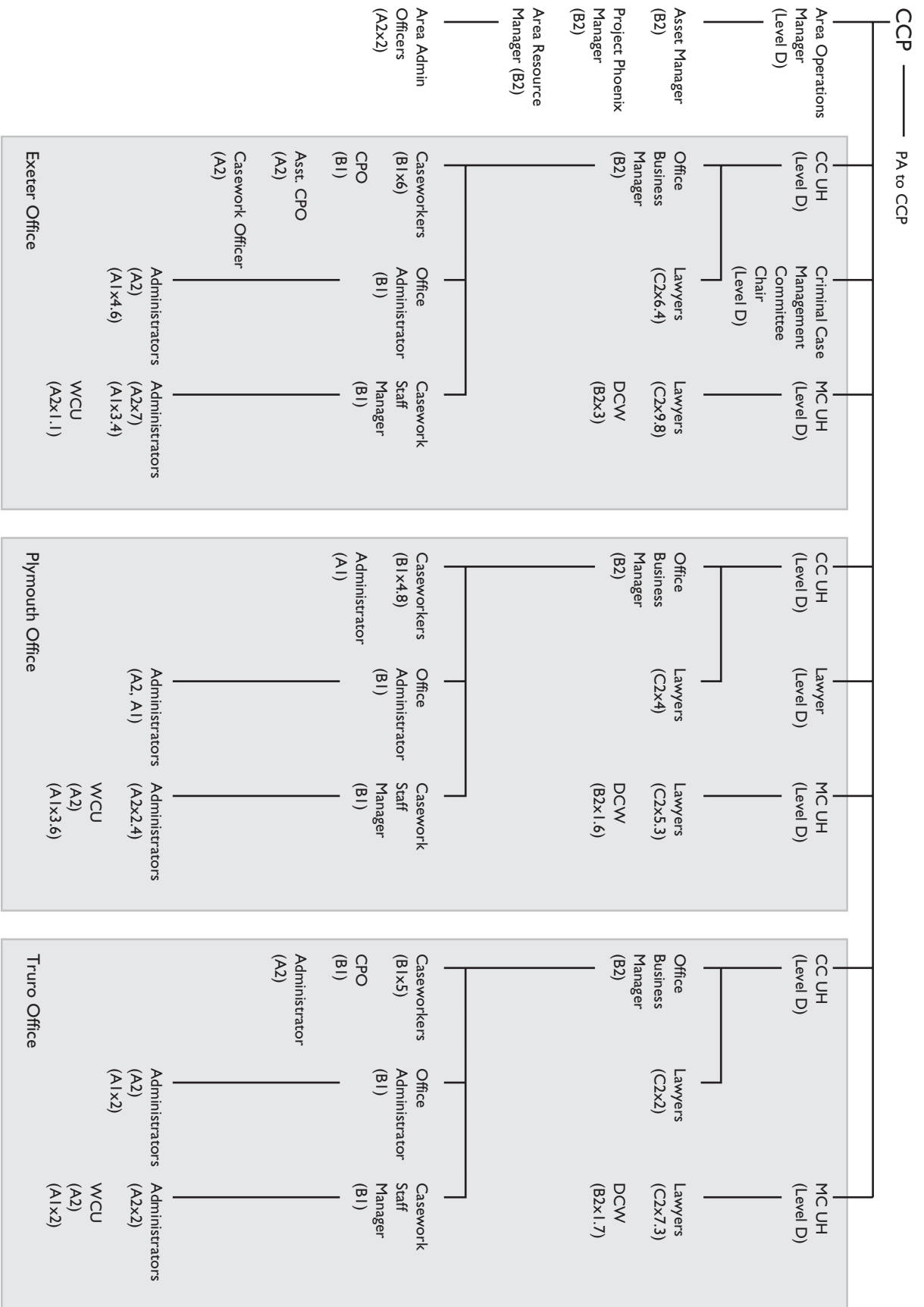
**Criteria 12B:** Senior managers act as role models for the ethics, values and aims of the Area and the CPS, and demonstrate a commitment to equality and diversity policies.

## 13 **Securing community confidence**

**Standard:** *The CPS is engaging positively and effectively with the communities it serves, and public confidence in the criminal justice system is improving.*

**Criteria 13A:** The Area is working pro-actively to secure the confidence of the community.

## ANNEX B: CPS DEVON AND CORNWALL ORGANISATIONAL STRUCTURE



## ANNEX C: TABLE OF CASEWORK PERFORMANCE DATA

Year to 30 June 2006	Devon and Cornwall		National	
	Number	Percentage	Number	Percentage
<b>1. Magistrates' Courts - Types of case</b>				
Pre-charge decision	6,011	19.9	538,222	32.0
Advice	124	0.4	3,721	0.2
Summary	15,702	52.1	707,620	42.1
Either way and indictable	8,317	27.6	428,603	25.5
Other proceedings	0	0.0	3,968	0.2
<b>Total</b>	<b>30,154</b>	<b>100.0</b>	<b>1,682,134</b>	<b>100.0</b>
<b>2. Magistrates' Courts - Completed cases</b>				
Discontinuances and bind overs	3,074	13.5	121,532	11.5
Warrants	261	1.1	33,296	3.1
Dismissed no case to answer	30	0.1	2,971	0.3
Acquittals after trial	359	1.6	18,901	1.8
Discharged	6	0.0	2,334	0.2
Total Unsuccessful Outcomes	3,730	16.4	179,034	16.9
Convictions	19,014	83.6	879,249	83.1
<b>Total</b>	<b>22,744</b>	<b>100.0</b>	<b>1,058,283</b>	<b>100.0</b>
<b>Committed for Trial In the Crown Court</b>	<b>1,515</b>		<b>92,855</b>	
<b>3. Magistrates' Courts - Case results</b>				
Guilty pleas	14,841	76.5	663,868	73.7
Proofs in absence	3,259	16.8	163,863	18.2
Convictions after trial	914	4.7	51,518	5.7
Acquittals after trial	359	1.9	18,901	2.1
Acquittals no case to answer	30	0.2	2,971	0.3
<b>Total</b>	<b>19,403</b>	<b>100.0</b>	<b>901,121</b>	<b>100.0</b>
<b>4. Crown Court -Types of case</b>				
Indictable only	553	24.5	35,016	28.4
Either way defence election	140	6.2	5,005	4.1
Either way magistrates' direction	786	34.9	48,178	39.1
Summary appeals; committals for sentence	774	34.4	34,971	28.4
<b>Total</b>	<b>2,253</b>	<b>100.0</b>	<b>123,170</b>	<b>100.0</b>
<b>5. Crown Court - Completed cases</b>				
Judge ordered acquittals and bind overs	197	10.6	12,422	13.5
Warrants	11	0.6	1,430	1.6
Judge directed acquittals	16	0.9	1,465	1.6
Acquittals after trial	93	5.0	5,838	6.4
Total unsuccessful outcomes	317	17.0	21,155	23.0
Convictions	1,544	83.0	70,775	77.0
<b>Total</b>	<b>1,861</b>	<b>100.0</b>	<b>91,930</b>	<b>100.0</b>
<b>6. Crown Court – Case results</b>				
Guilty pleas	1,009	75.5	58,872	75.4
Convictions after trial	218	16.3	11,903	15.2
Acquittals after trial	93	7.0	5,838	7.5
Judge directed acquittals	16	1.2	1,465	1.9
<b>Total</b>	<b>1,336</b>	<b>100.0</b>	<b>78,078</b>	<b>100.0</b>

## ANNEX D: TABLE OF RESOURCES AND CASELOADS

<b>Area Caseload/Staffing</b>		
<b>CPS Devon and Cornwall</b>		
	<b>September 2006</b>	<b>September 2004</b>
Staff in post	123.3	117
Lawyers in post (excluding CCP)	45.1	49.6
Pre-charge decisions/advices per lawyer (excluding CCP)	136.0	NA
DCWs in post	6.4	3
Magistrates' court's cases per lawyer and DCW (excluding CCP)	467.3	504.2
Magistrates' court's contested trials per lawyer (excluding CCP)	28.9	27.3
Committals for trial and "sent" cases per lawyer (excluding CCP)	33.6	30.8
Crown Court contested trials per lawyer (excluding CCP)	7.3	7.4
Level B1, B2, B3 caseworkers in post (excluding DCWs)	34.1	28.7
Committals for trial and "sent" cases per level B caseworker	44.4	68.0
Crown Court contested trials per level B caseworker	9.6	12.9
Level A1 and A2 staff in post	43.1	33.7
Cases per level A staff	699.6	894.5
Running costs (non ring fenced)	£5,834,440	£4,885,597

NB: Caseload data represents an annual figure for each relevant member of staff. Crown Court cases are counted within the magistrates' court's cases total.

Where the advice is that proceedings should be instituted, that case will also be included in the relevant category of summary or either way/indictable case.

## ANNEX E: IMPLEMENTATION OF ASPECTS FOR IMPROVEMENT FROM OVERALL PERFORMANCE ASSESSMENT PUBLISHED DECEMBER 2005

ASPECTS FOR IMPROVEMENT	POSITION IN SEPTEMBER 2006
1 Migration to the statutory charging scheme is highly problematic. There is there is an urgent need to kick-start the joint CPS/police Project Management team.	Achieved – the Area moved to statutory charging in April 2006.
2 The Area does not regularly provide pre-charge advice and decisions at all relevant police stations	Achieved – coverage is now provided as planned, but little is face-to-face.
3 The lack of police Unique Reference Numbers on files has hampered the recording and counting of pre-charge decision cases.	Substantial progress – there are still concerns over the management of some cases.
4 There is only limited realisation of charging benefits.	Substantial progress – benefits now realised in all aspects except for magistrates' court discontinuance rate.
5 There is limited joint working and analysis with the police at some levels. The monitoring of, or action taken in respect of, police non-compliance with the scheme needs to be strengthened.	Substantial progress – there is good monitoring of most aspects of non-compliance and discussion at PTPM meetings, although needs to be improved in respect of no further action cases.
6 The number of wasted costs orders are well above the national average.	Achieved – number of orders reduced.
7 Staff are not routinely using CMS to record key events in cases.	Achieved – performance is now significantly better.
8 Performance in obtaining restraining orders needs to be improved. Whilst relevant staff have been trained in the operation of the Joint Asset Recovery Database, some still need to be trained in the application of the provisions of the Proceeds of Crime Act.	Limited progress – the Area recognises there is still a training need and for better identification of cases at the PCD stage.
9 The percentage of pre-charge decision cases resulting in a conviction is below the national average and is not increasing.	Achieved – the conviction rate in PCD cases is now above the national average.
10 The Area Offences Brought To Justice (OBTJ) target was missed by 227 offences although performance is improving.	Achieved – now performing above target although conviction rate is lower than found nationally.

11	It is not clear whether CTL checks are sufficient to assure managers that the monitoring system is being adhered to, that all necessary action has been taken and that all live custody time limit cases are being monitored.	Substantial progress – monitoring has improved, although not yet consistent across the Area.
12	Recording of CTL expiry dates and back-up systems needed to be improved.	Substantial progress – expiry dates now recorded, but CMS still not updated quickly.
13	Concerns over assurance of compliance with disclosure obligations and timeliness.	Substantial progress – performance now assessed as part of CQA process but timeliness of disclosure still an issue in some summary trial cases, although not leading to ineffective trials.
14	There has been no joint training with the police, and some unused material schedules are still lacking in detail. Additionally, prosecutors do not always use the disclosure log to evidence their actions.	Limited progress - no joint training yet held. Schedules are now more detailed, but logs still not being used correctly.
15	Implementation of Witness Care Units.	Substantial progress – all units now fully operational, although with limited CPS staffing. There is a need for a better understanding about the provision of information to prosecutors.
16	Significant gaps in the planning process and no review of the Area Business Plan or Risk Register.	Achieved – the Area has an effective comprehensive Area Business Plan and risk register which are regularly reviewed and updated.
17	Change is not systematically managed.	Achieved – the Area has a highly developed change programme.
18	Post implementation reviews of change projects are not carried out.	Achieved – these are now reviewed thoroughly as part of the change programme.
19	Training needs not prioritised or linked to the plan.	Achieved – the Area has a comprehensive and structured learning and development plan.
20	Lack of budgetary control and resource planning leading to overspends.	Achieved – strict budgetary control and resource planning now in place.
21	Limited evidence of value for money initiatives.	Achieved – good evidence of value for money approach.
22	High spend on agents.	Limited progress – agent usage has been cut significantly – but still a profiled overspend at time of inspection.

23	DCW court sessions need to be increased.	Limited progress – still lowest Area percentage of court sessions covered by DCWs, but more DCWs appointed and position should improve in latter part of 2006-07.
24	High sick absence.	Limited progress – still a high level of sick absence – but Area is now actively managing this issue.
25	No formalised or consistent performance management and a lack of performance information.	Achieved – the Area produces a performance pack and managers at all levels are accountable.
26	No strategy for continuous improvement.	Achieved – effective change programme and committee structure to drive up performance.
27	Ineffective performance appraisal system.	Achieved – objectives now link to the Business Plan.
28	No unit plans.	No longer applicable – unit planning is delivered through the change programme.
29	No common systems or processes.	Limited progress to date – the Area is undertaking a process mapping exercise.
30	Lack of engagement with staff on strategic issues.	Substantial progress – the committee structure ensures cross-staff engagement although some staff unclear about expected benefits.
31	Quality and regularity of local communication is variable.	Substantial progress – Communication Strategy embedded in change programme, although still a need to tailor what staff receive to ensure maximum benefit.
31	Area plans need to reflect CPS Equality and Diversity policies.	Achieved – there is a People Equality and Diversity Committee and an Area Communications, Equality and Training Manager.
32	Community engagement needs to be evaluated.	Limited progress to date – the Area electronic diary now includes an evaluation section, although not all staff yet familiar with its operation.
33	Service improvements need to be made as a result of community consultation.	Limited progress – the Area is now working to target those communities on whom core business impacts.

N.B Some aspects have been merged where they deal with linked aspects of performance.

## ANNEX F: TOTAL NUMBER OF FILES EXAMINED FOR CPS DEVON AND CORNWALL

Number of files examined	
<b>Magistrates' courts' cases:</b>	
Pre-charge advice/decision	8
No case to answer	1
Trials (acquittals and convictions)	12
Youth trials	7
Discontinued cases	9
Discharged committals	1
Race crime	5
Domestic violence cases	24
Fatal road traffic offences	1
Cases subject to custody time limits	3
<b>Sub total</b>	<b>71</b>
<b>Crown Court cases:</b>	
Discontinued (sent cases dropped before service of case)	1
Judge ordered acquittals	8
Judge directed acquittals	1
Trials (acquittals and convictions)	12
Child abuse cases	16
Race and hate crime	10
Homicide	2
Rape cases	5
Cases subject to custody time limits	3
	<b>58</b>
<b>TOTAL</b>	<b>129</b>



## ANNEX G: LIST OF LOCAL REPRESENTATIVES OF CRIMINAL JUSTICE AGENCIES, ORGANISATIONS AND INDIVIDUALS WHO ASSISTED IN OUR INSPECTION

### **Crown Court**

His Honour Judge Gilbert QC  
His Honour Judge Rucker

### **Magistrates' Courts**

District Judge Farmer  
Mrs Gorman JP, Chair of Plymouth District Magistrates' Court Committee  
Mrs C Hodgson JP, Chair of Barnstaple Magistrates' Court Committee  
Mrs C Martyn JP, Chair of West Cornwall Magistrates' Court Committee  
Mr J Mills JP, Chair of South Devon Magistrates' Court Committee  
Mrs Seaton JP, Chair of Central Devon Magistrates' Court Committee  
Mr D Stevens JP, Chair of East Cornwall Magistrates' Court Committee

### **Her Majesty's Courts Service**

Mr D Gentry, Area Director  
Mr A Mimmack, Justices' Clerk Central and North Devon  
Mr N Lord, Justices' Clerk East and West Cornwall  
Mr T Smith, Justices' Clerk Plymouth and South Devon  
Mr D Frankham, Plymouth District Legal Team Manager  
Mr S Roveri, South Devon Legal Team Manager  
Mr P Vincent, Central and North Devon Legal Team Manager  
Mr D Ashbee, Plymouth Magistrates' Court  
Ms R Bellamy, Central Devon Magistrates' Court  
Ms A Blacker, Plymouth Crown Court  
Ms D Bolt, Central Devon Magistrates' Court  
Mr J Crocker, Central Devon Court  
Ms S Davies, Plymouth Crown Court  
Mrs L Dove, Manager, Truro Crown Court  
Ms J Gallie, Truro Magistrates' Court  
Ms T Gaunt, Central Devon Magistrates' Court  
Ms A May, Chair of Area Listing Forum  
Ms G Taylor, East Cornwall Magistrates' Court

### **Police**

Acting Chief Constable N Arnold  
Assistant Chief Constable C Winter  
Chief Superintendent A Bibey  
Chief Superintendent A Clarke  
Chief Superintendent Cooper  
Chief Superintendent C Terry  
Superintendent E Webb  
Detective Chief Inspector J Clements  
Inspector M Cooper  
Acting Inspector S Weare  
Camborne Custody Sergeants  
Exeter Custody Sergeants  
Plymouth Custody Sergeants  
Torquay Custody Sergeants  
Devon and Cornwall Domestic Violence and Hate Crime Officers  
Mr B Tapley, Witness Care Unit Manager

### **Defence Solicitors**

Ms A Bellchambers  
Ms V Francis  
Mr A Harris  
Ms M McCarthy  
Mr A Morrison  
Mr S Nunn  
Mr D Teague  
Mr S Walker

### **Counsel**

Mr M Meeke QC  
Mr M Edmunds  
Mr I Fenny  
Mr R Taylor

### **Probation Service**

Mrs M MacFarlane, Chief Probation Officer

### **Witness Service**

Ms J Baker  
Mr C Broom  
Ms A Molloy  
Ms C Senior

### **Victim Support**

Ms F Busby  
Ms S Piper

### **NSPCC**

Ms S Allum

### **Local Crime and Disorder Reduction**

#### **Partnerships**

Mr P Dale, Safer South Hams Community  
Safety Partnership  
Mr D George, Restormel Crime and Disorder  
Reduction Partnership  
Mr M Miller, Exeter Community  
Safety Partnership  
Mr G Moore, East and Mid Devon Community  
Safety Partnership  
Mrs A Palmer, Safer North Devon  
Ms K Passmore, Torbay Community  
Safety Manager  
Mr A Thomas, Isles of Scilly Community  
Safety Partnership  
Mrs A Ward, North Cornwall Community  
Safety Partnership

### **Youth Offending Teams**

Mr J Cousins, Truro  
Mrs B Shoker, Plymouth

### **Community Groups**

Mrs A Williams, Cornwall Deaf Association  
Ms M Smeaton, South Western  
Ambulance Service  
Mrs R Martin, Devon County Council Domestic  
Violence Prevention Co-ordinator  
Mr S Stanislaus, Torbay Racist Action Priority Team

### **Members of Parliament**

Mr C Breed MP  
Mr G Streater MP  
Other Members of Parliament with  
constituencies in Devon and Cornwall were  
invited to contribute.

### **Other Contributors**

Mr S Hill, Gay Police Association  
Ms A Jefferies

We should also like to thank those victims and witnesses who gave of their time by contributing to group discussions.

## ANNEX H: HMCPSI VISION, MISSION AND VALUES

### Vision

HMCPSI's purpose is to promote continuous improvement in the efficiency, effectiveness and fairness of the prosecution services within a joined-up criminal justice system through a process of inspection and evaluation; the provision of advice; and the identification of good practice. In order to achieve this we want to be an organisation which:

- performs to the highest possible standards;
- inspires pride;
- commands respect;
- works in partnership with other criminal justice inspectorates and agencies but without compromising its robust independence;
- values all its staff; and
- seeks continuous improvement.

### Mission

HMCPSI strives to achieve excellence in all aspects of its activities and in particular to provide customers and stakeholders with consistent and professional inspection and evaluation processes together with advice and guidance, all measured against recognised quality standards and defined performance levels.

### Values

We endeavour to be true to our values, as defined below, in all that we do:

- consistency** Adopting the same principles and core procedures for each inspection, and apply the same standards and criteria to the evidence we collect.
- thoroughness** Ensuring that our decisions and findings are based on information that has been thoroughly researched and verified, with an appropriate audit trail.
- integrity** Demonstrating integrity in all that we do through the application of our other values.
- professionalism** Demonstrating the highest standards of professional competence, courtesy and consideration in all our behaviours.
- objectivity** Approaching every inspection with an open mind. We will not allow personal opinions to influence our findings. We will report things as we find them.

Taken together, these mean:

We demonstrate integrity, objectivity and professionalism at all times and in all aspects of our work and that our findings are based on information that has been thoroughly researched, verified and evaluated according to consistent standards and criteria.

## ANNEX I: GLOSSARY

### **Adverse Case**

A *NCTA*, *JOA*, *JDA* (see separate definitions) or one where magistrates decide there is insufficient evidence for an *either way* case to be committed to the Crown Court.

### **Agent**

Solicitor or barrister not directly employed by the CPS who is instructed by them, usually on a sessional basis, to represent the prosecution in the magistrates' court.

### **Area Business Manager (ABM)**

Senior business manager responsible for finance, personnel, business planning and other operational matters.

### **Area Management Team (AMT)**

The senior legal and non-legal managers of an Area.

### **Aspect for improvement**

A significant weakness relevant to an important aspect of performance (sometimes including the steps necessary to address this).

### **Compass CMS**

IT system for case tracking and case management used by the CPS. Compass is the new comprehensive system used in all Areas.

### **Caseworker**

A member of CPS staff who deals with, or manages, day-to-day conduct of a prosecution case under the supervision of a Crown Prosecutor and, in the Crown Court, attends court to assist the advocate.

### **Charging Scheme**

The Criminal Justice Act 2003 took forward the recommendations of Lord Justice Auld in his Review of the Criminal Courts, so that the CPS will determine the decision to charge offenders in the more serious cases. Shadow charging arrangements were put in place in Areas; and the statutory scheme had a phased roll-out across priority Areas and subsequently all 42 Areas, the last being in April 2006.

### **Chief Crown Prosecutor (CCP)**

One of 42 chief officers heading the local CPS in each Area, is a barrister or solicitor. Has a degree of autonomy but is accountable to the Director of Public Prosecutions for the performance of the Area.

### **Code for Crown Prosecutors (the Code)**

The public document that sets out the framework for prosecution decision-making. Crown Prosecutors have the DPP's power to determine cases delegated, but must exercise them in accordance with the Code and its two tests – the evidential test and the public interest test. Cases should only proceed if, firstly, there is sufficient evidence to provide a realistic prospect of conviction and, secondly, if the prosecution is required in the public interest (see also "Threshold test").

### **Co-location**

CPS and police staff working together in a single operational unit (*TU* or *CJU*), whether in CPS or police premises – one of the recommendations of the *Glidewell* report.

### **Committal**

Procedure whereby a defendant in an *either way* case is moved from the magistrates' court to the Crown Court for trial, usually upon service of the prosecution evidence on the defence, but occasionally after consideration of the evidence by the magistrates.

### **Court Session**

There are two sessions each day in the magistrates' courts, morning and afternoon.

### **CPS Direct**

This is a scheme to supplement the advice given in Areas to the police and the decision-making as to charge under the charging scheme. Lawyers are available on a single national telephone number out of normal office hours so that advice can be obtained at any time. It is available to all Areas.

**Cracked trial**

A case listed for a contested trial which does not proceed, either because the defendant changes his plea to guilty, or pleads to an alternative charge, or the prosecution offer no evidence.

**Criminal Case Management Framework**

The Framework provides practitioners with a consistent guide to their own, and their partners' roles and responsibilities, together with operational guidance on case management.

**Criminal Justice Unit (CJU)**

Operational unit of the CPS that handles the preparation and presentation of magistrates' courts' prosecutions. The *Glidewell* report recommended that police and CPS staff should be located together and work closely to gain efficiency and higher standards of communication and case preparation. (In some Areas the police administration support unit is called a CJU.)

**Custody time limits (CTLs)**

The statutory time limit for keeping a defendant in custody awaiting trial. May be extended by the court in certain circumstances.

**Designated caseworker (DCW)**

A senior *caseworker* who is trained to present straightforward cases on pleas of guilty, or to prove them where the defendant does not attend the magistrates' court. Their remit is being expanded.

**Direct Communication with Victims (DCV)**

The CPS writes directly to a victim of crime if a case is dropped or the charges reduced in all seriousness. In some instances a meeting will be offered to explain this.

**Disclosure, *Initial and continuing***

The prosecution has a duty to disclose to the defence material gathered during the investigation of a criminal offence, which is not intended to be used as evidence against the defendant, but which may be relevant to an issue in the case. Initial disclosure is given where an item may undermine the prosecution case or assist the defence case. In the magistrates' courts

the defence may serve a defence statement and this must be done in the Crown Court. The prosecution has a continuing duty of disclosure in the light of this and developments in the trials. (Duties of primary and secondary disclosure apply to cases investigated before 4 April 2005.)

**Discontinuance**

The dropping of a case by the CPS in the magistrates' court, whether by written notice, withdrawal, or offer of no evidence at court.

**Early Administrative Hearing (EAH)**

Under *Narey* procedures, one of the two classes into which all *summary* and *either way* cases are divided. EAHs are for cases where a not guilty plea is anticipated.

**Early First Hearing (EFH)**

Under *Narey* one of the two classes into which all *summary* and *either way* cases are divided. EFHs are for straightforward cases where a guilty plea is anticipated.

**Effective Trial Management Programme (ETMP)**

This initiative, involving all criminal justice agencies working together, aims to reduce the number of ineffective trials by improving case preparation and progression from the point of charge through to the conclusion of a case.

**Either way offences**

Those triable in either the magistrates' court or the Crown Court, e.g. theft.

**Evidential test**

The initial test under *the Code* – is there sufficient evidence to provide a realistic prospect of conviction on the evidence?

**Glidewell**

A far-reaching review of CPS operations and policy dating from 1998 which made important restructuring recommendations e.g. the split into 42 local Areas and the further split into functional units - *CJUs* and *TUs*.

### **Good practice**

An aspect of performance upon which the Inspectorate not only comments favourably, but considers that it reflects a manner of handling work developed by an Area which, with appropriate adaptations to local needs, might warrant being commended as national practice.

### **Higher Court Advocate (HCA)**

In this context, a lawyer employed by the CPS who has a right of audience in the Crown Court.

### **Joint performance monitoring (JPM)**

A management system which collects and analyses information about aspects of activity undertaken by the police and the CPS, aimed at securing improvements in performance. Now used more often generically to relate to wider aspects of performance involving two or more criminal justice agencies.

### **Indictable only offences**

Offences triable only in the Crown Court, e.g. murder, rape, robbery.

### **Ineffective trial**

A case listed for a contested trial that is unable to proceed when it was scheduled to start, for a variety of possible reasons, and is adjourned to a later date.

### **Judge directed acquittal (JDA)**

Where the judge directs a jury to find a defendant not guilty after the trial has started.

### **Judge ordered acquittal (JOA)**

Where the judge dismisses a case as a result of the prosecution offering no evidence before a jury is empanelled.

### **Level A, B, C, D, E staff**

CPS grades below the Senior Civil Service, from A (administrative staff) to E (senior lawyers or administrators).

### **Local Criminal Justice Board**

The Chief Officers of police, probation, the courts, and the CPS, a local prison governor and the Youth Offending Team manager in each criminal justice area who are accountable to the National Criminal Justice Board for the delivery of PSA targets.

### **MG6C, MG6D etc**

Forms completed by police relating to unused material. MG is the national Manual of Guidance used by police and the CPS.

### **Narey courts, reviews etc**

A reformed procedure for handling cases in the magistrates' court, designed to produce greater speed and efficiency.

### **Narrowing the Justice Gap (NTJG)**

It is a Government Criminal Justice Public Service Agreement target to increase the number of offences for which an offender is brought to justice; that is offences which result in a conviction, a caution or which are taken into consideration when an offender is sentenced for another matter; a fixed penalty notice, or a formal warning for possession of drugs. The difference between these offences and the overall number of recorded offences is known as the justice gap.

### **No Case to Answer (NCTA)**

Where magistrates dismiss a case at the close of the prosecution evidence because they do not consider that the prosecution have made out a case for the defendant to answer.

### **“No Witness no Justice” (NWNJ):Victim and Witness care project**

This is a project to improve witness care: to give them support and the information that they need from the inception of an incident through to the conclusion of a criminal prosecution. It is a partnership of the CPS and the Association of Chief Police Officers (ACPO) and also involves Victim Support and the Witness Service. Jointly staffed Witness Care Units were be introduced into all CPS Areas by December 2005.

### **Persistent young offender**

A youth previously sentenced on at least three occasions.

### **Pre-trial review**

A hearing in the magistrates' court designed to define the issues for trial and deal with any other outstanding pre-trial issues.

**Proceeds of Crime Act 2002 (POCA)**

This Act contains forfeiture and confiscation provisions and money laundering offences, which facilitate the recovery of assets from criminals.

**Prosecution Team Performance Management**

Joint analysis of performance by the CPS and police that has largely replaced the system of JPM.

**Public Interest test**

The second test under *the Code* - is it in the public interest to prosecute this defendant on this charge?

**Public Service Agreement (PSA) targets**

Targets set by the Government for the criminal justice system (CJS), relating to bringing offenders to justice, reducing ineffective trials and raising public confidence in the CJS.

**Recommendation**

This is normally directed towards an individual or body and sets out steps necessary to address a significant weakness relevant to an important aspect of performance (i.e. an aspect for improvement) that, in the view of the Inspectorate, should attract highest priority.

**Review: initial, continuing, summary trial etc**

The process whereby a Crown Prosecutor determines that a case received from the police satisfies and continues to satisfy the legal tests for prosecution in *the Code*. One of the most important functions of the CPS.

**Section 9 Criminal Justice Act 1967**

A procedure for serving statements of witnesses so that the evidence can be read, rather than the witness attend in person.

**Section 51 Crime and Disorder Act 1998**

A procedure for fast-tracking *indictable only* cases to the Crown Court, which now deals with such cases from a very early stage – the defendant is sent to the Crown Court by the magistrates.

**Sensitive material**

Any relevant material in a police investigative file not forming part of the case against the defendant, the *disclosure* of which may not be in the public interest.

**Specified proceedings**

Minor offences which are dealt with by the police and the magistrates' courts and do not require review or prosecution by the CPS, unless a not guilty plea is entered.

**Strengths**

Work undertaken properly to appropriate professional standards i.e. consistently good work.

**Summary offences**

Those triable only in the magistrates' courts, e.g. most motoring offences, common assault etc.

**Threshold test**

*The Code* for Crown Prosecutors provides that where it is not appropriate to release a defendant on bail after charge, but the evidence to apply the full *Code* test is not yet available, the Threshold Test should be applied. There must be at least a reasonable suspicion that the suspect has committed an offence, and it is in the public interest to charge the suspect, to meet the test. A number of factors, including the likelihood and nature of further evidence to be obtained must be considered.

**TQI**

A monitoring form on which both the police and the CPS assess the timeliness and quality of the police file as part of *joint performance monitoring* (largely superseded by PTPM).

**Trial Unit (TU)**

Operational unit of the CPS which prepares cases for the Crown Court.







HM Crown Prosecution Service Inspectorate

London Office:

26 – 28 Old Queen Street

London SW1H 9HP

Tel. 020 7210 1197

Fax. 020 7210 1195

York Office:

United House, Piccadilly

York, North Yorkshire, YO1 9PQ

Tel. 01904 54 5490

Fax. 01904 54 5492

Website:

[www.hmcpsi.gov.uk](http://www.hmcpsi.gov.uk)

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