



CPS DEVON & CORNWALL

THE INSPECTORATE'S REPORT ON
CPS DEVON AND CORNWALL

EXECUTIVE SUMMARY

DECEMBER 2006

Introduction

This is the report of Her Majesty's Crown Prosecution Service Inspectorate's (HMCPPI) inspection about CPS Devon and Cornwall (the Area).

HMCPPI's inspection of CPS Devon and Cornwall was carried out at the same time as a joint inspection by the criminal justice inspectorates of Devon and Cornwall criminal justice area. This enabled us to draw on a wider range of evidence than would usually be obtained.

There are two types of inspection. A full inspection considers each aspect of Area performance within the framework. A risk based inspection considers in detail only those aspects assessed as requiring scrutiny. This is based on HMCPPI's overall performance assessment and other key data.

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 of the Area should be a full one.

HMCPPI's OPA report identified a total of 39 aspects for improvement. In the course of this inspection, inspectors have assessed the extent to which these have been addressed.

Overview

CPS Devon and Cornwall serves the area covered by the Devon and Cornwall Constabulary. It has four offices, comprising two at Exeter, and one at Plymouth and Truro. The Area Headquarters (Secretariat) is based at Exeter.

Area business is divided on functional lines between Magistrates' Court Units (MCU) and Crown Court Units (CCU). There is one MCU and CCU at each office, except that at which the Secretariat is based.

At the time of the inspection in September 2006, the Area employed the equivalent of 123.3 full-time staff.

The Area 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.

At the time of the 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, or much improved, for instance undertaking the prosecutions 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 (PCD) 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.

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.

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.

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 the 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.

The Area is structured along functional lines with an MCU and CCU 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).

A restructuring into geographical units is being planned for implementation in early 2007. This planning is being accompanied by a major re-examination of the 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 the inspection.

The Area's overall caseload was dropping. Magistrates' court caseload dropped by 8.7% in 2005-06 compared with 2004-05 and Crown Court caseload by 22.7% (the highest drop of all the 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.

Despite the undoubted pressures felt by staff, the Area 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' court 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 persistent young offender processing rate (which is a shared target with the other criminal justice agencies).

Area strengths included the effective trial rate in the magistrates' courts and Crown Court, case chronologies in applications to extend custody time limits (CTLs), the governance arrangements of the change programme and the learning and development plan.

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.

Inspector's detailed comments on the specific aspects of performance are in the following sections.

Pre-charge advice and decisions

At the time of the OPA of CPS Devon and Cornwall migration from the shadow scheme to the statutory charging scheme in April 2006 was highly problematic and there were serious risks to the scheme's future delivery. 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.

In the course of the inspection however, inspectors 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.

Overall decision-making at the PCD stage was good. The Code 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.

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' court the rate was 17.5% compared with 15.9% nationally.

Casework in the magistrates' courts

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 successful outcome rate was also better than the national average (85.7% compared with 84.1%). Performance is discussed constructively with criminal justice partners.

The application of the Code tests at the committal review stage is sound but could be improved at the summary trial stage. The Code 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 Code evidential test was applied correctly in 98.2% of cases and the public interest test in 98.1%.

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

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.

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.

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

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 inspectors considered 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.

Sensitive cases and hate crime

Overall, the Area 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.

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 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

The Area's overall performance in the handling of unused material and compliance with the duty of disclosure has improved since the 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

The Area has systems for ensuring compliance with the CTL regulations. There have been no failures in the last three years. 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

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.

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

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 the Area 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. The Area has drawn up a comprehensive and inclusive learning and development plan, although this needs to be costed.

Managing resources

The Area has made very substantial improvements since the OPA in the systems and processes used to account for and manage resources in the Area. 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 the case.

Managing performance to improve

The Area has developed an effective performance management system to enable it to manage its 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 the Area is using performance information to improve its systems and outcomes.

Performance information is shared with criminal justice partners but some aspects of joint performance management with the police of 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.

Leadership

The Area'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.

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 the inspection.

Community confidence

There was a strong commitment amongst senior managers to engage with and secure the confidence of their local communities, although at the time of the inspection work needed to be done to structure this in a way that ensured that the Area received the maximum value from the resources expended. The Area is working constructively with the Local Criminal Justice Board and the co-ordination of activity is developing.

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

At a local level CPS Devon and Cornwall undoubtedly adds value. As inspectors state at various parts of the 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.

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

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.

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

Inspectors made ten recommendations about the steps necessary to address significant issues relevant to important aspects of performance, which they considered to merit the highest priority:

- 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 process for the timeliness of committal review and preparation and ensure that the allocated prosecutor undertakes a full Code test review before signing off the committal (paragraph 4.20);
- 5 The Area Management Board should improve the process for the allocation of cases to lawyers to ensure that there is consistent file ownership throughout the life of the case (paragraph 4.30);
- 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);
- 7 CCU 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);
- 8 Lawyers should ensure that the duties of initial and continuing disclosure of unused material are complied with in magistrates' court cases (paragraph 8.8);

- 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); and
- 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).

Strengths

Inspectors identified seven strengths within the Area's performance:

- i the effective trial rate in the magistrates' courts (paragraph 4.42);
- ii the effective trial rate in the Crown Court (paragraph 5.24);
- iii the case chronology prepared in applications to extend CTLs (paragraph 9.2);
- iv the governance arrangement of the change programme (paragraph 11.19);
- v the Area's Training and Development Plan (paragraph 11.22);
- vi the Area Performance Framework and the systematic actions to manage performance in the Area (paragraph 13.4); and
- vii the Area's approach to engaging with organisations representing communities or interest groups (paragraph 15.4).

The full text of the report may be obtained from the Corporate Services Group at HMCPS Inspectorate (telephone 020 7210 1197) and is also available online at www.hmcpsi.gov.uk.

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