

THE INSPECTORATE'S REPORT ON CPS ESSEX

REPORT 07/00

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CONTENTS

Preface

Introduction	1.1
Staffing	1.4
Caseload	1.6
The inspection process	1.9
Overview	1.12
Structure of this report	1.26

Providing advice

General	2.1
Quality of advice	2.5
Timeliness of advice	2.12
Appropriateness of requests for advice	2.17
Informal advice	2.30
Advice from counsel	2.35

Reviewing cases

Introduction	3.1
Quality of review decisions	3.8
Timeliness of review	3.13
Selection of appropriate charge and charging standards	3.19
Mode of trial	3.25
Bail	3.29
Youth justice and persistent young offenders	3.33
Fast-track and short bail date cases	3.42
Discontinuance	3.48
Adverse cases	3.60
Foreseeability of adverse cases	3.62
Adverse decisions in the magistrates' courts	3.66
Adverse decisions in the Crown Court	3.70
Learning from experience	3.80
Review endorsements	3.85

Preparing cases	
General	4.1
Advance information	4.6
Handling and service of unused material	4.11
Handling of sensitive material	4.24
Summary trial preparation	
<i>General</i>	4.29
<i>Selection and warning of witnesses</i>	4.32
<i>Casework support systems</i>	4.42
<i>Dealing with and monitoring summary trial preparation</i>	4.49
Preparation of committals	4.58
Instructions to counsel	4.66
Plea and directions hearings (PDHs)	4.70
Indictments	4.84
The role of the CPS in the Crown Court	4.87
Sensitive and aggravated offences	4.95
Custody time limits (CTLs)	4.111
File endorsements	4.124
File management	4.127
Providing information to the Probation Service and other agencies for pre-sentence reports	4.129
Presenting cases	
The quality of advocacy in the magistrates' courts	
<i>Crown Prosecutors</i>	5.1
<i>Designated caseworkers</i>	5.11
<i>Agents in magistrates' courts</i>	5.13
<i>Agents in youth courts</i>	5.18
The quality of advocacy in the Crown Court	
<i>Crown Prosecutors</i>	5.22
<i>Counsel</i>	5.25
Monitoring advocacy standards	5.29
Returned briefs	5.38
Management issues	
Management of the Area	
<i>Strategy</i>	6.1
<i>Structure</i>	6.9
<i>Area Management Team</i>	6.11
<i>Area Business Plan</i>	6.16
Management of financial resources	
<i>Financial performance 1999/2000</i>	6.19
<i>The 2000/01 budget</i>	6.24
Management of human resources	
<i>General</i>	6.30
<i>Training</i>	6.34
<i>Organisation of staff</i>	6.42
<i>Absence through sickness</i>	6.47
<i>Communication</i>	6.51

Use of agents	
<i>Expenditure on agents</i>	6.56
<i>Selection of agents</i>	6.58
Selection of advocates in the Crown Court	6.61
Victims and witnesses	6.65
External communication and liaison	
<i>General</i>	6.75
<i>Crown Court</i>	6.78
<i>Magistrates' courts</i>	6.80
<i>Police</i>	6.84
<i>Other agencies</i>	6.85
Security	6.88
Accommodation	6.93
Equality	6.105
Performance indicators	6.114
Handling of complaints	6.120

CONCLUSIONS, GOOD PRACTICE, RECOMMENDATIONS AND SUGGESTIONS

Conclusions	7.1
Good practice	7.15
Recommendations and suggestions	7.21

KEY STATISTICS

8.1

EXTERNAL CONSULTATION

9.1

ANNEX 1:	Details of files examined in the Area
ANNEX 2:	Charts and tables
ANNEX 3:	List of local representatives of criminal justice agencies who assisted in our inspection
ANNEX 4:	CPS Inspectorate's Statement of Purpose and Aims

PREFACE

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

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

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

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

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

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

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

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

There will be a number of consequential changes to the manner in which inspections are conducted – the most obvious being the unit of inspection that is now the CPS Area, rather than the Branch. There will be some increase in staffing to accommodate the shorter inspection cycle. We will also be broadening the range of skills and experience within our teams of inspectors. Three inspectors have recently been recruited to concentrate on the business management aspects of our remit. They bring with them specialist skills in the fields of management, human and financial resources and corporate planning.

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

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

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

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

INTRODUCTION

- 1.1 CPS Essex serves the area covered by the Essex Police. It has its office at Chelmsford. On 15 June 2000 it employed the equivalent of 100.4 full-time staff: the Chief Crown Prosecutor (CCP), a Branch Crown Prosecutor (BCP) and 34.8 other prosecutors; the Area Business Manager (ABM); 53.4 caseworkers and 9.2 administrative staff.
- 1.2 In 1986, when the CPS was established, Essex was a CPS Area with two Branches, co-located in Chelmsford. When the CPS reorganised in 1993 from 31 Areas to 13 Areas, the Essex Branches became part of CPS Anglia, which had its headquarters in St Albans, Hertfordshire.
- 1.3 With the latest reorganisation to 42 Areas in April 1999, Essex again became a CPS Area, with its offices in Chelmsford. The two Branches were amalgamated, with four teams being responsible for different geographical areas in Essex. These have since been re-structured into three functional units.

Staffing

- 1.4 Two magistrates' courts teams (MC teams) are responsible for cases dealt with in the magistrates' courts in Essex. Essex South team (15.2 prosecutors and 10.2 caseworkers) deals with prosecutions in the magistrates' courts at Basildon, Grays and Southend. Essex North team (14.6 prosecutors and eight caseworkers) deals with cases in the magistrates' courts at Chelmsford, Colchester, Epping, Harlow, Harwich and Witham.
- 1.5 The Crown Court unit (CCU) (the BCP, four other prosecutors and 30.8 caseworkers) deals with the Area's Crown Court cases.

Caseload

- 1.6 In the year ending 31 March 2000, the Area dealt with 28,662 defendants in the magistrates' courts. In a further 574 cases, advice was given to the police before charge.
- 1.7 The Area dealt with a higher proportion of either-way or indictable offences, although balanced by a higher proportion of summary motoring cases when compared to the national figures:

	CPS Essex	National average
Summary motoring	38.4%	36.7%
Other summary	16.8%	18.2%
Either way/indictable	42.9%	40.4%

- 1.8 The Area handled 2,936 cases in the Crown Court. The weight of the caseload is more obvious in the Crown Court, where 17.3% were indictable only cases (national average - 22.6%). The Area dealt with a significantly lower proportion of committals, but higher proportions of committals for sentence and appeals, than the national average:

	CPS Essex	National average
Committals	61.6%	69.8%
Committals for sentence	22.2%	19.25%
Appeals	16.2%	10.95%

The inspection process

- 1.9 The methodology combined examination of 342 cases finalised between December 1999 and February 2000 and interviews with members of CPS staff at all levels, criminal law practitioners and local representatives of the criminal justice agencies. Details of the file sample are at Annex 1, and a list of individuals from whom we received comments is at Annex 2. The team also observed advocates in the magistrates' and youth courts and the Crown Court.
- 1.10 The core inspection team of five inspectors visited the Area between 19 June and 23 June 2000, and 3 July and 7 July 2000. Two legal inspectors who were undergoing training also accompanied the team.
- 1.11 A lay inspector was to assist the team during the on-site phase, but unfortunately, through illness, this was not possible.

Overview

- 1.12 The Area has had to cope with the transition from being two Branches to becoming an Area, and is having to cope with what might be seen as even more fundamental changes.
- 1.13 First, the Area has had to deal with the introduction of a new system for the submission and preparation of files and the prosecution of defendants. These follow the 'Review of Delay in the Criminal Justice System' undertaken by Martin Narey.
- 1.14 In the past most defendants were charged and bailed to a court hearing about a month later. Under the new system, defendants are bailed to the next available court sitting, and some are prosecuted by designated caseworkers (DCWs) instead of legally qualified Crown Prosecutors. We discuss the new arrangements throughout the report, where we refer to 'the Narey initiative' and 'Narey files'.
- 1.15 In Essex, the efforts of all the relevant agencies have combined to deal very successfully with the increased number of expedited cases under the Narey initiative.

- 1.16 Secondly, the Area is preparing to implement the recommendations of the Glidewell report, with separate units to deal with summary cases (criminal justice units (CJUs)) and Crown Court cases (trials unit (TU)). Both of these new types of unit will have CPS and police staff working in them.
- 1.17 In preparation for this change, which the Area hopes to complete before the end of 2000, it created a CCU on 6 March 2000 as an interim measure. This is a functional unit to deal with all of the Area's Crown Court cases.
- 1.18 When the changes are fully effected, the TU will be located in the CPS offices in Chelmsford, and four CJUs will be located in police premises at Colchester, Harlow, Laindon and Southend. This will entail moving a substantial number of CPS prosecutors to work at different locations.
- 1.19 At the time of the inspection, the Area was going through a process of evaluating preferences expressed by the prosecutors as to their future place of work. This, plus the envisaged movement of some caseworkers from the MC teams to the TU, has inevitably given rise to a period of uncertainty for many staff, with a consequent impact on morale.
- 1.20 During the course of our inspection we considered how the Area is coping with and managing these considerable changes, and what effect they are having on the quality of the Area's casework and casework decision-making processes.
- 1.21 It was clear to us that, certainly at a strategic level, there is considerable co-operation between the criminal justice agencies, and the Area is held in high regard by many of them. Other agencies were universally pleased with the change to a CPS Area co-terminous with other agencies and with its own CCP who could take decisions and 'make things happen' in the Area. The Essex Chief Officers Group has developed positive joint working between the agencies at a strategic level. We were told that there had been improvement in the Area's performance over the past 15 months, and many representatives of other agencies expressed confidence that this process would continue.
- 1.22 There were, however, reservations about some aspects of the Area's performance, and we considered these and the relationship between the Area and individual agencies during the course of the inspection.
- 1.23 The Area's performance in respect of casework and casework decision-making is generally good, and we comment on specific aspects in this report. This has to be balanced against a small number of cases in which the standard of decision-making was poor, and some others in which the management and administration of the cases resulted in adverse results or resources being wasted by both the CPS and other agencies.
- 1.24 We comment on individual aspects of the Area's performance at relevant sections of the report. But the following table draws together key statistical information about the Area's performance particularly in relation to targets that have been set nationally in support of the Service's objectives, and in relation to Government targets.

TABLE OF PERFORMANCE AGAINST TARGETS

CPS Performance Targets	National target 1999-2000	National outcome 1999-2000	Essex target 1999-2000	Essex outcome 1999-2000
Objective: To deal with prosecution cases in a timely and efficient manner in partnership with other agencies				
% of advance information sent within agreed timescales	83%	86.6%	83%	82.8%
% of committals sent to the defence within agreed timescales	60%	62.7%	50%	51.0%
% of briefs delivered to counsel within agreed timescales	80%	71.1%	82%	80.8%
Objective: To ensure that the charges proceeded with are appropriate to the evidence and to the seriousness of the offending by consistent fair and independent review				
% of cases dismissed on a submission of no case to answer which is attributable to failure in the review process	AA	0.01%		0.010%
% of non-jury acquittals in the Crown Court which are attributable to failures in the review process	AA	0.70%		1.10%
Objective: To meet the needs of victims and witnesses in the CJS in co-operation with other agencies				
% of witness expenses paid within 10 days	100%	97.5%	100%	99.8%**
% of complaints replied to within 10 days	87%	87.7%	89%	92.7%
Improving productivity				
% of total undisputed paid within 30 days	100%	97.1%	100%	98.4%**
GOVERNMENT TARGETS				
Youth Justice To halve the time from arrest to sentence for persistent young offenders from 142 days to 71 days by 31 March 2002		108		115
Sickness Reduce sickness absence from the 1998/99 baseline figure of 10.6 days per staff member	BB	10.2		9.6
CITIZENS CHARTER COMMITMENT				
% of MPs' correspondence replied to within 15 days	100%	94.2%	100.0%	100%

** denotes performance of Service Centre and is not specific to Area

AA: The CPS constantly seeks to improve its performance and to reduce the % of these cases, but had no national target in 1999/2000

BB: The Civil Service has overall targets of reducing absence through sickness and these are set at 20% by 2001 and 30% by 2003

1.25 The CPS does not have targets in relation to percentages of conviction. The information is collected and we set it out for comparison purposes.

	CPS Essex outcome 1999-2000	National outcome 1999-2000
Conviction rate in magistrates' courts	98.1%	98.3%
Conviction rate in Crown Court	85.3%	88.6%

Structure of this report

1.26 Our scrutiny of casework focuses on the main functions of the CPS provision of pre-charge advice; the review of evidence and application of the Code for Crown Prosecutors; case preparation; and case presentation. Chapters 2 to 5 examine each of those issues. We set out in relation to each theme what we were looking for and our findings. Chapter 6 looks at management and operational issues.

PROVIDING ADVICE

General

- 2.1 The Area receives a low number of requests for advice from the police compared with the CPS nationally (2% compared with 3.7%).
- 2.2 Prosecutors in the CCU deal with advice files relating to indictable only offences, offences that are likely to be dealt with in the Crown Court, and allegations of child abuse. Prosecutors in the MC teams deal with other advice files.
- 2.3 The files are allocated to individual prosecutors by the BCP in the CCU, and the Prosecution Team Leaders (PTLs) in the MC teams, on a 'fair share' basis, but subject to any particular expertise or experience of the prosecutor concerned.
- 2.4 In three of the 20 advice files we examined, the files had been returned to the police without advice being given on the basis that it had been inappropriate for advice to have been requested. We deal with those cases later.

Quality of Advice

- 2.5 We were satisfied that the advice given reflected a proper application of the principles set out in the Code for Crown Prosecutors in all but two cases. In one case the prosecutor advised that the defendant, in addition to being charged with offences of assault, should also be charged with affray. In our view this was an unnecessary and inappropriate charge.
- 2.6 In the second case, the prosecutor simply advised the police that if they felt that there was sufficient evidence, they could charge the proposed defendant with an offence of assault. In our view no charges were appropriate, and to shift the decision back to the police in those circumstances was an abrogation of the prosecutor's responsibility.
- 2.7 There is no system specifically to monitor the quality of advice given. The BCP and PTLs monitor by sampling random files during the course of a year that may, or may not, include advice files. They may also have the opportunity to check the quality of advice when dealing with casework themselves, seeing prosecution files that have been the subject of advice to prosecute.
- 2.8 In most cases the advice given was clear and concise, dealing with appropriate issues in the case. It was generally neatly presented although most were hand-written on a pro-forma memorandum.
- 2.9 We were told that the police for the most part value the quality of advice that is given by the CPS.

- 2.10 In a few cases, however, the advice was confused; too lengthy and intricate; or lacked focus and proper reasoning. In one case the prosecutor had sent a number of sheets of hand-written notes relating to his examination of the case. Whilst these were, no doubt, of great assistance to the prosecutor, they would have been of little value to the police, and might only complicate the issue.
- 2.11 **We suggest that the CCP, BCP and PTLs effectively monitor the quality of advice given to the police, to ensure that the quality of advice is consistently high, as well as being clear and concise.**

Timeliness of advice

- 2.12 The CPS sets a target of dealing with requests for advice from the police within 14 days. There are some cases that are particularly serious, complex or bulky where it would be unrealistic to expect advice to be given within those time guidelines, but we did not find any such files in our sample.
- 2.13 Advice had not been given in a timely manner in five of the 17 cases where advice had been given. Two cases involved allegations of child abuse: one had been dealt with only one day outside the time guidelines, but the other took 38 days.
- 2.14 The police told us that, although timeliness is not a major problem, they have to chase outstanding advice, often in serious or sensitive cases.
- 2.15 Prosecutors are responsible for managing their own cases, but we are concerned that there is no apparent system to help ensure the timeliness of advice and the only prompt for prosecutors to complete outstanding advice comes from the police
- 2.16 **We recommend that the CCP, BCP and PTLs implement an effective system to ensure that advice is provided to the police within 14 days (in all save the most substantial cases).**

Appropriateness of requests for advice

- 2.17 The relatively low number of requests for advice submitted by the police might in part be a result of a conscious drive on the part of police and Area staff to ensure that only appropriate requests are made. We were told that this was in response to an excessive number of such requests being made in the past, which caused unnecessary delay and was a drain on the resources of both agencies.
- 2.18 The police use file adjudicators to filter out inappropriate requests for advice, whilst the Area is actively concerned in returning any such files that do ‘slip through the net’.
- 2.19 There is no formal agreement between the police and the Area about the type or format of files to be submitted for advice. The BCP has proposed that certain guidelines be adopted and we were told that although not yet formally agreed, they are in practice being followed.

- 2.20 Although it is fair to say that the police do not take any great issue with the Area about requests for advice that are returned as inappropriate, our concern is that prosecutors may be over-zealous in their assessment of appropriateness. In some cases they rejected cases that properly merited advice from the CPS.
- 2.21 In our sample three cases had been returned to the police on the basis that the police should have made the decision themselves, or, in one case, because the police had already made a decision.
- 2.22 We considered that in each case it was appropriate for the police to have made the request for advice, and, accordingly, that advice should have been provided.
- 2.23 In one, the prosecutor clearly indicated that the request was inappropriate, but sent three pages of comments about the case, which appeared to contradict the view that the request was not appropriate.
- 2.24 In another, it was contended that the police had made a decision (to take no further action) before submitting the file. In fact the officer had indicated that ‘in normal circumstances’ he would have ‘suggested’ no charges should follow, but in view of the potential high profile of the case he felt it appropriate for advice to be requested. The national media would have been very interested in the potential defendant, and the allegations of assault and counter allegations of blackmail. We consider that it was proper for the officer to indicate his views on the matter, and to submit the file for advice.
- 2.25 On the other hand, we found one case involving allegations of assault where we considered that the police should have made the decision themselves that it was not an appropriate case to prosecute. Despite this, the requested advice was given.
- 2.26 If an inappropriate request is made, the file should be returned to the police, but we consider the case should be drawn to the attention of the BCP or PTL before it is returned.
- 2.27 We suggest that the BCP and PTLs check all requests for advice which prosecutors consider to be inappropriate, before the file is returned to the police, to ensure that only inappropriate cases are returned.**
- 2.28 We noted some instances where a file was returned to the police, or where there was a request for more information or an improvement of the standard of the file, the memorandum to police was curt or otherwise inappropriately worded. This is neither compatible with nor conducive to a professional working relationship.
- 2.29 We were disappointed that managers had not picked this up. We are sure that prosecutors will wish to ensure that any communications between themselves and other agencies are worded appropriately.

Informal advice

- 2.30 In addition to formal requests for advice, police officers make informal requests for advice by telephone or in person, particularly when prosecutors are attending police stations to deal with Narey files. We were told that these requests are discouraged, but it likely that such informal requests will increase when the prosecutors are placed in CJUs, and permanently located in police accommodation.
- 2.31 Prosecutors told us that they would usually ask police officers who make oral requests to submit a formal request in writing. Nevertheless there are occasions when such advice should properly be given.
- 2.32 The Area has a system for recording this advice, but it was acknowledged that it is not always used. This makes it difficult for managers to monitor the quality or accurately assess the Area's resource needs.
- 2.33 No attempt is made to confirm in writing to the police any such informal advice that is given, as was recommended in the Inspectorate's thematic review on the review of advice cases (Thematic Report 3/1998). This would provide a record of the nature of the advice, and ensure that a proper record is available for any further enquiries associated with that case.
- 2.34 We recommend that the CCP ensures that all oral advice is properly recorded and is confirmed in writing to the police.**

Advice from counsel

- 2.35 The Area managers are aware of CPS guidance about when it would be appropriate to seek early advice from counsel. We were told that it is very rare for such advice to be sought. We did not come across any cases where advice from counsel would have been merited before charge.

REVIEWING CASES

Introduction

- 3.1 We examined the quality and timeliness of the decision-making at the various stages in the progress of the cases within our file sample and some that featured in our court observations and on-site work. Prosecutors are required to take all such decisions in accordance with the principles set out in the Code for Crown Prosecutors (the Code) promulgated by the DPP under Section 10 of the Prosecution of Offences Act 1985. The most fundamental aspect of the Code is the twin criteria for the institution or continuation of proceedings: first, there must be sufficient evidence to afford a realistic prospect of conviction; secondly, the circumstances must be such that a prosecution would be in the public interest. Apart from the Code there is also specific guidance relating to other issues such as mode of trial.
- 3.2 The decision whether to institute criminal proceedings rests, other than in exceptional circumstances, with the police albeit they may seek advice from the CPS before taking the decision. Following the institution of proceedings, the police submit a file to the CPS which should be subject to an initial review to see whether it should be accepted for prosecution. In some cases this may lead to a decision to terminate the proceedings at the outset. Where a case proceeds, it must be subject to continuous review. The initial assessment may have an element of provisionality about it, especially if it occurs before the police have concluded and submitted the report of an investigation; the evidential position or surrounding circumstances may change during the life of any case and the CPS must respond quickly and positively to review the case again and reassess it.
- 3.3 Our file sample covered the full range of cases but focused especially on certain categories of case which consistently attract a high degree of public concern (eg. discontinued cases) or those which have proved problematic and may therefore hold important information about the quality of decision-making. We usually refer to the latter as “adverse cases”. They fall into four broad categories namely cases:
- (i) discharged by magistrates following consideration of evidence and a ruling that it is insufficient to justify committal to the Crown Court;
 - (ii) where all charges are dismissed on the basis that there is no case to answer at the conclusion of the prosecution case in a summary trial;
 - (iii) where a trial judge at the Crown Court orders that an acquittal should be entered following a decision by the prosecution prior to the calling of evidence that the case should not proceed; and
 - (iv) where a trial judge in Crown Court proceedings rules, following the commencement of the evidence, that it is insufficient for the Crown to proceed, and directs the jury to acquit.

- 3.4 We try to assess whether the outcome of adverse cases reflects a deficiency in the initial decision to prosecute or whether it is attributable to a change in the evidential position or other circumstances. We also consider at what point the likelihood of an adverse outcome became foreseeable and whether CPS staff identified and responded in a timely fashion to those changed circumstances so that any necessary termination took place at the earliest appropriate moment. Although the public interest requires that offenders be prosecuted fairly and firmly, it is also important to avoid continued unnecessary public expenditure on prosecutions which have ceased to be viable.
- 3.5 Our inspection process examines not only the substantive decision whether to prosecute but also a number of ancillary decisions, for example whether or not to oppose bail. Other issues considered are the extent to which the police succeed in identifying the correct charge at the outset and, if not, how effective prosecutors are in making timely rectification; the handling of particularly sensitive categories of offence; how effective the Area is in ensuring that lessons from cases with adverse outcomes are shared with all lawyers; and the soundness of its systems for recording (or endorsing) decisions on files and the reasons.
- 3.6 Assessing the quality of legal decision-making is difficult. Decisions frequently turn on legal or evidential issues which are essentially matters of professional judgment. It frequently occurs that different lawyers do, for perfectly proper reasons, take different views in relation to the same case. Our assessments in relation to quality of decision-making therefore consider whether the decision taken was one which was properly open to a reasonable prosecutor having regard to the principles set out in the Code for Crown Prosecutors and other relevant guidance. A statement that we disagree with a decision therefore means that we consider it was wrong in principle; we do not “disagree” merely because inspectors might have come to a different conclusion.
- 3.7 Against this background, we set out our findings.

Quality of review decisions

- 3.8 We examined the quality of the review decision in 100 files, covering cases that proceeded in the magistrates’ courts, the youth courts and the Crown Court. We consider that the evidential test was properly applied in 98 cases. In both cases where we disagreed, the reviewing prosecutor had failed to consider properly the issue of self-defence, and the prosecution’s ability to rebut the issue.
- 3.9 We considered that the public interest test was properly applied in all cases, although we were concerned that evidential and public interest issues might on occasions be confused.
- 3.10 We saw one case where the Code tests had been applied in the wrong order. We also saw several cases that, it is clear from endorsements on the file, had been discontinued because of insufficient evidence. The notice of discontinuance, however, wrongly indicated that the case was stopped on public interest grounds. We deal with this issue again at paragraph 3.50.

- 3.11 The majority of prosecution files are now listed for early hearings, following the implementation of the Narey initiative. These files are available to the prosecutors for review the day before the first hearing. It is apparent from our examination of the file sample and from our observations in court that these files are generally properly reviewed before the first hearing.
- 3.12 However, if the case is not concluded at the first hearing, continuing review of the case is not always effectively and appropriately carried out. In short, there is a lack of ‘grip’ kept on a few cases. Nevertheless our overall impression is that proper decisions are made in the majority of cases.

Timeliness of review

- 3.13 The majority of files in our sample had been properly reviewed before the first hearing, although we found some cases where this had not happened. Even where there is a review before the first hearing, events may occur that give rise to the need for further review, for example, receipt of a full file following a not guilty plea.
- 3.14 In some cases, an appropriate review was not undertaken until after the defendant had entered a plea of not guilty or had elected to be tried in the Crown Court. In one case, we found that a not guilty plea had been entered, a pre-trial review held and a trial date fixed – all before the case was properly reviewed.
- 3.15 The lack of timeous review can result in late changes to charges, late discontinuance, or the acceptance of pleas that had previously been tendered and rejected. This can lead to summary trials not being effective. We were told that in the region of two-thirds do not proceed, and a third of those are as a result of perceived late review by the CPS. The problem is sufficiently acute that some of the magistrates’ courts are specifically monitoring the reasons for “cracked” trials.
- 3.16 In cases likely to proceed to Crown Court, prosecutors have been urged by the Area managers over the past 15 months to undertake rigorous review to ensure that only appropriate cases proceed. This appears to have had the effect of reducing the number of cases proceeding to the Crown Court, but we still found that a relatively high proportion of cases are stopped in the Crown Court (see paragraphs 3.70-3.71). We also found cases that had proceeded to the Crown Court without appropriate review. There is a clear expectation that the situation will improve as a result of the introduction of the CCU in March 2000, but this has yet to be properly evaluated.
- 3.17 It is important that all cases proceed on appropriate charges, and that they are effectively and continuously reviewed. This is needed to ensure that resources of the CPS and of other agencies in the criminal justice system are used efficiently.
- 3.18 We recommend that the CCP, BCP and PTLs implement monitoring systems to ensure that appropriate and effective review is being undertaken and cases proceed expeditiously.**

Selection of appropriate charge and charging standards

- 3.19 We have already commented on the drive to prevent inappropriate cases going to the Crown Court. We were told that the number of cases being dealt with in the Crown Court has fallen, and this may have been a contributory factor. Representatives of other agencies expressed concern about some cases involving allegations of sexual offences or child abuse having been inappropriately prosecuted in the past, and expressed confidence that this problem will be resolved by the Area's efforts.
- 3.20 We did not find any inappropriate cases in the sample, and we commend the Area's commitment to improving the standard of cases that are dealt with in the Crown Court.
- 3.21 Care needs to be taken that the aim to keep inappropriate cases out of the Crown Court does not become over-riding. Some concern was expressed to us that some cases are not prosecuted at the right level. We observed one case being dealt with in the magistrates' court for a public order offence, where the charge might quite properly have been a more serious one. Prosecutors will wish to ensure that all cases proceed on charges at the appropriate level of seriousness.
- 3.22 In our sample, police charges required amendment in 20 cases. Only ten were amended at the first opportunity, although in all but one case, the charge was appropriately amended before the conclusion of the case. This further supports our concern about effective review not being carried out in a timely manner.
- 3.23 The CPS and the police nationally have agreed charging standards for assaults, public order offences and some driving offences, to ensure a consistent approach to levels of charging. The police followed the appropriate charging standard in all but four of the 30 relevant cases, and prosecutors amended the charge appropriately in all four cases.
- 3.24 We considered that prosecutors had applied appropriate charging standards in all cases in our sample, but were told of a perception that the CPS proceeded on lower rather than higher charges, although we observed only one such case, which we referred to at paragraph 3.21. Area managers will want to take opportunities to discuss charging standards with members of court user groups, to reduce misconceptions or disagreements.

Mode of trial

- 3.25 We considered that the reviewing prosecutor applied the appropriate principles about whether the case should be tried in the Crown Court or the magistrates' court in 54 out of 57 relevant cases. In two cases, one alleging an assault on an 18-month-old child, the other an indecent assault, the reviewing prosecutor had indicated that the case should be dealt with in the magistrates' courts. In the third case, an allegation of handling a stolen motorcar, the reviewing prosecutor had indicated that the case should be dealt with at the Crown Court. We disagreed with these decisions.

- 3.26 We were pleased to note that in the first case involving the assault on the child, and the third case, involving the motorcar, the advocate also disagreed with the reviewer's decision, and made different representations to the court. In the remaining case, the defendant elected to be dealt with at the Crown Court in any event. In each of these cases, the reviewer's errors were therefore corrected.
- 3.27 Reviewers sometimes merely indicated whether the case was suitable or not suitable for summary trial. Setting out reasons in writing focuses the mind and makes the sort of misjudgment referred to less likely. A fuller note of the reasoning is also helpful for prosecutors subsequently dealing with the case.
- 3.28 We suggest that the PTLs in the course of their advocacy and other work, take the opportunity to check the quality of both the reviewing prosecutors' decisions relating to mode of trial and the records of their reasons.**

Bail

- 3.29 We were told that in general prosecutors make appropriate and objective decisions when dealing with applications for remands in custody, and we considered that the decision in all 26 relevant cases in the sample were properly taken. The grounds for opposing bail, however, were recorded in only 13 out of 20 cases, and the court's reasons for their decision in 10 cases.
- 3.30 We recommend that prosecutors ensure that where applications are made for remands in custody, the grounds for opposing bail are clearly recorded on the files, together with the magistrates' stated reasons for their decision.**
- 3.31 In some cases, the police had granted defendants bail, but subject to conditions. In those circumstances, the prosecutor has to decide whether to continue to apply to the magistrates for conditions to be attached to bail, and if so, what conditions are appropriate.
- 3.32 We considered the decisions made in all 14 relevant cases in the sample were properly taken, and noted that the conditions were fully recorded in all but one case.

Youth justice and persistent young offenders

- 3.33 Youth justice has assumed a high priority within the criminal justice system, with the government setting targets to improve performance that require close inter-agency co-operation. The government has set a target to halve the time between arrest and sentence of persistent young offenders from an average of 142 days to 71.
- 3.34 In Essex, the average time to deal with persistent young offenders in 1999 was 115 days, against a national average then of 102 days. In the first quarter of 2000, this figure fell to 87 days in Essex, against a national average of 96 days.

- 3.35 All agencies concerned will be pleased with this improvement in recorded performance. Nevertheless, the CPS needs to examine its own actions to reduce delay. Some police units had not appreciated that the period included the time from arrest to the first date of hearing, and had, therefore, granted excessive periods of bail before charge; stopping this practice no doubt played a significant part in the improvement in the figures. We were concerned that the CPS had not taken the issue up in the individual cases nor identified the problem.
- 3.36 The Area does not mark or flag files that involve persistent young offenders, nor does it have any systems to monitor the progress of these cases. In practice this makes it difficult for the Area to assess meaningfully its own performance in this sphere.
- 3.37 Overall, we did not detect enough sense of urgency on the part of the CPS, with the impression that they were content to rely upon the efforts and monitoring of other agencies.
- 3.38 The Area has nominated a youth specialist with the responsibility for liaison and co-ordination of the efforts to be made in respect of youth justice generally.
- 3.39 The first specialist had heavy commitments dealing with courts dealing with Narey files, and it was recognised by the Area Management Team (AMT) that the individual would find it difficult to fulfil the role. This proved to be the case, and after a short period a new specialist was appointed who did not have the same commitments.
- 3.40 We consider that the individuals appointed needed greater support and time to co-ordinate the CPS action, liaise with other agencies and achieve results. We are aware of positive action now being taken and trust that resources will be allocated to support the Area's commitment to dealing with youth justice.
- 3.41 We suggest that the CCP, BCP and PTLs ensure that the Area youth specialist is afforded sufficient time and resources to undertake a positive liaison role, to help co-ordinate the approach to dealing with youth offenders, and to improve the Area's performance in relation to youth offenders.**

Fast-track and short bail date cases

- 3.42 Part III of the Crime and Disorder Act 1998 enabled the new Narey initiatives to be introduced with a view to significantly reducing the delay and cost in criminal cases.
- 3.43 In Essex, there was considerable planning, on an inter-agency level, to facilitate the introduction of these procedures. We were told that there were some tensions at that stage, but the new procedures are now regarded as having been successfully implemented.

- 3.44 There are some difficulties with the imbalance of some courts' listing, but this is an issue, in our experience, which has arisen in other Areas. We are told that progress is being made to alleviate these difficulties.
- 3.45 The Area is able to deploy its DCWs effectively, thus reducing the caseload of other CPS prosecutors.
- 3.46 Because of the success of the new procedures in Essex, a large proportion of cases are now dealt with at first hearing, benefiting all agencies concerned. As this benefit filters down through the system, it should enable prosecutors to have more time to undertake other work, such as preparing summary trials more effectively.
- 3.47 We commend the Area, together with all of the agencies involved, for their part in the successful introduction of these new procedures.

Discontinuance

- 3.48 The Area's statistics show that, in the year ending 31 March 2000, it discontinued 3,658 cases, which is 12.8% of its caseload. This is slightly higher than the national average (12.2%). The rate rose significantly in the first quarter of 2000.
- 3.49 We examined 100 cases that were stopped by the prosecution in the magistrates' court in February 2000 specifically to ascertain the reasons for discontinuance and to ascertain whether the police were consulted about the decision. Only 47 were discontinued by formal notice under section 23, Prosecution of Offences Act 1985. Of the remaining cases, 41 were withdrawn at court, and no evidence was offered in 12. The reasons for discontinuance are set out below:

Evidential		Public interest		Prosecution unable to proceed		Driving documents produced at court		Not known	
Legal element missing	9	Nominal penalty likely	6	Civilian witness refuses to testify	11	Documents produced	4	Reason not ascertainable	5
Identification difficulties	19	Caution more appropriate	3	Civilian witness fails to attend	4				
Conflict of evidence	9	Loss/harm rectified	7	Absence of police witness	1				
Unreliable witness(es)	7	Other	3	Prosecution not ready	3				
Inadmissible evidence	6								
Breach of Police & Criminal Evidence Act 1984	3								
Total	53	Total	19	Total	19	Total	4	Total	5

- 3.50 In five of the cases that were discontinued because of evidential difficulties, the written notice indicated that the discontinuance was on public interest grounds, whereas it was clear from the file that the reason was insufficiency of evidence. Conversely another case was discontinued because it was not in the public interest to proceed, although the discontinuance notice indicated there was insufficient evidence.
- 3.51 The high number of cases discontinued because of identification difficulties was a cause for concern. Closer examination, however, revealed 14 of these related to minor traffic offences which had been the subject of proceedings for some considerable time, and raised greater issues about the effective service of process rather than identification issues as such.
- 3.52 The prosecution, as shown, were unable to proceed in 15 cases because of difficulties with witnesses. We deal with the issue of reluctant witnesses at paragraphs 3.73-3.76.
- 3.53 The police were consulted regarding the discontinuance in 89 of the cases, and they raised objections in only one case. The police were not consulted in 10 cases. (In one case we were unable to determine whether consultation had taken place).
- 3.54 The files were generally well presented and the case progress and reasons for discontinuance clearly recorded on the files. However, in five files we could not establish the reason for discontinuance from the file endorsements, and we have already referred to six cases where the reason for discontinuance was inaccurately recorded.
- 3.55 We examined 25 of the files in more detail, particularly to assess the quality of the decision-making. We disagreed with the decision to discontinue on evidential grounds in one case, which appeared to be as a result of confusion on the part of the reviewer as to the requirements of corroboration in traffic offences.
- 3.56 The public interest assessment in all of the cases we examined was a proper one.
- 3.57 We found, however, that in five cases the discontinuance was not dealt with at the earliest opportunity, which resulted in inconvenience being caused to witnesses as well as resources being wasted by other agencies.
- 3.58 In two cases, for example, notice of the decision to discontinue was given two and four days respectively before the date fixed for trial, despite the fact that the information giving rise to the decision was available much earlier. Such late notification makes it difficult for the magistrates' courts to make other arrangements to use effectively the time that had been allocated to deal with the trial. In one case, the late decision was exacerbated by a failure to de-warn the witnesses, which resulted in them attending the court unnecessarily.
- 3.59 In instances such as these that give rise to the criticism from other agencies, and that has led to our recommendation at paragraph 3.18. We also saw a long drawn out case against a persistent young offender dropped on the day before the trial, and other cases dropped because of inefficiencies in selecting witnesses and serving evidence.

Adverse cases

- 3.60 We checked for wrongly categorised cases and the inaccuracy of the Area's statistics made it difficult for us to properly assess the quality of its performance in some key areas. We draw attention to apparent inaccuracies as we deal with the specific categories. (We comment more generally on the Area's performance indicators (PIs) at paragraphs 6.114-6.118).
- 3.61 In our section on learning from experience we consider what efforts are made to ensure that staff learn from the experience gained by the Area as a whole from these cases, and what action the Area takes to improve its performance.

Foreseeability of adverse cases

- 3.62 The Inspectorate's thematic review of adverse cases (Thematic Report 1/1999) found that in 31.8% of cases examined, the adverse finding was foreseeable.
- 3.63 We found that in CPS Essex the adverse finding was foreseeable in nine out of 39 cases (23.1%) that we examined. This might be an indicator of relatively good performance, but it has to be treated with considerable care. The Area was only able to provide us with 45 of the 85 adverse cases recorded in their statistics for the three months we examined. Six of the files provided to us were wrongly categorised.
- 3.64 It is therefore difficult for us to comment with confidence on the Area's performance. This is not just a problem for the Inspectorate, but a significant problem for the managers of the Area. It is difficult, if not impossible, for the performance of the Area to be managed, if the quality of that performance is incapable of being accurately assessed. We refer to other concerns about the PIs in paragraphs 6.114-6.118.

3.65 We recommend that the CCP ensures that:

- * **adverse case reports are checked and reconciled with the case outcomes shown in the Area's PIs;**
- * **there is a system to monitor the integrity of the Area's PIs both in terms of accuracy and timely completion; and**
- * **the Area draws upon the issues, guidance and good practice identified in the Inspectorate's thematic review of Performance Indicator Compliance and Case Outcomes (Thematic Report 3/2000).**

Adverse decisions in the magistrates' courts

- 3.66 The Area's statistics record that in the three months ending 29 February 2000, there were 14 cases where the magistrates found no case to answer.
- 3.67 The Area was only able to provide four cases to us, and we were told that the others must have been wrongly recorded or related to a different period. In fact, one of the four cases was wrongly categorised, having been withdrawn by the prosecution.
- 3.68 We agreed with the decision to proceed with two of the three cases correctly submitted to us. In the third case involving an allegation of theft, the prosecution relied upon identification of the defendant from a passport size photograph seven months after the event. Although the reviewer had raised the issue of identification, this had not been properly considered and the case was allowed, wrongly in our opinion, to proceed.
- 3.69 The Area recorded that there were three discharged committals during the relevant three months and yet provided us with four files. In fact, all of the files were wrongly categorised, being cases where the prosecution had been unable to prepare the required committal documents.

Adverse decisions in the Crown Court

- 3.70 In the year ending 31 March 2000, the Area records show that 241 cases were not proceeded with in the Crown Court. This represents 13.3% of the Area's Crown Court caseload, which is above the national average of 11.1%. The majority of these cases would have been JOAs.
- 3.71 We were told that this higher figure is explained, subject to reservations about the accuracy of the figures, by the concerted effort to stop any inappropriate cases in the Crown Court. The high figure perhaps reflects the lack of appropriate and effective review which led to our recommendation at paragraph 3.18. The Area managers are confident that with the creation of the CCU the number of cases that need to be stopped will be reduced by higher standards of review and preparation, ensuring that they do not reach the Crown Court at all.
- 3.72 Although the Area records that 60 cases were stopped in the three months ending 29 February 2000, they were only able to provide us with 33 cases. We disagreed with the decision to proceed in only one of those cases – it involved poor identification evidence. It is unfortunate that this case, which involved an allegation of a racially aggravated assault, reached the Crown Court. The caseworker allocated to deal with the case at the first Crown Court hearing quickly appreciated that there was 'no possible chance of a conviction' – a view that was subsequently shared by counsel.
- 3.73 We find it significant and of particular concern that 13 of the 33 cases were stopped because of difficulties with witnesses, who either declined to give evidence or failed to keep the prosecution aware of their whereabouts. Six of those cases involved allegations of violence, and two of them related to serious sexual offences.

- 3.74 In other Areas, experience has shown that careful analysis of the adverse case results can reveal that witnesses in some types of cases are more likely to be reluctant to give evidence or to make themselves unavailable. It is sometimes possible through joint work between several agencies to afford better and more targeted witness care. We were told that the judiciary have expressed similar views.
- 3.75 We have similar concerns in the magistrates' courts where 15 cases were discontinued because of difficulties with witnesses (paragraph 3.52).
- 3.76 We suggest that the CCP liaises with the police and Victim Support with a view to improving witness care in those cases that can be identified as liable to involve reluctant or vulnerable witnesses, with a view to reducing the number of cases that have to be dropped, particularly in the Crown Court.**
- 3.77 The Area records that in the year ending 31 March 2000, there were 28 JDAs, with six falling in the three months ending 29 February 2000. The Area was only able to provide us with three cases in this category, and we found that one of those was wrongly categorised.
- 3.78 We agreed with the decision to proceed in respect of both remaining cases, but have concerns about the case-management of one of them involving an allegation of a forged mortgage application. Despite the fact that it would be clear from the outset that the document would be required as an exhibit, no steps were taken to obtain it.
- 3.79 We have difficulty in setting out any firm conclusions. We were assured that Area records were accurate. If so, there are clear indicators of poor performance, such as the high number of discharged committals and JOAs. If the numbers are as high as the statistics show, then it is deeply disturbing if files with adverse findings cannot be traced. More likely is the situation that the Area performance is much better than has been projected, but the high number of mis-recorded case outcomes must be tackled and put right.

Learning from experience

- 3.80 In the files given to us where there were adverse findings, failed case reports had been invariably completed. The value of the reports was variable. In some cases, because a caseworker had not been present in the courtroom, only limited information was available. Some reports were robust and identified that there were lessons to be learned; others simply did not tackle the cause of the failure.
- 3.81 We were told that the failed case reports are collated by senior caseworkers, and considered by the AMT. This process drew attention to the disparity between the number of cases being considered and the number of cases recorded.

- 3.82 We were told that, if it were appropriate, the BCP and the PTLs would take up any specific issues with the individual lawyer or caseworker who dealt with the case. If there are issues of relevance to the Area as a whole, the issues will be raised at team or unit meetings, but there is a risk that appropriate benefit will not be gained from the experience of the Area as a whole if staff are absent, or a meeting is cancelled.
- 3.83 We were not told of any formal system to ensure that issues arising from successful cases are passed back to either individual lawyers or caseworkers, or to a wider audience within the Area.
- 3.84 We recommend that the CCP implements an effective system to ensure that prosecutors and caseworkers are given appropriate information about the results of cases, both successful and otherwise, in both the magistrates' courts and the Crown Court, and that attention is drawn to points of general application.**

Review endorsements

- 3.85 We examined the quality of review endorsements, as opposed to the quality of review itself. We were told that the AMT had identified the standard of review endorsements as a problem.
- 3.86 In our sample of 100 files, we found that the evidential factors had been satisfactorily recorded in 68 cases, although the public interest factors were only recorded in 46.
- 3.87 It is important that all review decisions are adequately recorded, so that colleagues dealing with files will have appropriate information to alert them to the issues in the case and the reasoning behind any decisions that have been taken about the conduct of the case.
- 3.88 We recommend that prosecutors ensure that all review decisions are properly recorded, and that the record includes reference to the appropriate evidential and public interest factors.**
- 3.89 We were disappointed to note that in one case unprofessional wording had been used to describe the merits of the case. Reviewers should be aware that, with the implementation of the Human Rights Act 1998, the records of review decisions might be subject to increased scrutiny. They will, therefore, wish to ensure that their records are of an appropriate and professional standard.

PREPARING CASES

General

- 4.1 We have said in other reports that good quality decision-making is of limited value if the subsequent handling of cases is not thorough and professional. In this section we consider the performance of the Area in relation to specific stages in the progress of cases from institution of proceedings through to their conclusion.
- 4.2 One of our main concerns in CPS Essex is the general need for improvement in the standard of file management and file management support systems.
- 4.3 The lack of effective file management can manifest itself in many ways, as we observed, from simply not being able to link correspondence and information to files through to not being able to find files for court.
- 4.4 It obviously leads to difficulties when presenting cases in court, whether the magistrates' courts or the Crown Court, and can cause delay in the proceedings. It also causes frustration on the part of other criminal justice agencies or practitioners, and lowers their perception of the quality of the Area's performance.
- 4.5 We refer to this issue throughout this and the following sections.

Advance information

- 4.6 In 53 out of 56 relevant cases examined, appropriate material had been served on the defence as advance information. We were unable to ascertain what material had been served in a further nine cases because there was no record on the file. However, during our observations in court we saw that appropriate records of material served were being completed, and kept on the files.
- 4.7 These records are important, enabling prosecutors to assure themselves that all appropriate material, including material that becomes available after the first hearing date, has been served.
- 4.8 With the introduction of Narey files, the police provide a copy of the relevant material, so that it can be served at the first hearing, avoiding unnecessary delay in the proceedings. In our sample, we found that the material had been served in a timely manner in 53 of the 59 cases.
- 4.9 The Area receives many requests for advance information in cases where the law does not require the prosecution to provide it. The Area has a clear policy to provide information in these circumstances, and has gone to the extent of creating a covering letter specifically to deal with these requests. We commend this positive approach.
- 4.10 We found that information had been provided voluntarily in 21 out of 22 relevant cases.

Handling and service of unused material

- 4.11 The police provided unused material schedules in 88 of the 90 relevant cases in the sample of magistrates' courts and Crown Court cases.
- 4.12 One case where a schedule was not provided was a traffic offence; the other was an offence involving possession of controlled drugs, where the defendant pleaded guilty in the Crown Court. In neither of those cases was disclosure made.
- 4.13 The standard of the schedules in 25 cases was poor in that the level of detail about the material listed in the schedules was insufficient for reviewing prosecutors to make an informed decision about disclosure. In 22 of these cases the prosecutor accepted the schedules, and served them purportedly in fulfilment of their statutory obligations relating to disclosure. The prosecutor should have returned the schedule to the police to be completed properly, or, if there was doubt about the material, should have asked to see the material itself. We found that prosecutors rarely ask to look at unused material of their own volition.
- 4.14 Primary disclosure was made in a timely manner in 66 of the 88 cases. In 14 cases the disclosure was late, and we were unable to ascertain timeliness in the remaining cases. The timeliness of the service of the schedules in both the magistrates' courts and the Crown Court was criticised by representatives of other agencies.
- 4.15 We were told that cases listed for summary trial sometimes have to be adjourned because disclosure has not been made to the defence, or disclosure was late. In Crown Court cases, primary disclosure should be made at the time of committal, but we were told, and observed from files that we examined, that this is not always done. We saw cases where disclosure was made at the PDH, and were told that in some cases it is made at a later stage.
- 4.16 When defence statements are served on the prosecution in response to primary disclosure, we found that there was delay in dealing with secondary disclosure in seven out of 28 relevant cases. If appropriate and expeditious action is not taken, there will be delay in secondary disclosure being made and we were told that this could lead to cases being listed for mention in the Crown Court.
- 4.17 We were pleased to note that the poor performance in relation to dealing with unused material had already been identified by the Area and the police as an issue that needed to be tackled, and tackled urgently.
- 4.18 As a result, a training package was put together, and joint training has recently taken place for both police and Area prosecutors and caseworkers. The training also had input from a member of the local Bar as well as CPS prosecutors and police, and has been well received.

- 4.19 We commend the quality of the training package that was assembled and the expeditious manner in which the training was carried out as good practice. The training package encompasses those recommendations and suggestions in our thematic review of the disclosure of unused material (Thematic Report 2/2000) in relation to preparation and dealing with disclosure schedules by both police and CPS. It is essential, however, that the results of the training be properly evaluated to ensure that it has been effective, and any shortcomings are identified and appropriate up-dated training or other remedial action is promptly implemented.
- 4.20 We suggest that the CCP, BCP and PTLs monitor performance in relation to disclosure of unused material to ensure that recent refresher training has been effective, and to identify and remedy any remaining shortcomings.**
- 4.21 Unused material schedules are now kept in separate and distinctive folders in the files, although correspondence relating to unused material is usually kept in a general correspondence bundle.
- 4.22 The Inspectorate's thematic review also recommended that related correspondence together with a disclosure record sheet should also be kept within the folder. This would enable any person using the file to quickly retrieve and assess all of the information relating to disclosure of non-sensitive material. This is a practice that should also be considered for summary trial files.
- 4.23 We suggest that the CCP provides that, in addition to any unused material and the appropriate schedules, correspondence relating to disclosure is kept in the separate unused material folder, together with a disclosure record sheet.**

Handling of sensitive material

- 4.24 We were told that appropriate arrangements have been made between the police and the Area to deal with sensitive material, and that any applications for public interest immunity (PII) from disclosure are handled properly.
- 4.25 We examined some files where there had been PII applications, but did not find that the decisions made by the reviewing prosecutors had been properly recorded, or that, in all cases, the caseworker and prosecuting counsel were kept fully informed.
- 4.26 In other cases the reverse appeared to be happening, with the process being dealt with by counsel, with little or no input from the reviewing prosecutor.
- 4.27 We have been told that with the creation of the CCU, there will be a greater degree of control and continuity with Crown Court files (in which the vast majority of sensitive material is found).
- 4.28 We recommend that prosecutors and caseworkers ensure that, in relevant cases, all sensitive material is properly handled and decisions are appropriately recorded.**

Summary trial preparation

General

- 4.29 The standard and timeliness of summary trial preparation was criticised by a number of representatives of other agencies. There are a number of factors that may give rise to the perceived poor performance. Senior managers need to determine whether it is a performance issue or whether there is an imbalance of resources between the CCU and the MC teams.
- 4.30 As well as the concern that late review is leading to trials not being effective (see paragraph 3.15), it is also making efficient management of trials very difficult. Pre-trials reviews are unlikely, for example, to be effective if the prosecution does not properly review cases.
- 4.31 We were told that because pre-trial reviews were not being properly utilised, the courts were considering abandoning them, as in most cases they represented simply another adjournment, with the added inherent delay to the proceedings.

Selection and warning of witnesses

- 4.32 We found that the appropriate witnesses had been called in all 40 relevant cases we examined, although it was suggested to us that in some public order cases some police officers are called because they were at the scene, rather than as a result of consideration of value of the evidence they are likely to be able to give.
- 4.33 In our sample, witnesses had been warned in a timely manner in 33 out of 40 relevant cases. In one case we were unable to ascertain the timeliness, but in the remaining six cases the warning was late. We were told by the police that notification of the witnesses to be called was often received late.
- 4.34 Conversely, we saw examples of cases where witnesses had not been de-warned despite the fact that it was known that cases would not or should not proceed. This can lead to cases being dealt with inappropriately, as well as inconvenience to witnesses and, in some cases, costs being awarded against the CPS.
- 4.35 We have already referred to one case where witnesses attended unnecessarily (paragraph 3.58). In another case that we examined, the reviewing prosecutor decided properly that a case should not proceed, and informed the police of his views. However, the witnesses were not de-warned, and attended court; the decision to discontinue the case was reversed, and the case proceeded. The case ended in a successful appeal by the defendant to the Crown Court.
- 4.36 It is cases such as this that give rise to the concern that the outcome of some cases is dependent upon the efficiency of the administrative performance rather than upon a considered review decision.

- 4.37 We found that section 9, Criminal Justice Act 1967 (enabling a witness' statement to be read to the court in the witness' absence) had been appropriately used in 31 of the 32 relevant cases in the sample. In the single case where the use was inappropriate, the reviewing prosecutor had tried to serve an exhibit, the notes of the defendant's interview, rather than a witness statement.
- 4.38 If it is proposed to serve statements under section 9, Criminal Justice Act 1967, they should be served at least seven days before the hearing as this is the time available to the other party to object to the statement being read. In practice it is better that the statements should be served sooner.
- 4.39 We found that in three of the 32 cases the service was late, and in a further two cases we were unable to ascertain the timeliness of the service. Again, late service of these statements can result in a trial being adjourned, or even failing if the court refuses an adjournment.
- 4.40 We saw a case fail at court when the evidence of the crucial police witness had been incorrectly considered suitable for service under section 9, Criminal Justice Act 1967; administrative delay meant this was not done until the last moment, and it was then too late to warn the officer to attend court.
- 4.41 Section 10, Criminal Justice Act 1967 enables agreed facts to be presented to the court, without the need to call witnesses. We were told that its use is not frequent, but we did find one case in our sample where it had been appropriately used.

Casework support systems

- 4.42 Casework support systems and processes, as illustrated above, leave much to be desired. This is more apparent in the magistrates' court teams, which do not get the benefit of the same level of senior management attention as the CCU. Some of the problems are attributable to the appointment of very experienced members of staff to the DCW roles, but others are down to a lack of basic systems.
- 4.43 There appears to be no simple standard file management system, and files are strewn around the floor, in cupboards or on tables with little or no indication as to why they are in that particular position. Files moving between staff are often not prioritised, which can result in the most urgent work being left to last.
- 4.44 **We recommend that the AMT sets up an effective file management system to ensure that:**
- * **the location and status of every file is more easily identifiable,**
 - * **the timely movement of files; and**
 - * **actions that need to be taken urgently are properly prioritised.**

- 4.45 There are large amounts of post on both of the MC teams, which have been received, but not matched with the appropriate files. Some of these items related to cases which were open at the time the correspondence was received, but which have subsequently been closed without the information ever reaching the file. This is an area of great concern as it often causes delay and in the worst case could lead to inappropriate decisions being made.
- 4.46 Even when the correspondence is tied to the correct file, it often takes so long that CJS partners and members of the public find it necessary to chase for responses in the intervening period. This causes understandable frustration for all parties concerned and is a considerable drain on CPS resources as time is wasted in trying to locate files, or in dealing with resultant adjournments.
- 4.47 This is an area that must be addressed as a matter of some urgency.
- 4.48 We recommend that the AMT sets up an effective system for dealing with post, with defined management responsibilities in terms of monitoring adherence, to ensure that (in conjunction with a revised file management system) post can be linked to the appropriate file expeditiously.**

Dealing with and monitoring summary trial preparation

- 4.49 Despite the obvious concerns about the timeliness of witness warning and other shortcomings in the preparation of summary trials, the Area does not have a single consistent and effective system for dealing with these issues. For example, the Area has different systems for notifying witnesses required dependent on the police division concerned.
- 4.50 There is no effective system for monitoring the receipt of full files from the police, so that outstanding files are not identified and chased. Even when a full file is received there is no system to monitor the timeliness of the preparation of the trial, either in relation to prosecutors or administrative staff and typists.
- 4.51 This is an issue that Area senior managers should tackle urgently before the goodwill of other agencies and of the Area staff is sapped by the frustrations of poor performance. We were pleased to hear that since we visited the Area, one of the senior caseworkers has been moved into one of the MC teams and given clear, as opposed to nominal, management responsibility for the magistrates' courts systems and caseworkers.
- 4.52 We recommend that the CCP and the PTLs introduce a rigorous and effective system for the preparation of summary trials.**
- 4.53 Some Areas have a system whereby summary trial files are collated at an appropriate time before the trial date, and checked to ensure that all outstanding work has been completed, and there are no further issues that require attention or action.

- 4.54 In CPS Essex these files are collected together three days before the hearing date, and as far as we were able to ascertain this is simply to assemble them for distribution to the prosecuting advocates, many of who will be agents instructed by the CPS.
- 4.55 There is no formal system to check the file and there would in practice be insufficient time to take appropriate remedial action in the vast majority of cases. Where remedial action is attempted in this short time, such action will be seen as too late to avoid inconvenience and disruption to other agencies and witnesses.
- 4.56 We hold the view that because the performance in relation to summary trial preparation is perceived to be poor, some appropriate checking system should be introduced as a matter of urgency.
- 4.57 We recommend that the CCP and the PTLs introduce as a matter of urgency a system whereby summary trial files are checked before the trial date, to ensure that the file has been properly prepared for trial, and that appropriate action can be taken to remedy any outstanding matters.**

Preparation of committals

- 4.58 Lawyers and caseworkers in the CCU now prepare all committals and transfers to the Crown Court. In the majority of cases the committal is prepared by a caseworker, and then checked by a lawyer.
- 4.59 We were told that late arrival of files from the police was a problem for the Area, although it was appreciated that there was increasingly less time available to the police to prepare the files.
- 4.60 In our sample, we found the Area had prepared the committal expeditiously in 39 out of 50 relevant cases, even though the late receipt of the full file might result in the papers being served on the day fixed for the committal.
- 4.61 We were told that the Area had a policy not to prepare a committal when the file is received from police less than five working days before the date listed for committal, unless the defendant is in custody. We consider that the availability of resources, the interests of justice and relative priorities must be balanced in each case in deciding whether it can be prepared for committal by a date fixed by the court. The CCP will no doubt want to build on the constructive working relationship with police at strategic level and resolve the difficulties over committal preparation.
- 4.62 Furthermore, because of the relatively short time between committal from the magistrates' court and trial date in the Crown Court experienced in a few cases, the Area will not commit cases unless they are 'trial ready'. There is clearly a conflict here between the pressures on the magistrates' courts to improve the timeliness with which they deal with cases, and the need for the prosecution to be able to proceed properly when the case reaches the Crown Court.

- 4.63 The Area managers accept that this has led to an increasing number of cases which are not ready for committal and magistrates are refusing adjournments, and are discharging the defendants. We were told that the Area is prepared to recommence proceedings when a full file is available. This means that the defendant has to be re-charged with an impact on police and other resources within the criminal justice system.
- 4.64 Again, we believe a balance should be struck between competing interests of justice: cases should not be committed if there are critical gaps in the evidence; on the other hand they should not be held back for additional minor work to be undertaken when it can clearly be done before or after the first Crown Court hearing.
- 4.65 The CCP and the BCP will want to satisfy themselves that appropriate systems and resources are available to ensure that where satisfactory full files have been received from the police, committals are prepared timeously, enabling cases to proceed expeditiously.

Instructions to counsel

- 4.66 The Area uses a recent version of a CPS Crown Court case preparation package, which provides for the reviewer to insert more free-text and fewer pro-forma paragraphs than earlier versions.
- 4.67 There was an appropriate summary dealing with the issues in the case in the instructions in 34 of the 50 relevant cases we examined, and eight out of 14 relevant instructions dealt with the acceptability of alternative pleas.
- 4.68 This standard is, in our experience, slightly higher than average, although this needs to be seen in the context that the quality of instructions to counsel is generally low throughout the CPS. The Area managers will no doubt expect a continuing improvement to be seen as the CCU develops.
- 4.69 Area records show that the instructions to counsel were delivered within 14 days of the committal or transfer to the Crown Court (21 days in respect of some more complex cases) in 80.8% of cases in the year ending 31 March 2000. In our sample we found that in 34 out of 50 cases (68%) delivery had been timely. Ten were delivered outside this period, whilst we were unable to assess timeliness in the remaining six cases.

Plea and directions hearings (PDHs)

- 4.70 The PDH is usually the first hearing for cases that are committed to the Crown Court, and the future conduct of the case will often be determined at this stage.
- 4.71 It is therefore essential that the CPS is properly represented at these hearings, so that where necessary proper and considered decisions can be made in respect of its cases. The Area accepts that this is so, and has given an assurance that as well as an appropriately experienced caseworker, a PTL will also be present at Court.

- 4.72 In the Crown Court at Basildon, we were told that a former PTL, who is now a lawyer in the CCU, attends the PDHs, accompanied by one of the senior caseworkers from the unit.
- 4.73 In Chelmsford, we were told that one of the CPS lawyers who has rights of audience in the Crown Court (a Higher Court Advocate (HCA)) is normally in attendance to prosecute a number of the cases.
- 4.74 There was a slight lack of clarity about what other coverage would be available when the HCA was appearing as an advocate. The Area will need to resolve whether another lawyer needs to be in attendance or if the HCA can deal with issues arising out of any cases in the court.
- 4.75 We attended two PDH courts in Chelmsford. On the second occasion there was no lawyer at the court, but the senior caseworker in attendance was able to deal adequately with queries and issues raised in all of the cases.
- 4.76 Area managers will want to ensure that PDH courts have a lawyer, appropriately conversant with the cases, in attendance or nominated in the office as appropriate back up. Alternatively, they may wish to reconsider the level of assurance provided.
- 4.77 When the judge at the PDH gives directions, a copy is sent to the police directly by the court, because they frequently require action on the part of the police. They are also recorded on the appropriate files by the CPS caseworker.
- 4.78 We were told that on occasions the prosecution does not comply with the directions in a timely manner because of lack of information from the police. We found in the sample that directions were not complied with timeously in nine out of 27 cases (33.3%).
- 4.79 We were unable to ascertain the reason for the lack of timely compliance in one case, but four cases were because of further action being needed on the part of the police, with a similar number because of fault on the part of the CPS.
- 4.80 It was apparent from our files that there were, on occasions, administrative difficulties which prevented files being dealt with expeditiously, which could give rise to the delay in compliance.
- 4.81 The regime dealing with Crown Court cases has changed since some of the files we inspected, but we did observe that some administrative tasks, such as linking letters or police memoranda to files, were not always being completed effectively. This does not facilitate early compliance with directions.
- 4.82 Our recommendation relating to the administrative processing of files at paragraphs 4.44 and 4.48 encompass this issue.
- 4.83 We were told that where there is lack of compliance, the cases are often listed for mention by the defence but that outstanding issues are usually resolved before or at the hearing. The issues are therefore ultimately resolved, but an unnecessary hearing is a waste of resources for all parties concerned.

Indictments

- 4.84 Apart from in exceptional cases, indictments are now drafted by the CPS. We were told that there was no criticism of the standard of drafting, although in some cases the judiciary and the Bar would like to see an earlier involvement of counsel.
- 4.85 In the sample, eight of the 50 indictments (16%) were amended, which, in our experience, is significantly better than the national average. The amendments were to rectify errors in the wording of counts, or to add alternative counts to cope with acceptable pleas. We were pleased to note that none of the amendments were to correct counts that were wrong, or to change the level of charging.
- 4.86 All of the indictments, except one, were lodged with the Crown Court in a timely manner. These aspects show good work in the Crown Court, which we commend.

The role of the CPS in the Crown Court

- 4.87 The Area has three prosecutors who have obtained higher rights of audience. One of the HCAs has been appearing to deal with PDHs and committals for sentence at Chelmsford. He is now very experienced having also appeared as a junior, led by Queen's Counsel, in a murder trial.
- 4.88 The other two HCAs are newer appointments. One of them is expected to assume a similar workload in the Crown Court. The third, who is the BCP and manager of the CCU, is not expected to undertake the same volume of work because of his other commitments.
- 4.89 The Area is expecting to appoint a further three HCAs in the near future.
- 4.90 We have dealt with the role of both prosecutors and caseworkers at PDHs in paragraphs 4.70-4.76 above. Although the intention is for the lawyers in the CCU to play a more prominent role in the Crown Court, in practice it is still unusual for lawyers to be in attendance, except for key dates in the most serious or complex cases.
- 4.91 It is expected that a CCU lawyer will always be available in the office, and can be contacted by telephone to deal with any issues that arise unexpectedly in court.
- 4.92 CPS lawyers deal with bail applications in the Crown Court, although now this is usually confined to lawyers from the CCU.
- 4.93 The Area has a high proportion of caseworkers, but they only cover the Crown Court on the basis of one caseworker to every two, or even three, courtrooms. We were told that higher coverage was not possible because of the overall commitments of the caseworkers. Efforts were made to ensure that caseworkers covered their own cases, but this is only possible in exceptional cases with this ratio of cover. The Area has to cover about 13 courtrooms on a typical day, and we were concerned that higher coverage was not achieved by the 30.8 caseworkers in the CCU albeit the equivalent of 10.6 undertook casework administration in the office and were not available to cover courts.

4.94 We were assured that when the trials unit replaces the CCU (in October 2000) it is intended that more, albeit less senior, caseworkers under the supervision of an experienced caseworker will be used to cover the Crown Court. Extra staff will transfer in from the existing MC units to create a larger pool of caseworkers to undertake administrative tasks and to cover courts. Area managers intend that caseworkers will then cover courtrooms on a one-to-one basis. Furthermore, we consider that caseworkers should always cover their own cases at contested trials, where feasible.

Sensitive and aggravated offences

4.95 Area managers, prosecutors and caseworkers are aware of the care and attention which needs to be given to particular types of offence which are regarded as sensitive or aggravated. These are particularly cases involving child abuse, racially motivated and domestic violence offences.

4.96 We were told that a proportion of inappropriate cases had been committed to the Crown Court, particularly child abuse cases, that should not have been prosecuted if the evidential sufficiency test of the Code had been properly applied. The Area managers, in response to this criticism, encouraged a more robust approach to the review of all offences, particularly in relation to child abuse offences. This has resulted in fewer inappropriate cases being committed to the Crown Court, and the judiciary commended this.

4.97 We acknowledge that cases such as these do require a firm, clear approach, with difficult, and often unpopular, decisions having to be taken. The issue is, in our view, that these types of cases must receive the through consideration at all levels that they merit. From our observations, the manner in which these cases are managed, however, does not always reflect the Area's commitment to dealing with them with the appropriate care and attention.

4.98 We observed a child abuse case in the Crown Court, where the judge was giving his reasons for stopping the case following legal argument. He gave his judgment outlining his reasons, and gave certain indications about the future conduct of such cases. It was disappointing to note that there was no Area representative in court to hear and record the salient points of the judgment, despite the importance of the decision in relation to the case in question and possibly other similar cases.

4.99 We suggest that the CCP, BCP and PTLs ensure that cases involving child abuse offences and other sensitive or aggravated offences are given appropriate priority, and in particular that there is a CPS presence at court at all key stages of the case.

4.100 Disclosure of material that is in the custody of a third party is an issue that most often is raised in child abuse cases, because the local Social Services department will often have material relating to the child in the case.

- 4.101 At least one of the Crown Court Judges has devised a protocol to deal with the difficulties that are faced with this issue, but it is evident that a more pro-active approach by the CPS to the Social Services' departments may be of mutual advantage to both agencies. It might also be seen to be indicative of an appropriate approach generally by the Area to this type of case.
- 4.102 We suggest that the CCP, through appropriate staff, engages in regular meetings with Social Services Departments and considers the agreement of a protocol about the provision of sensitive material.**
- 4.103 We were not told of any problems with the Area dealing with domestic violence cases, although, because of the very nature of the offences and the relationship between the parties, there is a high proportion of victims being unwilling to give evidence. This is one of the types of offence that may benefit from consideration of more targeted witness care, as we envisage in our suggestion at paragraph 3.76.
- 4.104 We were told that there were few racially motivated offences prosecuted in Essex, although we did see two in our sample of 100 cases. We found a further two cases in the JOA sample.
- 4.105 The Area recognises the high priority that should be afforded to these cases, but this was not always evident in the files that we looked at. The magistrates' court file in one case had not been appropriately flagged so that any prosecutor dealing with the case would readily recognise the sensitivity of the case.
- 4.106 In another case, the charges were not selected until 23 days after the initial review, and the overall recording of the issues and considerations could have been improved.
- 4.107 One of the two JOAs should have been discontinued at a much earlier stage, and not allowed to drift through the system, possibly raising unwarranted expectations unreasonably.
- 4.108 In the other case, the victim in a racially motivated assault failed to attend court. We could not find any evidence that there had been any closer witness care or monitoring because of the vulnerability of the witness, nor that any steps were subsequently taken to ascertain why the victim had failed to attend.
- 4.109 The Area's performance in relation to this small number of offences needs to be improved.
- 4.110 We recommend that the CCP, BCP and PTLs ensure that cases involving racially motivated or aggravated offences are:**
- * **properly identified and marked; and**
 - * **are afforded appropriate care and attention by the reviewing prosecutors to enable the cases to be dealt with effectively and expeditiously.**

Custody time limits (CTLs)

- 4.111 CTL provisions regulate the length of time during which an accused person may be remanded in custody in the preliminary stages of a case. Failure to monitor CTLs, and, where appropriate, to make an application to extend them, may result in a defendant being released on bail who should otherwise remain in custody.
- 4.112 We examined 20 such cases, and in one of them there had been a failure to make the appropriate application that had resulted in a defendant who was charged with serious offences being released from custody. In due course, following additional charges being preferred, he was returned to custody.
- 4.113 The Area managers, who instructed an examination of the systems used to monitor CTLs, had noted this failure and we were told that a new system had been introduced.
- 4.114 Under the present system, CTL cases in the MC teams and the CCU are recorded in a diary and there are various prompts and action dates recorded to ensure that appropriate and timely action is taken to make any necessary applications to extend the limits.
- 4.115 It was clear from our examination of the files that neither the monitoring of the limits nor the standard of marking the files was adequate in all cases.
- 4.116 Both magistrates' courts and Crown Court files should be stamped with a rubber stamp, which has space for the expiry and review dates to be inserted. We found two Crown Court files that did not have this stamp on them.
- 4.117 We found three Crown Court files where there was no evidence of monitoring while the cases were in the magistrates' court. We were told that this was because of confusion within the office when the CCU was first set up as to whether the unit or the magistrates' court team was responsible for the monitoring.
- 4.118 This had occurred after the failure we have referred to above, and we are concerned that such confusion was allowed to exist at a time when the Area would have been particularly concerned about the necessity of having efficient and effective systems to deal with time limits.
- 4.119 We were assured that this had now been resolved, and the MC teams assumed responsibility.
- 4.120 We saw another case, outside the specific CTL sample, where there had been confusion about the CTL expiry date. Three people had apparently calculated the expiry date and arrived at three different dates.
- 4.121 Since our visit to the Area, we have been told that a pamphlet giving clear guidance as to how to deal with CTL has been distributed to all staff. We are pleased to hear of this development. Because of our concerns about the manner in which these cases were handled, we nevertheless make a recommendation.

4.122 The confusion in some cases about responsibilities and dates, and the lack of appropriate endorsements, means that the Area managers must be satisfied that the systems for monitoring CTL are being properly applied, and the staff involved are properly trained and fully capable of dealing with these issues.

4.123 We recommend that the CCP, BCP and PTLs, as a matter of urgency, review the operation of the systems used to monitor custody time limits, to identify any modifications that might be necessary to the systems or staff training needs.

File endorsements

4.124 We have dealt with endorsements relating to bail applications (leading to the recommendation at paragraph 3.30), review endorsements (leading to the recommendation at paragraph 3.88), and endorsements relating to submissions as to mode of trial (leading to the suggestion at paragraph 3.28).

4.125 Although as a general overview we found that the standard of endorsements on the files was good, we have to balance that against the number of cases where we were unable to find information about significant issues in the case. An obvious example of this is the five cases where we were unable to ascertain the reason for discontinuance (see the table at paragraph 3.49).

4.126 Area managers told us that they were aware of the need for improvement in some cases, and would be taking this forward in the staff appraisal process by setting appropriate objectives where necessary.

File management

4.127 We noticed there were two distinct standards of Crown Court files in our sample. Some of the files were in poor order, bordering in some cases on being in disarray.

4.128 Later files have documents that relate to different topics, such as unused material or previous convictions, kept within separate coloured folders within the file. This has improved the quality of the files, making information from the file easier to obtain, and the progress of the case easier to follow. We commend the introduction of this file management as good practice. We think that it could be extended to summary trial files.

Providing information to the Probation Service and other agencies for pre-sentence reports

4.129 The CPS has agreed nationally to provide relevant information from its file to the Probation Service where magistrates order a pre-sentence report to be prepared or where the defendant is committed to the Crown Court. The information about the offence and the defendant's antecedents is to assist with the preparation of the report to the court.

- 4.130 We were told that too often this information is not received in time or was not apparently sent. This can result in reports having to be prepared without the benefit of this information being available.
- 4.131 We found that the information was given in 45 out of 64 relevant cases. We found that it was not given in four cases, but we were unable to ascertain whether it had or had not been provided in the remaining 15 cases.
- 4.132 Whilst in most cases where we could ascertain timeliness, the information appeared to have been provided expeditiously, in a small number of cases there was undue delay. In the worst case, the information was given 39 days after it should have been available. Senior managers will want to check and monitor the situation to see where the problems arise.
- 4.133 In the youth courts, pre-sentence reports are now prepared by staff from the local youth offender teams (YOTs). The arrangements for providing the information are less than adequate, and in many cases the material, if received, is too late to be of assistance.
- 4.134 The Area might not have been aware of the shortcomings. This lends weight to our suggestion relating to improving the role of the youth specialist (paragraph 3.41) as in all probability this issue could easily be resolved by improved liaison and agreement about what changes to the system are needed.

PRESENTING CASES

The quality of advocacy in the magistrates' courts

Crown Prosecutors

- 5.1 CPS Essex was one of the Areas whose advocacy was observed for the purposes of our thematic review of advocacy and case presentation (Thematic Report 1/2000). We did not refer specifically to individual Area findings in our thematic report, but we found that all of the advocates were satisfactory or, in some cases, more than satisfactory.
- 5.2 During this inspection we observed 19 CPS advocates (including one DCW) in the magistrates' courts at Basildon, Chelmsford, Colchester, Epping, Grays, Harlow, Southend and Witham, and in the youth courts at Basildon, Harlow and Harwich.
- 5.3 Most of the advocates we observed were dealing with undemanding lists or, in some instances, cases transferred from another court at short notice, but all of the advocates we observed were competent. One or two were somewhat reactive in approach. Three demonstrated higher level skills.
- 5.4 Representatives of other criminal justice agencies gave varying descriptions of the quality of CPS prosecutors. Most described them as at least satisfactory or good, but lack of incisiveness and cohesion in cross-examination was a cause for concern about some.
- 5.5 Although a number of trials had been listed in the courts we attended, very few of them proceeded, reflecting the high rate of cracked trials. Where we did observe summary trials being prosecuted by CPS advocates, we observed varying performances as reported by the other agencies' representatives.
- 5.6 It was clear to us that the CPS advocates were well prepared and we observed some good advocacy, but on occasions cross-examination, and in some instances, examination-in-chief was not always as targeted as it might be.
- 5.7 Most of the CPS advocates are from the MC teams, but prosecutors from the CCU prosecute in the magistrates' courts on occasions.
- 5.8 The CCP on occasion prosecutes cases in the magistrates' courts, although he does not have a personal caseload, acting in a consultative capacity for other prosecutors. He has consciously given greater priority to attending the Crown Court to deal with bail applications or resolve difficulties that arise there. We fully support the CCP adopting a high profile in the Crown Court, but we consider that balance needs to be kept under review. Appearances by the CCP in the magistrates' court are an important aspect of the representational role and provide good opportunities for assessing the strengths and weaknesses of Area performance at that level.

5.9 We suggest that the CCP reviews the balance of his commitment between the Crown Court and magistrates' courts in order to increase his attendance as an advocate in the magistrates' courts.

5.10 Monitoring the quality of CPS casework first-hand will be of particular importance when the CJUs are introduced, with all of the work relating to summary proceedings being dealt with in a location away from the CCP's office.

Designated caseworkers

5.11 The Area has the equivalent of 4.4 DCWs who are able to prosecute cases in the magistrates' courts. The magistrates' courts have some courtrooms dealing with lists of cases that the DCWs can prosecute, thus enabling the Area to take proper advantage of their position.

5.12 We were told that, subject in some cases to their relative inexperience, the performance of the DCWs was high. The one DCW whom we observed was competent, with a proactive approach to the presentation of cases.

Agents in magistrates' courts

5.13 We deal with the cost and selection of agents at paragraphs 6.56-6.60.

5.14 We observed five agents prosecuting cases on behalf of CPS Essex in the magistrates' and youth courts. All of the agents were junior counsel, and instructed to deal with summary trials.

5.15 Some of the agents were good; others were having difficulties with issues raised by defence advocates, and in some cases this appeared to be because of inexperience.

5.16 Representatives of other criminal justice agencies confirmed that some agents were good, but were critical of the standard of others, although in some instances this may have been due, at least in part, to the standard of preparation of files passed to them by the CPS.

5.17 One concern was that the local CPS were unaware of the standard of the individual agents, which coupled with the method used to select agents could result in a poor performer being frequently instructed, whereas good advocates might only be instructed occasionally.

Agents in youth courts

5.18 We were told that every effort is made to have suitably experienced CPS prosecutors deal with cases in the youth courts, particularly because of the high profile these cases currently have.

- 5.19 However, agents are instructed to prosecute a large proportion of those cases that are listed for trial in the youth courts. We observed that in one such case, counsel who had not completed pupillage had been instructed.
- 5.20 We are concerned that in the youth courts prosecutors with insufficient experience and expertise are dealing with these cases, particularly in an environment where trials frequently do not proceed, and agents find themselves dealing with remand cases from other courtrooms.
- 5.21 We recommend that the CCP ensures that sufficiently experienced prosecutors are selected as prosecutors in youth courts, and that where, exceptionally, agents are instructed they have appropriate experience and expertise.**

The quality of advocacy in the Crown Court

Crown Prosecutors

- 5.22 The Area has three HCAs (we dealt with their role at paragraph 4.87) although two have only recently been appointed.
- 5.23 Unfortunately we were unable to observe any of the HCAs presenting cases. We were told, however, that the performance of the original HCA was held in high regard by the majority of representatives of other agencies.
- 5.24 All of the prosecutors in the Area used to deal with bail applications in the Crown Court, but prosecutors from the CCU now generally deal with these. We were told that CPS prosecutors are well prepared with a full knowledge of the cases with which they are dealing. This enables them to present their cases to a high standard.

Counsel

- 5.25 We deal with the selection of counsel at paragraphs 6.62-6.63.
- 5.26 We were told that the standard of counsel instructed was variable, but overall satisfactory.
- 5.27 We observed 12 counsel instructed by CPS Essex in the Crown Court sitting at Basildon, Chelmsford and Southend. The majority were competent and satisfactory, obviously properly prepared and able to deal with issues raised by the judge.
- 5.28 In one instance, however, counsel was less well prepared, and unable to deal properly with issues raised. This appeared to be as a result of lack of preparation together with inexperience.

Monitoring advocacy standards

- 5.29 We made recommendations in our thematic review about monitoring of advocacy because this is always an important issue, whether the advocates are CPS prosecutors, agents in the magistrates' courts or counsel in the Crown Court.
- 5.30 This is particularly so where there are any concerns about the performance of some advocates by representatives of other criminal justice agencies. It is also important that the prosecutors are given feedback about the monitoring so that they have the opportunity to benefit, and improve, from the process.
- 5.31 We were told that the performance of CPS advocates was not being monitored regularly because of the resources needed to deal with this effectively. Nevertheless, balanced against the concerns raised by some representatives of other agencies, regular and effective monitoring is an essential tool to maintaining high standards of case presentation.
- 5.32 There is no formal monitoring of the performance of agents by CPS Essex, which, again, we believe is important in light of the criticisms which have been made about agents' performance, and about which Area managers are aware.
- 5.33 Such monitoring would ensure that the Area managers were aware of the standard of individual agents used, and enable the agents themselves, through proper feedback, to learn from the process.
- 5.34 Area managers are content with the performance of counsel, although, again there is no formal monitoring system, with ad hoc feedback being given in extreme cases.
- 5.35 We made a recommendation in our thematic review that formal monitoring systems should be adopted on the basis that it is obviously in the interests of the CPS to secure the services of competent counsel, as well as being in the public interest and the wider interests of justice. Our view was echoed by the National Audit Office in their report, 'Criminal Justice: Working Together' (HC 29 Session 1999-00) published 1 December 1999. We recognised that monitoring could be resource intensive, but pointed out that much could be achieved by managers taking advantage of opportunities arising from their own attendance at court premises – which might be for a variety of reasons.
- 5.36 The CPS has agreed with the Bar revised arrangements for the selection of advocates in the Crown Court, and these arrangements include the extent of monitoring to be undertaken.
- 5.37 We suggest that the AMT ensures that effective monitoring systems are introduced to assess the performance of advocates appearing on behalf of the CPS, including CPS prosecutors, agents in the magistrates' courts and counsel in the Crown Court, and, where appropriate, to provide feedback to the prosecutors involved.**

Returned briefs

- 5.38 Where counsel originally instructed is unable to conduct the case, different counsel has to be instructed, and this is referred to as a ‘returned brief’.
- 5.39 We found that 18 of the 40 counsel originally instructed appeared to prosecute at the trial, and trial counsel appeared at the sentencing hearing in nine of the 11 relevant cases.
- 5.40 This is, in our experience, by no means a high rate of returned briefs when compared with other Areas, and we appreciate that there are a number of factors that can combine to bring this about, including listing practices and late changes of plea. We were also told that where counsel originally instructed cannot attend a trial, counsel’s clerks make every effort to ensure that the replacement counsel has appropriate experience and expertise.
- 5.41 Nevertheless the CCP will wish to ensure that the standard of advocacy in the Crown Court is not adversely affected by the rate of returned briefs, and, if necessary, take appropriate remedial action.

MANAGEMENT ISSUES

Management of the Area

Strategy

- 6.1 The CCP has been in position since April 1999, and has developed a very clear strategy as to where the Area priorities lie. These focus strongly around the implementation of the Glidewell recommendations, and a need to improve the performance at the Crown Court, which was perceived as poor at the time of his appointment.
- 6.2 The CCP has forged excellent relationships with senior police officers and judges in the Area. They are developing a common vision for the future of the Crown Court. Actions such as the setting up of the interim CCU, and the concerted approach to applying the Code for Crown Prosecutors in a more appropriate way, to prevent weak cases proceeding to the Crown Court, have started to make some impact.
- 6.3 Whilst the partner agencies feel that the current systems in the CPS are far from perfect, they believe progress has been made, and expressed great confidence that major improvements will come to fruition in the next 6 months.
- 6.4 There is however a downside to all the hard work that has been undertaken on the Crown Court operations. First, on an internal basis there is perception that the magistrates' court is considered inferior and some staff clearly feel undervalued. There are signs of divisiveness creeping in, and the phrase 'them and us' was used by a number of people. It is accepted that, at this stage of transition, there is bound to be some concern caused by uncertainty, but the CCP should endeavour to address as many staff concerns as possible as a matter of urgency.
- 6.5 Secondly, externally, representatives of the magistrates' courts are also concerned about the impact of some proposals on local justice. They believe in, and accept the need for a 'joined up' criminal justice system, and compromises have been made to accommodate the plans of the CPS over Narey Courts. There is a need to progress changes that are planned and implemented by all agencies, taking into account the impact on the magistrates' courts and recognising the legitimate interests of all court users.
- 6.6 Thirdly, we were also told that there has been some increased operational difficulties of late with a rise in late discontinuances, and requests for adjournments on the grounds that the CPS cases are not trial ready for the Crown Court.
- 6.7 The most positive aspect of the work of the MC teams relates to the success of the Narey courts. Whilst there was some concern at the methodology involved in setting up the systems, it is widely accepted that they are functioning well in most courts. The DCWs were singled out by external agencies as being worthy of praise for their performance.

- 6.8 In order that the CJUs and the criminal justice system can operate at optimum efficiency, the co-operation of the magistrates' courts in terms of court sessions and listing is vital. Failure to gain agreements on key issues could have severe repercussions in terms of quality of service or resource requirements.

Structure

- 6.9 The Area has restructured for the implementation of the Narey system in November 1999, and in preparation for the implementation of the Glidewell proposals later this year. There are now two teams processing the magistrates court work, and a separate interim CCU has been set up. It is anticipated that the first of the four CJUs will open on 1 September 2000 at Colchester. This will be followed by Southend, Laindon and Harlow shortly thereafter.
- 6.10 The Area has a specific Glidewell manager, who is responsible for the implementation of the new Criminal Justice Units (CJUs) and the CCU. An implementation team has been formed involving staff at all levels, and regular communication updates are issued. We commend the work of this team. Detailed, good quality project plans have been drawn up and the operation is now at a crucial, yet delicate, stage. The management positions have just been advertised and staff have participated in an exercise to identify their preference in terms of roles and locations. The CCP will need to use a sensitive approach in resolving any personnel issues, as it is unlikely that everybody will be successful in their first choice.

Area Management Team

- 6.11 The AMT meets on a monthly basis and comprises the CCP, ABM, BCP, PTLs and on occasion B2 Managers. There was a reasonably good understanding of the major roles and responsibilities of each of the team, although there was a grey area in respect of the management of the casework support systems, which had led to a lack of senior management attention being devoted to this function. We have been told that since the inspection, a senior caseworker has been given responsibility to 'manage' this function within the MC teams.
- 6.12 We were told that action points from AMT meetings are raised and followed up, although we were unable to track actions for some of the points minuted.
- 6.13 Minutes of the meeting are issued and displayed on notice boards for staff to read and should be supplemented by a cascade of information at team meetings. Whilst meetings do take place, this is not happening as regularly as they are meant to, and this may account for some messages not 'getting through' to all members of staff.
- 6.14 **We recommend that the CCP, BCP and PTLs ensure that regular scheduled team meetings are held to facilitate effective two-way dissemination of information, with the meetings being minuted and reviews carried out to ensure that any action points raised are carried out.**

- 6.15 Whilst there is some discussion on PIs and measures of performance against target at the AMT meetings, there was not a clear understanding amongst staff as to current performance on key targets. This may be affected by the lack of written details in any minutes or action plans, coupled with the infrequency of team meetings. There was little documented evidence of any in depth analysis or corrective actions. We have been told that since the inspection a senior caseworker is now taking additional responsibility for PIs.

Area Business Plan

- 6.16 An Area Business Plan for 2000/01 had not yet been issued on the basis that the national CPS Plan had not been received and the final budget figures were not known. Whilst recognising that this is not an ideal scenario, it is disappointing that draft plans did not exist for dealing with overarching long term CPS targets such as reducing arrest to sentencing periods for persistent young offenders, or key local priorities.
- 6.17 **We recommend that the AMT issues as a matter of urgency a meaningful Area Business Plan, to be reviewed at each AMT meeting, clearly showing key priorities for the remainder of the financial year, and incorporating actions, responsibilities and time frames to ensure successful achievement of objectives.**
- 6.18 Stated aims and objectives are rarely supported by detailed plans outlining actions, responsibilities or timescales. This can lead to some issues not being given the appropriate priority or dragging on longer than anticipated. The effects can range from a lack of formal plans for such important issues as youth justice, to simply failing to deal with the boxes and files unnecessarily cluttering up the office.

Management of financial resources

Financial performance 1999/2000

- 6.19 In the year 1999/00 the Area had an overspend in running costs of just over £20,000, but a substantial underspend in prosecution costs.
- 6.20 The savings in prosecution costs are attributable to the fact that the number of cases handled in the Crown Court has declined in the year ending March 2000, and the sensible management of counsel fees by the Area.
- 6.21 The overspend in running costs was attributable largely to a late, unexpected payment in salaries following a national agreement. On the face of it, however, other budget heads were overspent such as travel and subsistence, photocopying, publications and postage/couriers all of which were underestimated by more than £10,000. We were told that they were to have been covered by internal transfers of money.

- 6.22 As another example, Document Exchange (DX) expenditure is charged on an annual basis following a two week survey of usage. This resulted in a debit appearing in March 2000 that was £7,000 more than had been allowed for in the budget. The Area is planning to set up the CJUs as separate DX sites and this may have further impact in terms of costs. Greater self-assessment of usage and costs and forward planning should be attempted.
- 6.23 Transfer of monies between different areas of running costs was intended to cover the individual overspends, but in the event the extra salary costs were paid unexpectedly in the final month of the year.

The 2000/01 budget

- 6.24 After initial budget cuts had been imposed, the Area has recently been awarded an additional £172,000 in running costs for this financial year. At the time of the inspection the ABM was in the process of allocating the funds to the specific areas of need.
- 6.25 The ABM on a regular basis reviews the budget, albeit it seems at a top-level basis only. The ability to transfer money from one area of running costs to another is provided to give greater flexibility and control to the Area. It is, nevertheless, good practice for the Area to allocate its budget as precisely as possible. Good financial planning should avoid known expenditure being under-budgeted on the assumption that money can be moved from elsewhere at the end of the year.
- 6.26 Examples of this are agent's fees, which were reduced to £90,000 in the original budget, and overtime, which was put in as nil. At the end of the first quarter the Area was overspent by about £33,000 in agent's fees and nearly £11,000 in overtime. It is appreciated that these may be bolstered by the new influx of money or by the transfer of money from other sections of the budget, but the process of 'unrealistic' budgeting can lead to monitoring and control difficulties for the Area.
- 6.27 The Area has a limited amount of IT equipment at the moment, but this will be remedied by the Connect 42 project, which is due to implemented in Essex by January 2001. We were told that there is great variance in the level of IT knowledge of members of staff, and this should be taken into account when planning the IT training.
- 6.28 There does not appear to be any provision in the budget for any additional spend or savings that may be brought about by the Glidewell and Connect 42 projects. We were told that it has been assumed that any costs attributable to those projects will be met centrally. These are huge projects, which will fundamentally change the CPS business and the ABM will want to work closely with CPS HQ about resource issues.
- 6.29 Staff told us that they were satisfied with the level of equipment and facilities available to them

Management of human resources

General

- 6.30 The Area is recognised as an ‘Investor in People’, having received accreditation from the National Recognition Panel of Investors in People UK in March 2000. The Area is to be commended for its achievement in gaining this recognition and is understandably proud of its success.
- 6.31 This commitment to development is re-enforced by the timely completion of performance appraisals and Personal Development Plans (PDPs). As at 16 June 2000 the Area had returned 97% of the due appraisals, as against a national achievement of 68%.
- 6.32 There is some concern on the part of staff at all levels that there is some ‘under performance’ by some individual members of staff. We noted, however, that all appraisals were satisfactory or better.
- 6.33 The Area has now introduced quarterly reviews for the performance appraisal process, which should help in the early identification of under performance, and with subsequent plans to remedy the situation.

Training

- 6.34 The Area has made some solid progress in relation to training, although we encountered some mixed messages.
- 6.35 We found some good examples of local training in prosecuting in the Crown Court, forensic science and disclosure. The training on disclosure is a locally designed package and has also been delivered to the police as a joint exercise. This is designed to improve the Area’s performance in one of the thorniest of challenges to the CPS and we have commended this in paragraph 4.19.
- 6.36 The Area has traditionally relied upon the Regional Training team to deliver the majority of courses, based upon the needs as identified in PDPs on a regional basis. It is pleasing to note that the Area has started to introduce its own analysis of needs in order that training can still be provided when it is not a regional priority. This local ownership of training can also help overcome the problem of late cancellation of courses, which can happen on a regional basis.
- 6.37 All but five members of staff have received the training required to understand the changes that will be brought about when the European Convention on Human Rights is incorporated by virtue of the Human Rights Act 1998. This will take effect in October 2000. There are courses scheduled for the remaining staff.

- 6.38 Training on Equality issues has also been provided to all staff and some further work is planned for the autumn, when an outside consultant will undertake some training on racial issues from a victim's perspective.
- 6.39 Conversely, there are a number of indicators that training is not given the attention it deserves:
- * the Area has a training committee that does not meet with any great frequency;
 - * the training plan is not detailed or stretching and was last updated in December 1999;
 - * there is relatively small provision in the budget for training;
 - * plans to analyse the effectiveness of training have yet to be put into operation; and
 - * the role of the training officer is very much an administrative one.
- 6.40 We have referred to a number of issues that the training committee should be considering such as training in IT, new roles in CJUs and the TU, and casework support procedures. It should also review any other Area training needs.
- 6.41 We recommend that the training committee meets regularly and effectively reviews Area training requirements.**

Organisation of staff

- 6.42 The reduction to two teams has put extra pressure on the PTLs as, between them, they are responsible for 26 other prosecutors. These teams are larger than those normally encountered and whilst this will be addressed when the four CJUs are set up, in the short term their time management skills will be severely tested.
- 6.43 It is envisaged that all the caseworkers in the MC teams will transfer to the CCU as the CJUs come into existence. Whilst it is acknowledged that they will take on additional (as yet unquantified) duties currently undertaken by police, the numbers do appear very high for the volume of cases to be handled.
- 6.44 The Area has a large number of casual staff and many others on temporary promotions. This may be sound financial practice in these transitional times, but it must be recognised that this may lead to a feeling of uncertainty. Some staff have already 'blamed' the overuse of casual staff for poor performance in some casework support activities that we have already referred to.
- 6.45 Although the current situation is a transitional one, failure to address current staff concerns and needs as a result of this strategy may lead to a lack of commitment.
- 6.46 We recommend that the CCP ensures that appropriate guidance and support is provided to casework support staff with regard to their roles, priorities and basic processes as they need to be until the transition to TU and CJUs is complete.**

Absence through sickness

- 6.47 The management of absence through sickness could be more proactive, in that whilst records are maintained, they are not subject to any kind of analysis by Area staff. No one was fully aware of the Area's performance and information subsequently had to be requested from the Service Centre at St. Albans.
- 6.48 In fact, the Area figure of 9.6 days is better than the national average of 10.2 days. Perhaps not surprisingly, we were told that sickness was not viewed as an area of great concern. However, it would appear that the Area's hopes for attaining the Government's target of a 20% reduction by 2001 (to 9 days) and 30% by 2003 (to 7.5 days) are pinned very much on the return to work of some people on long term sick leave.
- 6.49 We were told that little attempt is made to process work for colleagues who were sick, with the result that 'customer service' could deteriorate and individuals often face large backlogs on their return to work.
- 6.50 We suggest that the CCP, BCP and PTLs ensure that systems are in place to provide, when a member of staff is absent through sickness, their workload is covered to avoid degradation of service and backlogs developing.**

Communication

- 6.51 A variety of means are used including notice boards, personal notes to all staff, Glidewell updates and team meetings but, as previously stated, the cascade of information from the AMT to staff is not totally successful from the viewpoint of some staff. It is possible that the irregularity of the scheduled team meetings is having a greater impact than is appreciated, and remedying that issue may lead to an improvement of staff's perception of management's commitment to keep everyone informed (see paragraph 6.14).
- 6.52 It is also possible that staff views are coloured by their anxiety to know the outcome of the preference exercise which started back in May, and which, for understandable reasons, has not yet been finalised. The preference exercise was carried out in advance of the management positions being advertised as a result of a poll of staff conducted in conjunction with the appropriate trade union.
- 6.53 The CCP quite rightly wishes to keep in touch with staff and their concerns. On the other hand we were told that the presence of the CCP at some meetings was viewed as inhibiting by some staff members, and that people were reluctant to speak openly as a result. Some language that was inappropriate and capable of being misinterpreted came to our attention. The CCP will want to ensure that he strikes the right balance in encouraging openness and positive two-way communication.

- 6.54 The Area has a 'Sounding Board', which enables representatives of staff to raise concerns at a local level in respect of national issues. Minutes of the meetings are issued. We were a little concerned to hear that the future of this meeting is under reconsideration, as it is paramount that the open two-way communication we referred to above is encouraged.
- 6.55 Careful consideration will need to be given as to how the Area will communicate internally once the CJUs are up and running. It is anticipated that the Connect 42 project will provide an electronic solution for some matters, albeit this is unlikely to be the panacea that some people hope for. Personal contacts will need to be maintained to prevent individual units from becoming isolated.

Use of agents

Expenditure on agents

- 6.56 The Area is at present instructing a high number of agents to appear on its behalf in the magistrates' courts. Expenditure in the financial year ending March 2000 was in excess of £187,000 and this represents the second highest 'spend' per case amongst the 42 Areas.
- 6.57 Due to the initial budget cutbacks, the Area reduced its projected spend for this year to £90,000, but this is unlikely to be sustainable without significant change to current practices. Indeed at the end of the first quarter of this year, the Area is already more than £33,000 overspent. It is anticipated that some of the recently gained additional funding is likely to be allocated to agents, but it is to be hoped that this does not stop the Area from examining ways in which to optimise expenditure of this type.

Selection of agents

- 6.58 Currently, agents are primarily instructed to prosecute trials courts. The agents are selected from six 'preferred' sets of chambers on a rota basis. At present, agents are organised by a caseworker contacting chambers to tell them how many agents are required. Little if any effort is made to match the type of case to the experience levels required and the selection is largely left to Chambers.
- 6.59 This has resulted in very junior counsel prosecuting cases, which would have been more appropriate for someone with greater experience. We have commented on the standard of agents at paragraph 5.14-5.17. Of particular concern are occasions where this happens in the youth courts.
- 6.60 Some counsel are invited to attend the office to be inducted into their role as a CPS agent, but this appears to happen on an ad hoc basis.

Selection of advocates in the Crown Court

- 6.61 Counsel are, like agents in the magistrates' courts, instructed from the six 'preferred' sets of chambers.
- 6.62 We were told that the individual counsel are usually selected by the caseworker dealing with the case in the Crown Court, although there is input from the CPS prosecutor in the more serious cases. This latter input is likely to increase with the introduction of the CCU (and the TU) as the prosecutors become more aware of the skills and expertise of individual counsel.
- 6.63 There were differing views as to the level of counsel instructed. On one hand, we were told that in some cases counsel of insufficient experience was instructed by the CPS, and this could adversely affect the conduct of the case. On the other we were told that appropriate counsel were instructed. We comment on our observations of counsel at paragraphs 5.27-5.28.
- 6.64 Counsel fees are well controlled by the Area and we commend this. There is a good working relationship with counsels' chambers.

Victims and witnesses

- 6.65 The Area has obviously made considerable efforts to improve the level of service and support to victims and witnesses. Almost all external consultees commented on the improvements in this sensitive area, and we commend the Area for this. The Area is now perceived as a more caring organisation.
- 6.66 The initial plans for the TU include provision for a section of 11 police and CPS staff devoted to managing witness care issues. The AMT is also considering the possibility of having a representative of the Witness Service available in the CCU, as well as representatives of Victim Support in each of the CJUs.
- 6.67 The timely payment of witness expenses has improved, and is now amongst the best in the country with 99.8% of claims being paid within ten days.
- 6.68 A number of examples of individual excellence were related to inspectors, ranging from simply "a caring attitude" to "cancelling annual leave to meet a relative of a fatal accident victim".
- 6.69 Balanced against this are instances in the magistrates' court where we were told the standard of care does not always achieve the standard aspired to by the Area managers.
- 6.70 We observed one case where the two elderly victims in a youth court case involving allegations of criminal damage and harassment were clearly dissatisfied with the manner of the prosecutor, and his consideration of their needs and expectations. The prosecutor was an agent instructed by the Area and may not have been fully aware of the CPS requirements in this field. This lends greater weight to our recommendation at paragraph 5.21.

- 6.71 We observed another case where the defendant was known to be unavailable for court, but no action was taken to either de-warn the witness or to instruct the agent to try and pursue the case in the defendant's absence. This resulted in considerable inconvenience and wasted time for witnesses.
- 6.72 Our recommendations to improve standards of casework support (see paragraphs 4.44 and 4.48) are made with a view to reducing or eradicating unfortunate incidents such as this.
- 6.73 In the Crown Court, all witnesses used to be required to attend for the whole of a given day, but a system of staging has been introduced in the Crown Court, which has helped reduce waiting times.
- 6.74 There are still a few occasions, however, when things do not go to plan, but these tend to occur as a result of administrative failures, rather than any indifference in attitude. Late witness warning and late discontinuance can lead to frustration and difficulties for both the witnesses and the courts.

External communication and liaison

General

- 6.75 The Chief Officers Group, to which the CCP makes a valuable contribution, is perceived to be a very effective sub-group working to the Area Criminal Justice Liaison Committee. There are many other inter-agency groups operating at both strategic and tactical levels, and the majority of these are deemed to be useful and worthwhile.
- 6.76 Although members of staff attend school careers events and similar functions on occasions, we were told that the Area adopts a policy of generally maintaining a low profile in the local community.
- 6.77 The CCP may wish to consider whether this is consistent with the overall intention of the CPS to raise awareness of its role in the criminal justice system and the community as a whole, especially in relation to the ethnic minority communities.

Crown Court

- 6.78 As previously stated, relationships with Crown Court representatives are excellent, and whilst it is accepted that there is need for ongoing improvements by the CPS, there is a high level of confidence that these will be achieved in the next six months. The CCP has a strong personal commitment to deliver a first class Crown Court service.
- 6.79 Communication with the judiciary is not confined to formal inter-agency meetings, and because of the strength of the relationships, ad hoc meetings or telephone calls are often used to resolve contentious issues.

Magistrates' courts

- 6.80 Relationships with the magistrates' courts are not as positive as they are in the Crown Court, and there have been some tensions over the implementation of Narey and Glidewell. The major concerns are the perceived lack of consultation, and proposals for change not being supported by business cases that take account of the impact on all agencies.
- 6.81 The CCP is not the primary point of contact between the magistrates' court and the CPS on a day-to-day basis, although he fulfils that role at the Chief Officers Group meetings. Normally, the Glidewell manager conducts much of the formal inter-agency work, with the PTLs involved on a more informal basis.
- 6.82 The Area managers recognise that changes to court sessions and listing is necessary if the Glidewell proposals are to be fully and successfully implemented. The Essex Magistrates' Courts Committee intends to prepare a listing policy in consultation with other relevant criminal justice organisations with a view to implementation for court schedules in 2001, following a recommendation in the report of HM Magistrates' Courts Service Inspectorate, published in July 2000.
- 6.83 This is with a view to maximising the effectiveness of listing practices generally, and there is still a substantial challenge in finding a mutually acceptable solution on the this subject. Both parties are aware of the difficulties and the potential impact upon current relationships, and both are likely to need to adapt, if real progress is to be made quickly.

Police

- 6.84 Both parties generally view relationships with the police as positive. Meetings take place on a variety of levels ranging from day-to-day operational matters through to long-term strategic approach. The only concern we encountered related to the tone of some written communications from the CPS, which were perceived to be brusque by the police.

Other agencies

- 6.85 Interface arrangements exist with many other bodies, either on a one to one basis, or via inter-agency groups such as the Essex Trials Issues Group. Defence solicitors and Witness Support were very happy with existing arrangements.
- 6.86 We have some concerns about liaison with Youth Offending Teams addressed by our suggestion at paragraph 3.41.
- 6.87 There is currently limited liaison with the Probation Service, Social Services and community groups representing minorities, and this may need reviewing as existing priorities change.

Security

- 6.88 A number of security issues have been brought to the attention of the CCP and ABM.
- 6.89 There are some concerns with regard to the personal safety of staff in some courts, and staff have been provided with personal attack alarms as an additional safety precaution. Examples were given of verbal harassment, being spat at, and the proximity to violent defendants in the courtroom. So far, attempts to rectify this problem have not been very successful - indeed the normal solution is for the CPS staff to move away from their normal designated positions.
- 6.90 We suggest that the CCP and/or ABM liaises with representatives of the local Magistrates' Courts Service with a view to adequately ensuring the safety of CPS staff in court buildings.**
- 6.91 These incidents were not officially recorded, as staff appeared to be unaware of the correct procedures to follow in any incidents relating to personal safety, wherever they occur.
- 6.92 We recommend that the ABM issues guidance to staff about reporting any incidents in the course of their employment where their personal safety is comprised, whether in or out of the office.**

Accommodation

- 6.93 The Area currently has one office, close to the town centre in Chelmsford. This site provides reasonably good access to all the courts. This will change as the Glidewell recommendations are implemented, and the CPS will then operate in four CJUs located within police premises at Colchester, Southend, Laindon and Harlow. There is a problem with accommodation at the proposed Harlow CJU, and negotiations are underway which hopefully will lead to a satisfactory conclusion in the near future.
- 6.94 A central TU will remain in the existing CPS premises.
- 6.95 The CPS holds the lease on the entire building, but only occupies three of the four floors. The ground floor has been sub-let to two separate companies. We were told that the income from these sub-lettings is retained centrally and not credited to the local Area budget.
- 6.96 The accommodation costs are amongst the highest per member of staff within the 42 CPS Areas (even if the sub-lettings were to be taken into consideration). The premises are covered by a 25-year lease, with no break clause until 2009. Rent reviews take place every five years, and the negotiations have just been completed for the 1999 review, which has resulted in an increase of approximately £60,000 per year.

- 6.97 The premises are extremely spacious with a mixture of open plan and office accommodation. The CCP, ABM, BCP, Area secretariat and the typing pool all have private office space, with the remainder of the staff working in an open plan environment. There are several private rooms, which can be reserved for meetings, interviews, etc, spread throughout the building. Staff can take pride in the standard of their accommodation, though some further efforts will have to be made to rationalise its use.
- 6.98 We suggest that the AMT carefully assesses its accommodation requirements for the future taking into account the changes that the implementation of the TU and CJUs will bring about.**
- 6.99 Having commented on the amount of space available, it is disappointing that the office was generally very untidy. There were boxes of ‘dead’ files cluttering up corridors, files scattered on the floor, and old computers and monitors occupying floor space in work areas. At the very least it should be possible to move these items away from areas that are in constant use. This is not only unsightly, but constitutes a potential risk to health and safety. We were told that the third floor fire exit had been partially blocked at one stage, which is clearly unacceptable. The way in which files are left lying around also contributes to the difficulty in matching correspondence to files.
- 6.100 We were told that this has now been tackled but we feel constrained to make a recommendation to ensure that it is dealt with fully.
- 6.101 We recommend that the AMT arranges as a matter of urgency for the office to be cleared of excess material, sorting those files that need to be retained into appropriate order and storing them in a designated, well signed location.**
- 6.102 The furniture is generally of a good standard although there is predominantly standard desks in use with limited IT type workstations. The facilities for staff are also good.
- 6.103 The maintenance of the building is of a reasonably high standard, although there were some fairly severe problems with the air conditioning in 1998/99, requiring over £100,000 to improve the system.
- 6.104 The office does hold an up to date fire certificate, and fire alarm tests are conducted on a weekly basis.

Equality

- 6.105 Approximately half the staff are female and two are members of the AMT.
- 6.106 The Area has adopted a positive attitude to part time staff, which can be useful in opening employment opportunities to people for whom full time work is impractical.
- 6.107 The building does have reasonable access for disabled people, with ramps, wide doors and lifts to help with access.

- 6.108 All staff have viewed the CPS Equality and Diversity video and some follow up was scheduled for team training days. New staff will be given training as part of their Job Holders Awareness course, which would normally take place within 3-6 months of commencement of employment.
- 6.109 Some further external training is planned for September to give a greater understanding on racial issues from the victim's perspective.
- 6.110 The local population has a relatively low ratio of people of minority ethnic origin at 1.8%. This is reflected to a degree in the make up of the Area staff, 2.8% belonging to an ethnic minority. There has been very little activity in terms of recruiting full time members of staff recently.
- 6.111 The Area was unable to produce any formal Area action plan on race. We are pleased to know that a plan is now in the course of completion.
- 6.112 There were no real signs of reaching out to local community groups to improve relationships or understanding of minority groups' issues or to encourage applications for jobs. The Area seems to be comfortable with their current position, although there was little sign of any pro-active approach. We consider that the Area should be taking more positive action in relation to diversity issues.
- 6.113 We recommend that the AMT draws up an Area action plan on race and other issues relating to equal opportunities and takes steps to improve the Area's relationship and standing with members of ethnic minority groups in the community as a whole.**

Performance indicators

- 6.114 It was generally accepted that there was concern as to the accuracy with regard to the completion of PI data. We were told that information provided for inter-agency meetings had been stated by the CPS to be inaccurate. This does not encourage confidence.
- 6.115 In recognition of the problem, the Area provided internal training in the autumn of 1999 dealing with a range of issues from file endorsements through to correct data entry. This does not appear to have been fully successful as significant errors are still occurring.
- 6.116 PTLs give an overview of their team's performance at the AMT meetings and there are a few references to PI data in the minutes. However, there was little evidence of the information being used as an effective tool to drive improvements in performance. As we found substantial inaccuracies in relation to adverse cases (some of which go to one of the major measures of the performance of the CPS against targets, and others to indicate judgement quality) it is difficult to see what effective use could be made of them. Where accuracy is not in question, the promulgation of data on performance to staff could be improved.

- 6.117 There is a backlog of cases to be finalised.
- 6.118 We have been told that, since the inspection, additional responsibilities have been allocated to some senior caseworkers to improve both the accuracy and the usage of performance indicator data.
- 6.119 The Inspectorate has recently undertaken a thematic review of Performance Indicator Compliance and Case Outcomes in the CPS (Thematic Report 3/2000). The lessons learned, good practice identified and guidance should be drawn upon. We have already made a comprehensive recommendation at paragraph 3.65.

Handling of complaints

- 6.120 The CCP views, and often personally replies to complaints. The replies are generally of a good standard, and complaints are usually responded to in a timely fashion. The Area replied to 92.7% of complaints within 10 days, although there was one notable exception.
- 6.121 One complaint dragged on for an excessive amount of time as correspondence could not be traced. This eventually resulted in letters being hand delivered to the CPS office in order to ensure receipt. There is nothing to suggest that the CPS avoided responding, but rather that if correspondence had been received, it was misplaced as a result of poor administration in the office.
- 6.122 The Area encourages members of the public to write in with any complaints. However, some people feel disinclined to write and use the telephone to record their dissatisfaction. We were told that although this happens, telephone complaints are not necessarily logged in the appropriate register.
- 6.123 Records are not maintained of any actions taken as a result of a complaint, and neither is there evidence that complaints are analysed to identify trends. A good system of complaint handling will retain information to help lessons to be learned and to facilitate regular analysis by management.
- 6.124 The CCP will want to ensure that remedial steps and actions taken in response to complaints are recorded, and information is disseminated as appropriate to ensure that Area staff do 'learn from experience'.
- 6.125 We recommend that the CCP ensures that all complaints, including complaints made by telephone, are recorded and that a comprehensive log of remedial actions is maintained.**

CONCLUSIONS, GOOD PRACTICE, RECOMMENDATIONS AND SUGGESTIONS

Conclusions

- 7.1 We found a number of matters to commend in CPS Essex, but others which needed attention, some urgently.
- 7.2 The drive since April 1999, when the new CPS Area was formed, to implement the Narey initiatives which has done much to reduce delays in the criminal justice system locally. Concerted joint efforts have enabled cases to proceed to disposal on the first hearing in a high proportion of cases. The implementation of Narey courts has been well planned, although not without its difficulties in relation to court sittings and venues.
- 7.3 The new arrangements for the setting up of CJUs have also been the subject of careful planning and negotiation. Some tensions still exist about the number and siting of these units, and the allocation of staff when preferences cannot be accommodated. Certainty will help resolve some of these concerns, but liaison with other agencies and the management of staff will require sensitive handling in the coming months.
- 7.4 The drive to carry forward the Glidewell principles that CPS lawyers should concentrate more on Crown Court cases is already strongly underway. The projected improvements can already be seen in better file management and more robust decision-making. The latter, plus the promised improvements in quality, are appreciated by the judiciary.
- 7.5 Other aspects of the Area's performance we have commended include the training effort put into disclosure issues; the quality of indictments; the achievement of "Investors in People" accreditation; the control of counsel's fees; and the improvements in service and support to victims and witnesses.
- 7.6 The clear identity of CPS Essex headed by its own CCP has been warmly welcomed by other criminal justice agencies. The CCP has played a full and effective role in the joint initiatives and commitment to improve the criminal justice system in Essex at chief officer/strategic level.
- 7.7 We also found matters which require attention or extra effort. We have identified difficult sensitive aspects of the implementation of the changes that require a sensitive and open lead by the CCP in dealings with CPS staff and other agencies.
- 7.8 Whilst the Area is in a transitional and demanding phase, the senior managers nevertheless need to display a clear commitment to the CPS operations and casework in the magistrates' court, and to the overall performance of the Area.

- 7.9 The casework support systems in the magistrates' court require checking, unification and reinforcement (if established that it is not only a performance issue). Those in the CCU need to be bed down and then be assessed. It is a matter of priority to do this to reduce the adverse impact on others and to prevent any tarnishing of the new CJUs' performance.
- 7.10 Again during this transitional and demanding phase it will be especially important to maintain open two-way communication between management and staff. We are wholly alert to the need for a variety of methods of communication to be used to ensure information gets to and is taken in by staff.
- 7.11 Staff are the Area's key resource and, particularly when some may not be allocated their first preferences for positions or jobs, it is vital that the value of every individual's skills and efforts are made clear.
- 7.12 Other key agencies need to be kept in the picture at strategic and working levels. Other court users have legitimate needs within the criminal justice system in Essex. Care therefore needs to be exercised to ensure that plans are workable without undue reliance on the resources or changed practices of others.
- 7.13 The Area needs to give greater priority to reaching out to the community and ensuring that its aims on equality and race issues are carried forward in its planning process.
- 7.14 Whilst we divide matters into priority by virtue of descending order of recommendations, suggestions and notations of what the Area will want to do, it is nevertheless recognised that the Area may well have to prioritise these further in its response to this report.

Good practice

- 7.15 Where we have seen the Area undertaking its work to a high standard, we have commended that during the course of this report and referred to it in our conclusions above. It is appropriate, however, that we should particularly draw attention to those practices or initiatives that we feel might be considered by other Areas to deal with similar issues.
- 7.16 **Joint training for both police and CPS prosecutors and caseworkers in disclosure** (paragraphs 4.17-4.19). The Area recognised shortcomings in dealing with disclosure that could be attributed to both CPS and police. Joint training of staff from both agencies was then devised and carried out expeditiously. We appreciate that careful will monitoring will be necessary to ensure that the training has resulted in the required improvements in performance. This does not detract, however, from the fact that this was a prompt and appropriate response to deal with a perceived problem, and the training has been generally well received.
- 7.17 We note that there have been other good examples of locally provided internal training, for example, on Crown Court casework and forensic science.

- 7.18 **Crown Court file management** (paragraphs 4.127-4.128). In the past, the standard of Crown Court file was not high. All of the case documents were kept within the file, with little effort being made to collate documents relating to particular topics. This could lead to the files being difficult to follow, and extracting specific information was often a timely process.
- 7.19 Area managers have recently introduced a new system of file management in respect of Crown Court files, whereby documents relating to particular topics are kept in different coloured folders within the file, for example, unused material documents are kept in a pink folder.
- 7.20 Whilst the system is capable of improvement in some specific respects, the standard of file has greatly improved. We are confident that prosecutors and caseworkers benefit from having files that are now easier to follow, with information about the case generally readily accessible.

Recommendations and suggestions

- 7.21 The distinction between recommendations and suggestions, as we have said, lies in the degree of priority that the Inspectorate considers should attach to the proposals, with those matters meriting highest priority forming the basis of recommendations.
- 7.22 With a view to improving the performance of the Area, we recommend that:
- 1 the CCP, BCP and PTLs implement an effective system to ensure that advice is provided to the police within 14 days (in all save the most substantial cases) (paragraph 2.16);
 - 2 the CCP ensures that all oral advice is properly recorded and is confirmed in writing to the police (paragraph 2.34);
 - 3 the CCP, BCP and PTLs implement monitoring systems to ensure that appropriate and effective review is being undertaken and cases proceed expeditiously (paragraph 3.18);
 - 4 prosecutors ensure that where applications are made for remands in custody, the grounds for opposing bail are clearly recorded on the files, together with the magistrates' stated reasons for their decision (paragraph 3.30);
 - 5 the CCP ensures that:
 - * adverse case reports are checked and reconciled with the case outcomes shown in the Area's PIs;
 - * there is a system to monitor the integrity of the Area's PIs both in terms of accuracy and timely completion; and

- * the Area draws upon the issues, guidance and good practice identified in the Inspectorate's thematic review of Performance Indicator Compliance and Case Outcomes (Thematic Report 3/2000) (paragraph 3.65);
- 6 the CCP implements an effective system to ensure that prosecutors and caseworkers are given appropriate information about the results of cases, both successful and otherwise, in both the magistrates' courts and the Crown Court, and that attention is drawn to points of general application (paragraph 3.84);
 - 7 prosecutors ensure that all review decisions are properly recorded, and that the record includes reference to the appropriate evidential and public interest factors (paragraph 3.88);
 - 8 prosecutors and caseworkers ensure that, in relevant cases, all sensitive material is properly handled and decisions are appropriately recorded (paragraph 4.28);
 - 9 the AMT sets up an effective file management system to ensure that:
 - * the location and status of every file is more easily identifiable,
 - * the timely movement of files; and
 - * actions that need to be taken urgently are properly prioritised (paragraph 4.44);
 - 10 the AMT sets up an effective system for dealing with post, with defined management responsibilities in terms of monitoring adherence, to ensure that (in conjunction with a revised file management system) post can be linked to the appropriate file expeditiously (paragraph 4.48);
 - 11 the CCP and the PTLs introduce a rigorous and effective system for the preparation of summary trials (paragraph 4.52);
 - 12 the CCP and the PTLs introduce as a matter of urgency a system whereby summary trial files are checked before the trial date, to ensure that the file has been properly prepared for trial, and that appropriate action can be taken to remedy any outstanding matters (paragraph 4.57);
 - 13 the CCP, BCP and PTLs ensure that cases involving racially motivated or aggravated offences are:
 - * properly identified and marked; and
 - * are afforded appropriate care and attention by the reviewing prosecutors to enable the cases to be dealt with effectively and expeditiously (paragraph 4.120);

- 14 the CCP, BCP and PTLs, as a matter of urgency, review the operation of the systems used to monitor custody time limits, to identify any modifications that might be necessary to the systems or staff training needs (paragraph 4.123);
- 15 the CCP ensures that sufficiently experienced prosecutors are selected as prosecutors in youth courts, and that where, exceptionally, agents are instructed they have appropriate experience and expertise (paragraph 5.21);
- 16 the CCP, BCP and PTLs ensure that regular scheduled team meetings are held to facilitate effective two-way dissemination of information, with the meetings being minuted and reviews carried out to ensure that any action points raised are carried out (paragraph 6.14);
- 17 the AMT issues as a matter of urgency a meaningful Area Business Plan, to be reviewed at each AMT meeting, clearly showing key priorities for the remainder of the financial year, and incorporating actions, responsibilities and time frames to ensure successful achievement of objectives (paragraph 6.17)
- 18 the training committee meets regularly and effectively reviews Area training requirements (paragraph 6.41);
- 19 the CCP ensures that appropriate guidance and support is provided to casework support staff with regard to their roles, priorities and basic processes as they need to be until the transition to TU and CJUs is complete (paragraph 6.46);
- 20 the ABM issues guidance to staff about reporting any incidents in the course of their employment where their personal safety is comprised, whether in or out of the office (paragraph 6.92);
- 21 the AMT arranges as a matter of urgency for the office to be cleared of excess material, sorting those files that need to be retained into appropriate order and storing them in a designated, well signed location (paragraph 6.101);
- 22 the AMT draws up an Area action plan on race and other issues relating to equal opportunities, and takes steps to improve the Area's relationship and standing with members of ethnic minority groups in the community as a whole (paragraph 6.113);
- 23 the CCP ensures that all complaints, including complaints made by telephone, are recorded and that a comprehensive log of remedial actions is maintained (paragraph 6.125).

7.24 We also suggest that:

- 1 the CCP, BCP and PTLs effectively monitor the quality of advice given to the police, to ensure that the quality of advice is consistently high, as well as being clear and concise (paragraph 2.11);
- 2 the BCP and PTLs check all requests for advice which prosecutors consider to be inappropriate, before the file is returned to the police, to ensure that only inappropriate cases are returned (paragraph 2.27);
- 3 the PTLs in the course of their advocacy and other work, take the opportunity to check the quality of both the reviewing prosecutors' decisions relating to mode of trial and the records of their reasons (paragraph 3.28);
- 4 the CCP, BCP and PTLs ensure that the Area youth specialist is afforded sufficient time and resources to undertake a positive liaison role, to help co-ordinate the approach to dealing with youth offenders, and to improve the Area's performance in relation to youth offenders (paragraph 3.41);
- 5 the CCP liaises with the police and Victim Support with a view to improving witness care in those cases that can be identified as liable to involve reluctant or vulnerable witnesses, with a view to reducing the number of cases that have to be dropped, particularly in the Crown Court (paragraph 3.76);
- 6 the CCP, BCP and PTLs monitor performance in relation to disclosure of unused material to ensure that recent refresher training has been effective, and to identify and remedy any remaining shortcomings (paragraph 4.20);
- 7 the CCP provides that, in addition to any unused material and the appropriate schedules, correspondence relating to disclosure is kept in the separate unused material folder, together with a disclosure record sheet (paragraph 4.23);
- 8 the CCP, BCP and PTLs ensure that cases involving child abuse offences and other sensitive or aggravated offences are given appropriate priority, and in particular that there is a CPS presence at court at all key stages of the case (paragraph 4.99);
- 9 the CCP, through appropriate staff, engages in regular meetings with Social Services Departments and considers the agreement of a protocol about the provision of sensitive material (paragraph 4.102);
- 10 the CCP reviews the balance of his commitment between the Crown Court and magistrates' courts in order to increase his attendance as an advocate in the magistrates' courts (5.9);

- 11 the AMT ensures that effective monitoring systems are introduced to assess the performance of advocates appearing on behalf of the CPS, including CPS prosecutors, agents in the magistrates' courts and counsel in the Crown Court, and, where appropriate, to provide feedback to the prosecutors involved (paragraph 5.37);
- 12 the CCP, BCP and PTLs ensure that systems are in place to provide, when a member of staff is absent through sickness, their workload is covered to avoid degradation of service and backlogs developing (paragraph 6.50);
- 13 the CCP and/or ABM liaises with representatives of the local Magistrates' Courts Service with a view to adequately ensuring the safety of CPS staff in court buildings (paragraph 6.90);
- 14 the AMT carefully assesses its accommodation requirements for the future taking into account the changes that the implementation of the TU and CJUs will bring about (paragraph 6.98).

KEY STATISTICS

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

EXTERNAL CONSULTATION

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

TOTAL NUMBER OF FILES EXAMINES FOR CPS ESSEX

File Category	Total Number of Files
Advice files	20
Magistrates' courts: guilty pleas, convictions and acquittals after trial traffic offences acquittals where magistrates found no case to answer discharged committals cases where custody time limits applied discontinued cases wrongly categorised	50 20 2 0 10 100 21
Crown Court: guilty pleas, convictions and acquittals after trial judge ordered acquittals judge directed acquittals cases committed for sentence (following plea before venue) appeals cases where custody time limits applied wrongly categorised	50 33 3 12 10 10 1
TOTAL	342

ANNEX 2

Table for chart 1

Types of case	CPS Essex Number	CPS Essex Percentage	National Number	National Percentage
Advice	574	2.0	52,625	3.7
Summary motoring	11,224	38.4	526,517	36.7
Summary non-motoring	4,904	16.8	260,944	18.2
Either way & indictable	12,533	42.9	580,019	40.4
Other proceedings	1	0.0	14,089	1.0
Total	29,236	100	1,434,194	100

Table for chart 2
Completed cases

Completed cases	CPS Essex Number	CPS Essex Percentage	National Number	National Percentage
Hearings	20,347	71.0	998,717	73.0
Discontinuances	3,658	12.8	166,861	12.2
Committals	1,686	5.9	87,885	6.4
Other disposals	2,970	10.4	114,017	8.3
Total	28,661	100	1,367,480	100

Table for chart 3
Case results

Case results	CPS Essex Number	CPS Essex Percentage	National Number	National Percentage
Guilty pleas	16,797	81.9	824,888	82.2
Proofs in absence	2,258	11.0	117,396	11.7
Convictions after trial	1,071	5.2	43,852	4.4
Acquittals: after trial	320	1.6	15,001	1.5
Acquittals: no case to answer	56	0.3	1,779	0.2
Total	20,502	100	1,002,916	100

Table for chart 4
Types of case

Types of case	CPS Essex Number	CPS Essex Percentage	National Number	National Percentage
Indictable only	508	17.3	28,162	22.6
Either way: defence election	445	15.2	18,572	14.9
Either way: magistrates' direction	857	29.2	40,097	32.2
Appeals	475	16.2	13,586	10.9
Committals for sentence	651	22.2	23,931	19.2
Total	2,936	100	124,348	100

Table for chart 5
Completed cases

Completed cases	CPS Essex Number	CPS Essex Percentage	National Number	National Percentage
Trials (including guilty pleas)	1,507	83.3	74,256	85.5
Cases not proceeded with	241	13.3	9,616	11.1
Bind overs	30	1.7	1,533	1.8
Other disposals	32	1.8	1,426	1.6
Total	1,810	100	86,831	100

Table for chart 6
Case results

Case results	CPS Essex Number	CPS Essex Percentage	National Number	National Percentage
Guilty pleas	1083	69.2	55,407	73.3
Convictions after trial	252	16.1	11,553	15.3
Jury acquittals	202	12.9	6,881	9.1
Judge directed acquittals	28	1.8	1,777	2.3
Total	1,565	100	75,618	100

Chart 1: Magistrates' Court - Types of case

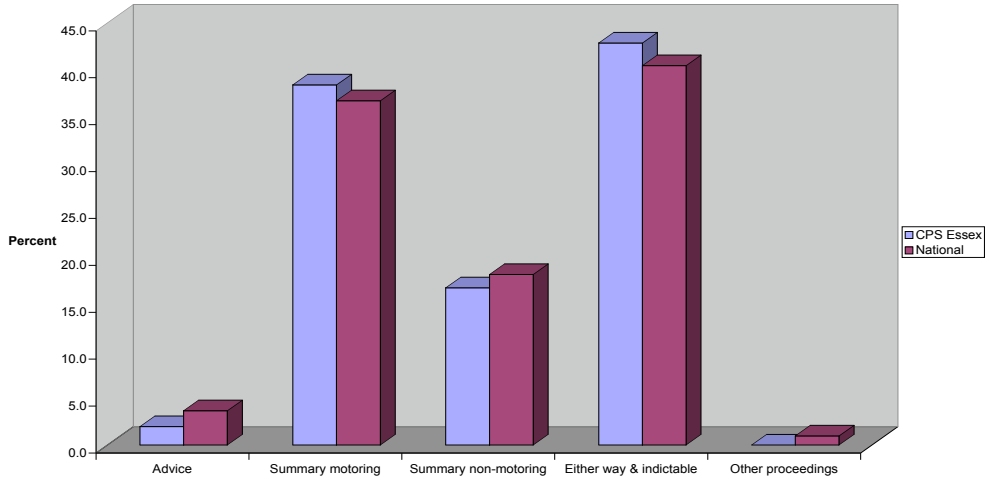


Chart 2: Magistrates' Court - Completed cases

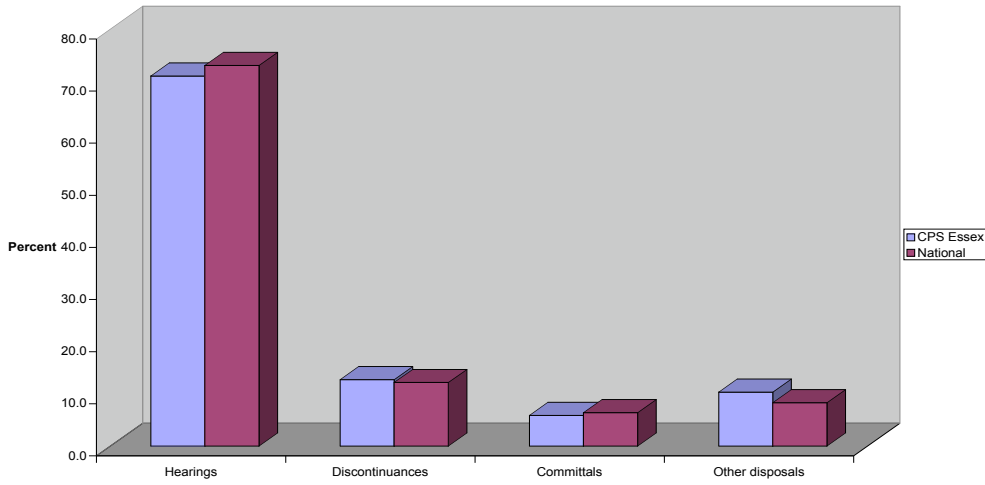


Chart 3: Magistrates' Court - Case results

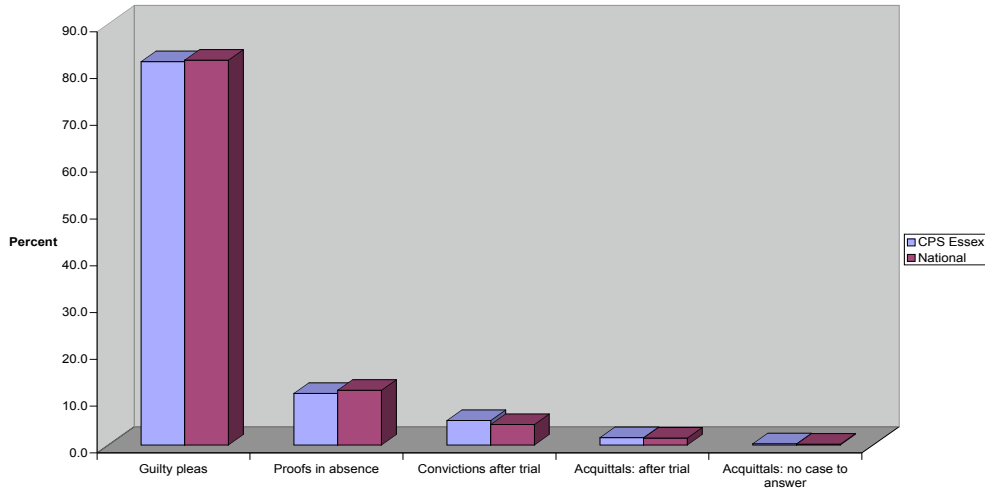


Chart 4: Crown Court - Types of case

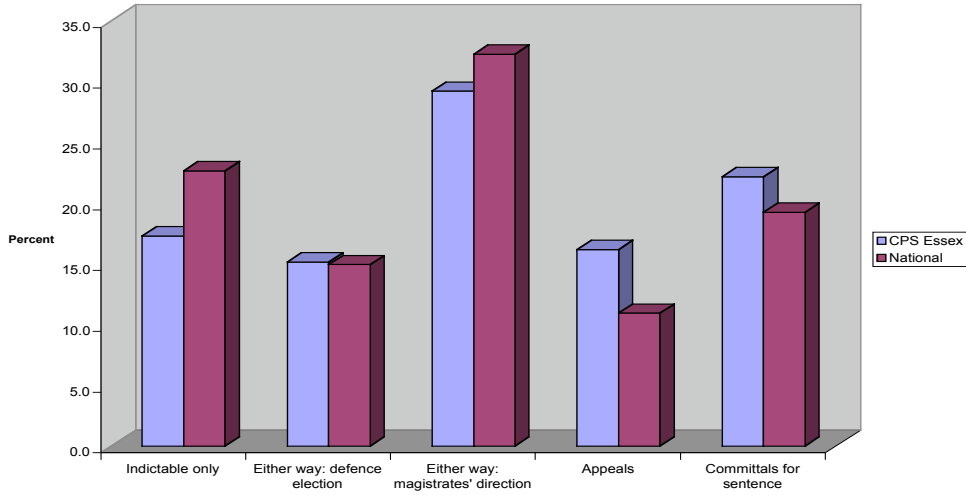


Chart 5: Crown Court - Completed cases

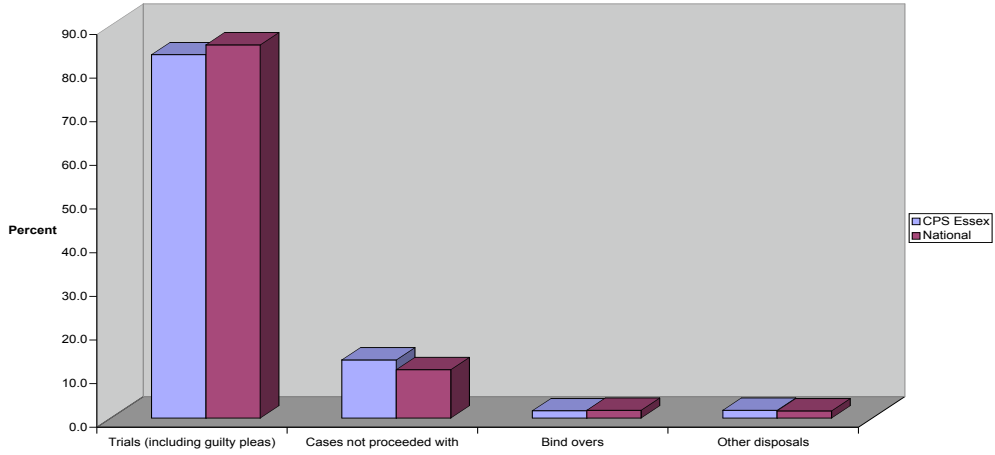
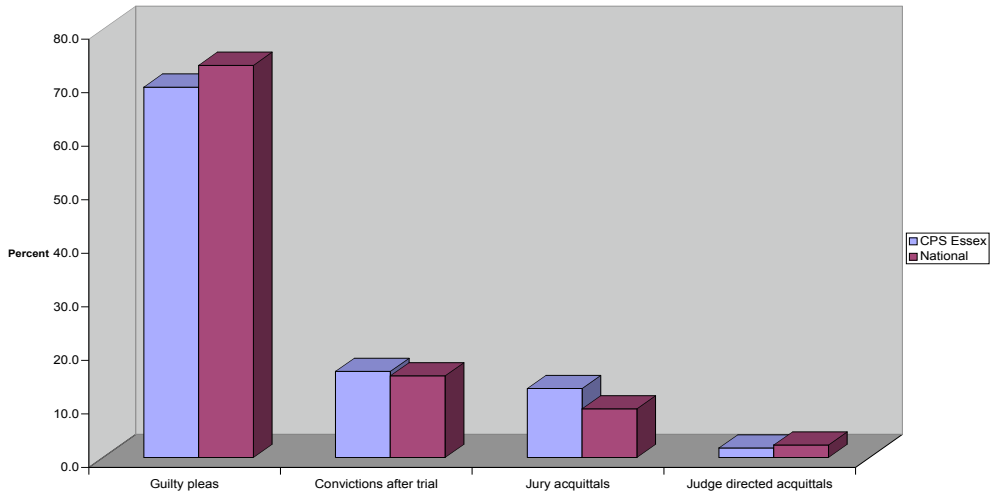


Chart 6: Crown Court - Case results



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

Judges

His Honour Judge Clegg QC
His Honour Judge Dedman
His Honour Judge Lockhart
His Honour Judge Watling QC

Magistrates' Courts

Mr K Gray, Stipendiary Magistrate
Mr G Quintrell JP, Chairman, Essex Magistrates' Courts Committee
Mr D Boyle JP, Chairman, Mid North Essex Bench
Mrs Nicola Edge JP, Deputy Chairman, North West Essex Bench
Mr B Mathews JP, Chairman, North East Essex Bench
Mrs J Tetley JP, Chairman, South East Essex Bench
Mr B Wellman JP, Mid South Essex Bench
Mrs M Wright JP, Deputy Chairman, South West Essex Bench
Mr P McQuirk, Justices' Chief Executive
Mr P Carr, Director of Legal Services
Mr D Evans, Magistrates' Clerk, Mid South Essex
Ms C Fox, Magistrates' Clerk, Headquarters
Mr I Gill, Magistrates' Clerk, North East Essex
Mr D Whitehead, Magistrates' Clerk, South East Essex
Mr N Willcox, Magistrates, Clerk, North West Essex
Mr K McHale, Legal Advisor, Mid North Essex

Police

Mr D Stevens, Chief Constable
Superintendent J Field
Superintendent J Jeapes
Superintendent D Sheppard
Superintendent M Thwaites
A/Detective Chief Inspector P Hood
Detective Chief Inspector M Jones
Detective Chief Inspector P Krayling
Detective Chief Inspector R Seals
Detective Inspector T Burdett
Ms C Bowder
Ms J Jones
Ms G Tong
Mr J Watts

Defence Solicitors

Mr R Bryce
Mr J Guy
Mr M Pearson
Mr M Welsh

Counsel

Mr C Ball QC
Mr W Clegg QC
Mr A Able
Mr P Fenn
Mr D Holborn
Mr J Grimmer, Counsels' Clerk

Probation Service

Ms E Hill, Chief Probation Officer
Mr J Budd, Assistant Chief Probation Officer

Witness Service

Ms F Sharp

Victim Support

Mr A Welsh
Ms M Baxter
Ms C Gallagher

Youth Offender Teams

Ms T Gillett
Mr G Skull
Mrs T Walton

Local Authorities

Mr P Thomson, Head of Legal Services, Essex County Council
Ms D Simon, Principal Solicitor, Southend on Sea Borough Council

CROWN PROSECUTION SERVICE INSPECTORATE

Statement of purpose

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

Aims

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