

***HM CROWN PROSECUTION SERVICE
INSPECTORATE***

PRESS RELEASE

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REPORT SIGNPOSTS THE WAY TO MORE EFFECTIVE PROSECUTIONS

Her Majesty's Crown Prosecution Service Inspectorate has today published its thematic report "Review of the Justice Gap" (Attrition in the prosecution process).

The "justice gap" is the difference between the number of crimes recorded and the number of crimes where the offender is brought to justice. The Government regards the narrowing of the justice gap as a key measure of the success of the criminal justice system in reducing crime and has set a target for the criminal justice system to increase the number of offences brought to justice to 1.2 million* by 2005-2006. The aim of this review was to ascertain the extent of the justice gap within the prosecution process (i.e. capable of being influenced by the CPS); the factors affecting it; and the types and patterns of offences where attrition occurs most. The findings provide a basis for the CPS to plan with other agencies how the justice gap may best be reduced.

The review looked at criminal proceedings where either the whole case was dropped or it proceeded on a lesser number of charges. The main findings of the review were:

* In 2001-2002 the number of recordable offences brought to justice was 1.025 million

Extent of attrition in the prosecution process

- * The decisions and practices of the CPS have only a modest effect on the proportion of offences recorded for which an offender is brought to justice. This is the result of its position in the criminal justice system. Most cases either never reach or leave the system before charges are laid and the CPS is involved. Only 16% of offences detected (14% where proceedings are instituted and 2% where offences are taken into consideration with other offences) get that far.
- * Once cases reach the CPS their outcome is recorded in terms of defendants rather than offences. Furthermore, CPS records include the outcome of road traffic cases and other summary matters, as well as the more serious “recorded crimes” covered by police records. For these reasons CPS figures are not at present directly comparable with police figures.
- * Approximately 13% of the CPS caseload in the Crown Court and in the magistrates’ courts was terminated, the most common reasons being:
 - _ legal element missing (21.8% of those terminated);
 - _ victim retracts or fails to attend to give evidence (18.4% of those terminated); and
 - _ proceedings not in public interest because a small or nominal penalty expected (which includes where the defendant is sentenced on another case or is in prison) (12.3% of those terminated).
- * One third of cases terminated (or discontinued) by the CPS are road traffic offences. Although these cases are not unimportant, they are not “recorded offences” and do not contribute to the “justice gap” target.

Factors affecting the level of attrition

- * The report finds that there is a significant degree of case and charge attrition that is caused by inappropriate police charging, either because there are evidential difficulties in respect of the charge selected or because it exceeds the gravity that ought to be attributed to the case.

- * Where there had been a reduction of charges by the CPS, the final charges provided the court with adequate sentencing powers in almost all (96.1%) cases when judged on the present criteria and practices of the criminal justice system.

Patterns of offences where attrition occurred

- * Apart from road traffic cases, the categories of offences where proceedings were most likely to be terminated were:
 - _ Theft and fraud (21.8% of terminated cases); and
 - _ Assaults (20% of terminated cases).
- * Road traffic, assaults and public order cases are particularly susceptible to charge attrition and cases of dishonesty are problematic for the police and CPS, in terms of identifying and addressing evidential difficulties.
- * In 22.9% of charge attrition cases, the dropped charges had a different victim from the charge on which there had been a conviction.

The work of the CPS

In examining the modest proportion of cases where CPS decision-making had led to termination of a case or charge reduction, inspectors drew on the first cycle of CPS inspections and thematic work to identify steps that might be taken to prevent avoidable attrition. Steps identified included:

- * more effective use of joint performance management between the CPS and police to ensure that investigation files are both timely and of a consistently high quality;
- * more effective initial review in some cases by CPS lawyers;
- * more robust case management and clearer ownership of cases; and
- * better endorsement of files to show actions taken, the reasons for those actions, and any further steps required.

Other issues

The inspectors drew specific attention to two other issues: first, they noted that in approximately 50% of cases where charges were dropped on public interest grounds, the reason was that the defendants had been sentenced for other offences and the further charges “will make no difference to the final sentence”. This approach accords with the norm within the criminal justice system, but does result in a significant number of cases not being brought to justice. There is a potential tension between this approach and the Government’s targets both for narrowing the justice gap and for increasing public confidence in the criminal justice system. The report considers the advantages of establishing a culture within the criminal justice system, under which it is widely understood that all charges, once established and supported by sufficient evidence and it is in the public interest to proceed, will ordinarily be pursued. It recognises that this approach would have to be weighed against other factors impacting on the efficiency of the criminal justice system and is therefore a matter of policy for consideration by others.

Inspectors also noted that there are cases that did not proceed because defendants failed to appear and subsequent warrants were not executed. Those matters were considered to be outside the control of the CPS. Even so, there are real opportunities for benefit, both in narrowing the justice gap and improving public confidence, if Chief Crown Prosecutors work with their criminal justice partners to ensure a co-ordinated approach to the problem of non-attendance.

Stephen Wooler, HM Chief Inspector of the Crown Prosecution Service, commented on the report:

“I hope that this report will provide a sound factual basis for the CPS to plan its contribution to meeting the Government’s target for narrowing the justice gap. Although our findings show that CPS decision-making has only a modest effect on that gap, it is important that all agencies work vigorously together to meeting the target. Consideration will also need to be given to the approach to be adopted to those cases currently discontinued on public interest grounds because defendants have been sentenced for other offences. Although there are pragmatic reasons for the approach

currently adopted, it does contribute to the level of attrition and may reduce the level of confidence on the part of victims.”

Responding to the report, the Director of Public Prosecutions, Sir David Calvert-Smith QC, said:

“Although the report finds that CPS practices have only a modest effect on the justice gap, it is vital that we do all we can to help to bring offenders to justice. The CPS is represented on the Narrowing the Justice Gap Task Force which has already issued a framework document and guidance on tackling weaknesses in the criminal justice system. As recommended, we shall look at our approach to discontinuances on public interest grounds when defendants have been sentenced for other offences.

“The report highlights the need to get the charge right first time so that there are more guilty pleas and fewer discontinuances. The CPS is now involved in pilots where prosecutors give pre-charge advice to the police. Early evaluation showed a dramatic drop in discontinuances. Victims and witnesses’ retraction or failure to give evidence is shown to be responsible for nearly a fifth of discontinued cases. Justice cannot be achieved if they do not participate, so working with the police and others to support them is a key priority for the CPS.”

A copy of the Executive Summary is annexed to this press notice.

Notes to Editors

1. HMCPSI is an independent statutory body, which was established on 1 October 2000 when the Crown Prosecution Service Inspectorate Act 2000 came into effect.
2. The Chief Inspector is appointed by and reports to the Attorney General. HMCPSI has offices in London and York.

3. The “justice gap” is the difference between the number of crimes recorded and the number of crimes where the offender is brought to justice. It was previously known as the process of “attrition”. In this context, an offender is “brought to justice” where there is a conviction, a caution or where an offence is taken into consideration when the defendant is sentenced for other matters.
4. Concern has, for some time, been expressed at the widening of the gap. As a result, a number of goals and targets have been set. These include:
 - * to double the chance of a persistent offender being caught and punished – *Government Manifesto*;
 - * to deliver by 2004, 100,000 more crimes where a victim sees an offender brought to justice – *White Paper “Criminal Justice: The Way Ahead”*;
 - * to increase the number and proportion of recorded crimes for which an offender is brought to justice by 2003-2004. The number is quantified as 100,000 more crimes brought to justice in 2003-2004 than in 1999-2000 – *CJS Ministers*;
 - * to bring 1.2 million offences to justice in 2005-2006 (compared with 1.025 million in the year ending March 2002) with a requirement to reduce the proportion of ineffective trials (Public Service Agreement for the criminal justice system: Spending Review 2002).
5. It is proposed that criminal justice departments and agencies tackle the justice gap in three ways:
 - * by developing strategies to overcome weaknesses in the overall system;
 - * by targeting particular types of offence (e.g. the Street Crime Initiative); and
 - * by targeting particular types of offender (e.g. the persistent offender).
6. All CJS agencies need to be planning both individually and collectively to deliver the “narrowing the justice gap” target. The review undertaken by HMCPSI is intended to provide a sound factual basis for that planning process so far as the CPS is concerned by ascertaining the extent of the justice gap within the prosecution process; the factors affecting it; and the types and patterns of offences where attrition occurs most.
7. The findings of the review are based on a database created during the first two-year cycle of inspections, which included a sample comprising 4,228 cases terminated in the magistrates’ courts and 1,229 cases in the Crown Court where the judge ordered an acquittal at the behest of the prosecution. In addition, 1,107 recently completed files were examined where charge attrition had occurred. These files were examined against a questionnaire.
8. The report makes no fresh recommendations relating to the conduct of CPS work, but draws together some of the points made in the first cycle of area inspection reports, which may be relevant to the causes of attrition and may therefore assist in addressing the problem.
9. For further information please contact Anisha Visram, HMCPSI (tel: 020 7210 1187, e-mail: Anisha.Visram@cps.gsi.gov.uk), or Jane Holman, CPS Press Office (tel: 020 7796 8106).