



# Report of the Inspection of the Special Crime Division of CPS Headquarters

Executive Summary

January 2009

Special Crime Division (SCD) was set up in 2005 as one of three separate divisions (Special Crime, Organised Crime and Counter Terrorism) within Central Casework, which replaced the Casework Directorate. The divisions work in partnership with each other, but responsibility for the specific types of cases and aspects of work handled by each is defined. There is a Head of Division for each of the three, who report to the Director of Public Prosecutions, but the Senior Business Manager and Secretariat are shared.

## **Background**

As with the former Casework Directorate the purpose of the divisions is to provide a centre of excellence and to deal with those complex, serious and sensitive cases that, for operational or resource reasons, are better undertaken by CPS Headquarters than by individual areas. SCD casework is divided into criminal work (which at the time of this inspection included corporate manslaughter, medical manslaughter, deaths in custody, police misconduct, election offences and allegations involving high profile people) and other specific proceedings in which SCD provides a service in relation to areas of expertise, such as extradition, referral of unduly lenient sentences to the Attorney General, appeals and civil proceedings against the CPS.

Cases are referred directly from investigators, CPS areas or other stakeholders and there are guidelines for referrals. The specialist and complex nature of many aspects of the work means that a large number of cases are referred to SCD at a very early stage in the investigation and often well before any question of charging arises. The division has adopted a strong case 'ownership' approach which encourages a good 'prosecution team' ethos. Despite this not all of the actions taken to progress the case are formally recorded, which can give the impression of 'drift'.

## **Casework**

Overall, the quality of decision-making at the pre-charge stage is good and prosecutors consider ancillary matters at this stage. The quality of the review note setting out the decision is very good, in some cases excellent. However not all advice is formally recorded in hard copy, particularly in respect of more minor offences where the advice is provided over the telephone.

The strong legal decision-making and team working is particularly evident in respect of the teams that have been established to deal with the specific proceedings handled by SCD mentioned above. The separate extradition unit is well established, handling 'exports' to other jurisdictions on behalf of foreign governments and non-European 'imports' to England and Wales on behalf of CPS areas.

Specialists have been appointed to perform the role of co-ordinators and provide advice to CPS areas and criminal justice partners. A number of the cases handled by SCD involve a high level of media attention because of the nature of the offence being prosecuted, for example the Jean Charles de Menezes shooting case and 'cash for honours' investigation.

The standard of post-charge case preparation is generally good and there is proactive case progression. Although subsequent reviews are not always completed or recorded in the file it is apparent from notes of conferences and correspondence handling that most cases are kept under close review. Court directions are complied with in a timely manner and trials are rarely ineffective for reasons due to the prosecution. The duty of disclosure of unused material is properly complied with, although SCD would benefit from the appointment of a disclosure champion. The quality of instructions to counsel varies and although counsel may have been involved in the case from an early stage, there remains room for improvement. Furthermore not all the current casework systems are applied consistently across the units and between the London and York offices, for example there are different practices for the management of documents

within the file jackets and endorsement of case outcomes and court directions are not always easy to locate. The systems need improving as they present a degree of risk to case preparation and progression.

There are very effective systems for the supervision of casework quality at the review stage. However the timeliness of decisions is not as robustly managed. This is monitored by unit heads through monthly progress reports produced by lawyers but it is not evident that cases which have apparently been inactive for some time are challenged by managers.

SCD deals with few cases where the defendants are in custody. There have been no custody time limit failures since the division was set up but the CPS national guidance is not being fully adhered to and training and guidance to staff is required. This represents a significant risk.

### **Management and planning**

Further work needs to be done to refine the planning process, in particular in respect of the staffing structure. The unpredictability of caseload in terms of size and complexity at any given time can make this difficult but some risks can be reduced, for example by improving learning and development for all staff and better succession planning for those who have developed particular specialisms. There also needs to be a greater emphasis on the review of existing plans to assess progress made and inform future strategy.

The system of performance management requires improvement. The division is not subject to any of the national CPS targets and therefore little data is collected in respect of the CPS key performance indicators, for example in respect of charging decision outcomes. Although the quarterly performance reports contain information on the numbers of unsuccessful outcomes and cracked and ineffective trials, this is not translated into percentages or analysed over a period of time to identify potential trends. This makes it difficult for managers to compare performance with other similar prosecuting authorities or assess the general 'direction of travel'. There is little feedback to staff or sharing of performance information with criminal justice partners in order to learn lessons. Our analysis of successful outcomes shows performance is below that of the other Central Casework divisions but this should be seen in the context of the small number of cases that proceed to trial, where a few unsuccessful outcomes can have a disproportionate effect on the overall percentage.

Some file 'housekeeping' and performance management issues would be assisted by more effective use of the case management system (xCMS). Because the system does not meet the needs of the division in some respects, many staff have opted not to use it at all. A number of performance reports can be accessed and greater use could be made of these by managers for monitoring purposes.

### **Victim and witness care**

The service provided to victims and witnesses is commendable. Lawyers have adopted a proactive approach to communicating with victims and victims' families at all stages in the prosecution process and often exceed their obligations under the direct communication with victims scheme and the Victims' Code, whereby prosecutors notify victims of the outcome of the case within certain timescales. Good quality letters are sent in a timely manner and meetings are frequently offered to explain decisions. However the role of the Witness Care Unit requires clarification and steps need to be taken to assess its effectiveness against the No Witness No Justice measures and Victims' Code.

### Partnerships and leadership

SCD is generally regarded as an elite division by CPS areas and external partners. The service provided to areas is valued and recent steps have been taken to engage more proactively with them through the complex casework units. This should provide managers with the opportunity to move away from their previously rather insular approach and explore good practice across the CPS and elsewhere, for example as identified in HMCPST reports. Effective partnerships have been developed with criminal justice partners by managers and specialists and the advisory role provided by co-ordinators in respect of specialist casework is highly regarded.

Leadership is respected internally and externally and managers have adopted a more visible approach. Staff are very committed and take pride in the quality of their casework. Morale within the offices is good, which means that SCD is in a strong position to build upon on its current successes to progress the recommendations and aspects for improvement contained in this report.

### Recommendations

We have made 13 recommendations to help improve the division's performance.

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- 1 Prosecutors should keep a written record of any advice provided - whether case-specific or generic - which sets out the nature of the enquiry, information upon which the advice is based, advice given and the reasons for this (paragraph 3.18).

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  - 2 Prosecutors should agree an action plan with the investigator whenever material or further investigation is requested at the pre-charge stage (paragraph 3.21).

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  - 3 Prosecutors and caseworkers at court should endorse clearly the file jacket of cases which they present or observe with the chronology of court hearings, bail status, court directions and necessary next steps. Where court attendance notes are compiled they should be stored systematically in the file (paragraph 4.5).

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  - 4 Managers should:
    - implement the use of a public interest immunity applications log;
    - ensure all inadequate schedules of unused material are returned to the police;
    - implement the use of the disclosure record sheet;
    - ensure all lawyers and caseworkers have received up-to-date training on unused material; and
    - consider appointing a disclosure champion (paragraph 4.18).

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  - 5 Post-case analysis forms should be completed in all contested cases by the reviewing lawyer, analysed by managers and lessons to be learned should be shared formally with staff (paragraph 4.28).

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  - 6 Special Crime Division should adopt the CPS national custody time limit framework and appoint a champion to oversee compliance (paragraph 4.35).

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- 7 The Head of Special Crime Division should address how the CPS advocacy strategy can be delivered and implemented by the division so as to make best use of the prosecutor resources available (paragraph 5.9).
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- 8 Managers should implement Special Crime Division's guidance on instructions to counsel and undertake systematic monitoring to ensure a consistent quality (paragraph 5.14).
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- 9 We recommend that Special Crime Division, in conjunction with the Counter Terrorism and Organised Crime Divisions, should:
- set out definitive guidelines as to the role and responsibilities of the Witness Care Unit and ensure all staff are familiar with them;
  - ensure all witness care officers receive appropriate training as soon as practicable to enable them to perform their functions effectively; and
  - develop systems to enable the divisions to undertake analysis of No Witness No Justice measures and compliance with the Victims' Code (paragraph 8.11).
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- 10 The staff resource model needs to be developed to ensure the correct distribution of resources and work (paragraph 9.14).
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- 11 The Senior Management Team should ensure an effective performance management framework is in place by 1 April 2009 and thereafter should undertake formal reviews of performance and provide regular feedback to staff (paragraph 10.4).
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- 12 Managers should work with Business Information Systems Directorate to improve the functionality of the case management system (xCMS) and in particular should ensure:
- all charging decisions are recorded;
  - files are updated and finalised promptly;
  - custody time limits are recorded and monitored;
  - all other core actions are recorded on the system; and
  - management reports are generated and utilised for performance management purposes (paragraph 10.8).
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- 13 Managers should improve the business planning process to ensure that:
- objectives are given target dates;
  - current and previous plans are reviewed regularly;
  - the impact of CPS national initiatives are included in the planning process; and
  - successes and lessons learned are identified (paragraph 11.14).
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We also identified five strengths.

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- 1 The high quality of decision-making, review notes and process of supervision at the pre-charge stage (paragraph 3.28).

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  - 2 The practice of a joint debrief in police misconduct cases post-trial with police and counsel (paragraph 4.26).

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  - 3 The service provided to victims and witnesses at court by caseworkers, lawyers and advocates (paragraph 5.18).

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  - 4 The proactive approach to offering meetings to victims and victims' families (paragraph 8.24).

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  - 5 The constructive relationships which have been established with partner agencies (paragraph 11.17).

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The full text of the report may be obtained from the Corporate Services Group at HMCPST Inspectorate (telephone 020 7210 1197) and is also available on line at [www.hmcpst.gov.uk](http://www.hmcpst.gov.uk).