

INSPECTION OF CPS DEVON & CORNWALL

FOLLOW UP REPORT

Introduction

1. This report details the findings of Her Majesty's Crown Prosecution Service Inspectorate (HMCPIS) arising from the follow-up progress visit to CPS Devon and Cornwall between 11 - 13 July 2005.
2. The Inspectorate carried out a full inspection of Devon and Cornwall in May 2004, the report of which was published that September. The report made five recommendations, which set out the steps necessary to address significant weaknesses relevant to important aspects of performance. In addition, it identified five strengths and eight aspects for improvement (AFIs).
3. The purpose of this visit was to assess the Area's progress against the recommendations and aspects for improvement contained in the report. We also evaluated whether the strengths in performance are still present, comment in detail on the progress made against our recommendations, and summarise the steps taken by the Area to address aspects for improvement.
4. The five recommendations in respect of which we assessed progress were:
 - R1** The Area ensures that each unit fully complies with the joint operational instructions on handling unused material and, in particular, ensures that:
 - * disclosure decisions are not taken on the basis of inadequate disclosure schedules;
 - * the disclosure tests under the Criminal Procedure and Investigation Act 1996 are applied after proper consideration of the material; and
 - * disclosure decisions are fully recorded (paragraph 4.26).
 - R2** The Area reviews its current custody time limit systems to ensure full compliance with CPS Best Practice and, where necessary, provides further training to staff on the calculation of expiry dates (paragraph 4.42).
 - R3** The Area introduces a quarterly performance management regime for each office based upon written performance reports to which the Unit Heads and the Office Business Manager contribute (paragraph 7.7).
 - R4** The Area reviews attendance at internal and external meetings to ensure that the resources employed are necessary and represent good use of time (paragraph 9.11).
 - R5** The Area reviews its capacity and capability to manage change (paragraph 10.9).

Methodology

5. Before visiting the Area, we requested a number of documents relating to management information and performance data that would provide evidence of the progress that the Area had made. These included the Action Plan to implement the earlier report's recommendations and aspects for improvement, details of procedures for monitoring custody time limits, minutes of meetings and local performance data.
6. We examined ten magistrates' courts' files and ten Crown Court files - selected from across the units - to look at the progress against the recommendation relevant to the disclosure of unused material. We also looked at the magistrates' courts' files in order to assess whether there had been improvement in the recording of case outcomes. Additionally, we looked at the relevant files from this sample and a further six discontinued magistrates' courts' files to determine whether an appropriate letter had been sent to the victim explaining why the case had been dropped or the reason for a material change in the charges.
7. We then examined a further 15 files selected across the units to look at the progress against the recommendation relevant to the operation of the Area's custody time limits (CTLs).
8. During our visit we interviewed specifically the Area Business Manager (ABM) and Office Business Managers. We also spoke informally with staff at the Truro office in relation to the recommendation relevant to the management of change.
9. At the same time as this follow-up inspection, we conducted a separate Overall Performance Assessment (OPA) of all the Area. The OPA report will be published once all 42 Areas have been assessed, this is likely to be in early 2006. The outcome of the programme of OPAs will enable the Inspectorate to plan its future Area Effectiveness inspections based on risk assessments and thus target those Areas with the greatest need. Information gathered from the OPA has also informed our views on the progress that has been made and used in this follow-up report.

Background to the Area

10. At the time of our inspection in May 2004, we found that the Area's casework decision-making was sound, although the handling of the disclosure of unused material was weak. Progress towards co-location with the police had been very slow and had not been achieved. The implementation of the shadow pre-charge advice scheme had also been problematic and the Area had withdrawn its coverage of Torbay Charging Centre.
11. The Area then had the equivalent of 117 full-time staff, which had risen slightly to 121 by March 2005.

12. Since our inspection the Area has co-located with the police at Exeter. However a similar move in Plymouth remains problematic, and co-location has been abandoned in Truro due to the police withdrawing from the project. There have been problems in providing consistent coverage at the Exeter Charging Centre and the position in respect of Torbay had not been resolved. The Area plans to resume coverage at Torbay in September 2005, and roll-out full shadow coverage by the end of October. However, the joint plan with the police to achieve this has still to be formulated.
13. The Area has set up a Witness Care Unit in Exeter as part of the national No Witness No Justice initiative. As with co-location, there have been problems in identifying suitable accommodation for a unit in Plymouth, although it is anticipated that space will be found in CPS premises.

Overview

14. The Area has undertaken training for lawyers and caseworkers on the revised disclosure procedures. However, there has not been any joint training with the police, and there were concerns that the ad hoc training provided at police Basic Command Unit level was inadequate. There has been limited progress in improving performance in relation to the handling of unused material, with timeliness still a particular concern.
15. Work had been undertaken to train staff on custody time limits and to ensure that the essential actions identified in the national CPS guidance were complied with in each office. This had resulted in significant progress being made to achieving the recommendation, although back-up contingencies in the event of a failure in the manual diary system needed to be strengthened.
16. The Area has made limited progress in strengthening its performance management regime. Written performance reports are now produced, which are endorsed with comments by the Chief Crown Prosecutor (CCP) and the ABM. The suite of data used in these reports could be improved, particularly in relation to pre-charge decision outcomes. There is also a need to better evidence what actions are taken at unit level to drive up performance.
17. Action still needs to be taken regarding the Area's capacity and capability to manage change. Further work needs to be undertaken to develop an Area perspective on attending meetings.

Performance against PSA targets

18. Key performance results for the Local Criminal Justice Board are illustrated below (for ineffective trial rates, lower is better):

PSA targets	Original inspection	Follow-up
Offences Brought to Justice against baseline	+13% (Jan 04)	+13.9% (Mar 05)
Ineffective trial rate - magistrates' courts	19.8% (Oct - Dec 03)	20% (04 - 05)
Ineffective trial rate - Crown Court	12.4% (03 - 04)	11.9% (04 - 05)
Public Confidence in bringing offenders to justice	No data	49%
Persistent Young Offenders (PYOs)	55 days (Dec 03 – Feb 04)	69 days (Feb - Apr 05)

19. Whilst the ineffective trial rate in the magistrates' courts has risen slightly, the percentage of cases where the prosecution are at fault remains low. PYO performance is declining significantly and the Area, in conjunction with its criminal justice agency partners, needs to address this aspect of performance. Since our follow-up visit there has been some improvement in performance, with the latest published figures indicating an average processing time of 63 days.
20. The Area missed its 2004-05 target for increasing the number of offences brought to justice (OBTJ) by 2.7%. Against a target of 28,676, the Area achieved 28,449 offences brought to justice. However the OBTJ and sanction detection trends are positive.

Implementation of the recommendations

Recommendation 1 - The Area ensures that each unit fully complies with the joint operational instructions on handling unused material and, in particular, ensures that:

- * **disclosure decisions are not taken on the basis of inadequate disclosure schedules;**
- * **the disclosure tests under the Criminal Procedure and Investigation Act 1996 are applied after proper consideration of the material; and**
- * **disclosure decisions are fully recorded.**

21. **Limited progress.** In contrast with other aspects of casework decision-making, compliance with the joint operational instructions (JOPI) on the handling of unused material was poor. In our original inspection, primary disclosure was only handled correctly in 33.3% of cases in the magistrates' courts, compared with 72.4% nationally. In the Crown Court it was dealt with correctly in 62.5% of cases, compared with 82.5% nationally.
22. In our follow-up visit, to assess progress we looked at ten magistrates' courts' and ten Crown Court files, drawn from across the units. Although only a small sample, we found that performance had improved, although in some cases the concerns identified in our inspection were still present.
23. In the magistrates' courts' file sample, primary disclosure was dealt with correctly in six out of ten cases (60%). This is an improvement on our inspection findings, but still below that found nationally at the end of our inspection cycle (71.6%). In four cases the prosecutor made a disclosure decision based on an inadequate schedule which did not contain sufficient detail. Additionally, in two of the cases the prosecutor had not filled in the disclosure log as required by the JOPI, and disclosure when made was not timely.
24. Delay in dealing with primary disclosure is still a cause of some ineffective trials, although overall performance is improving. However, at one court centre the failure to deal with primary disclosure in a timely manner is leading to wasted costs orders being awarded against the CPS. The principal reason for this delay is the need to send back defective schedules to the police. Whilst this is indicative evidence of prosecutors being more alert to their obligations, it re-inforces the need for there to be more input into police training.
25. In the Crown Court, we found that primary disclosure was handled correctly in seven out of ten cases (70%). Again this is an improvement in performance since our inspection, although still below the national figure (79.9%). As in the magistrates' courts, the principal reason for failure was an inadequate schedule, although the disclosure log was filled in correctly in all cases. The timeliness of primary disclosure remained good.
26. There were no cases in our magistrates' courts' file sample where the need to consider secondary disclosure arose, while in the Crown Court, secondary disclosure was handled correctly in five of the seven relevant cases (71.4%) and performance in this respect remains significantly better than the national average (59.4%). In both incorrectly handled cases, there was a failure to write to the defence to inform them that there was no assisting material.

Recommendation 2 - The Area reviews its current custody time limit systems to ensure full compliance with CPS Best Practice, and where necessary, provide further training to staff on the calculation of expiry dates.

27. **Substantial progress.** The Area has revised its written system, which now incorporates the national Essential Actions document and forms the basis of the custody time limit (CTL) systems in each of the Area offices, although there is some variation to take account of local practices. These differences are concerned mainly with the staff responsible for monitoring.
28. The Area carried out extensive training in 2004 based on a national CPS package combined with specific training on the new local system and only a few staff remain to be trained. Staff of all grades received similar training, so lawyers are aware of the operation of the monitoring system and administrative staff are aware of the relevant law.
29. Examination of 15 Crown Court files (five from each office) showed that the system was being adhered to and dates calculated correctly, although there were some differences in practices, for example offices using their own forms to record CTL details.
30. In some cases an extension to the CTL expiry date had not been noted on the front of the file. National guidance requires a fully up-to-date back up monitoring system. The Area referred to the case management system as their back up, however, enquiries into the system showed it was not up-to-date at all offices, with many outstanding tasks relating to custody time limits.

Recommendation 3 - The Area introduces a quarterly performance management regime for each office based upon written performance reports to which the Unit Heads and the Office Business Manager contribute.

31. **Limited progress.** The Area has implemented a performance management reporting regime, which consists of:
 - * a quarterly written report from each office management team; and
 - * CCP and ABM half-yearly meetings with the Unit Heads and Office Business Managers from each office to address a range of performance issues.
32. Whilst this is a move in the right direction it only provides a starting point from which the Area can develop the comprehensive performance management reporting regime envisaged in the recommendation. Further development, which the Area is now progressing, is needed to provide cohesive performance management reporting that will provide a clear link to the Area Business Plan and delivery of the aims and objectives at local office level.

Recommendation 4 - The Area reviews attendance at internal and external meetings to ensure that the resources employed are necessary and represent good use of time.

33. **Limited progress.** The meetings attended by managers have been mapped with a view to reviewing them and reducing unnecessary attendance. At the time of our follow-up visit, the Area Management Group was still to discuss the results of the mapping exercise. Some work has been undertaken to plan essential meetings in such a way as to maximise the use of resources.
34. Unit Heads have taken action to consolidate local meetings, but this does not form part of a cohesive strategy to ensure that the resources employed are necessary and represent good use of time.
35. No chart exists detailing the current meetings attended so that an ongoing view can be maintained on resources committed and whether they represent best value in view of the projected budget deficit.

Recommendation 5 - The Area reviews its capacity and capability to manage change.

36. **Not progressed.** Project management training has been given to the Office Business Managers, the Magistrates' Courts' Unit Head at Plymouth and the Exeter Office Administrator. However the Area has not taken any action to introduce a coherent change programme or strategy in order to prioritise its limited ability to manage change.
37. The Area's capacity and capability to manage change is a high risk at the moment, with the requirement to roll-out full shadow charging, additional Witness Care Units, and the on-going difficulties over co-location with the police.

Aspects for improvement

38. Progress towards implementing the aspects for improvement (AFIs) has been mixed. Some - for example those relating to the quality of formal advice and the provision of pre-sentence reports - have been achieved, and there has been significant progress to meeting those in respect of the endorsement of the outcome of magistrates' courts' hearings, sharing good practice, and sending letters to victims.
39. However in other cases, namely those covering communication and the involvement of staff in planning, there has only been limited progress. At the time of our follow-up visits, no Unit Plans existed and therefore this AFI had not been progressed.
40. We comment in more detail on each of the AFIs at Annex 1.

Strengths

41. The Area has maintained the strengths we found at the time of our inspection. Summary trials are still prepared thoroughly with good use being made of the certificate of readiness procedure. In the magistrates' courts' units, Case Progression Officers are effective in ensuring that outstanding tasks are actioned. Case progression in the Crown Court after the committal or the service of prosecution papers remains a strength. In the files we examined the prosecution were ready to proceed at each hearing.
42. The thorough analysis of unsuccessful outcomes in the Crown Court and adverse case outcomes in the magistrates' courts has been maintained and the findings shared across the Area and with the police.
43. The Area continues to provide a two-week induction course for new agents, which is coupled with a detailed analysis of their advocacy at court.
44. The Truro staff involvement in the Change Programme for that office was maintained, although they were disappointed that some of the staff proposals were not taken forward by the Area Management Group. However the consensus view is that the cultural and organisational change that has occurred as a result of the Programme has had a positive impact on the Truro office.

Conclusion

45. The Area faces a number of challenges, particularly around the key initiative of implementing full shadow charging. In a rural Area with a very large number of charging centres (44) it is clearly impossible, and undesirable, to provide face-to-face charging at each location. However the needs of each centre must be met and, despite the Area's view that it will move to full shadow charging in October 2005, there was, at the time of our follow-up visit, no formal implementation plan. A project steering group had still to be set up and there is a considerable risk to the Area achieving its implementation timescale.
46. Casework performance remains good, although for the reasons we have outlined earlier there are still improvements to be made in the handling of unused material. Casework outcomes remain better than those found nationally, with the exception of the rate of discontinuance in cases subject to pre-charge advice. We are satisfied that this has occurred partly through cases being incorrectly recorded on the case management system as having been subject to a pre-charge decision, but nevertheless there needs to be a more systematic analysis of this aspect of performance.
47. The timeliness of persistent young offender cases is declining rapidly and there is now a real risk, for the first time, that the Area will fail to meet the national target of 71 days. There was a lack of awareness of this decline and the Area needs to work with its criminal justice system partners to identify causes and take remedial action as a matter of urgency. Since our follow-up visit there has been some improvement in performance.

48. The sharing of good practice between offices has improved, and there is now greater cohesion with the inclusion of the Area's Office Business Managers in the Area Management Group. Regular meetings between them and the ABM enhance this, and help problem solving and the sharing of good practice.
49. Resource management remains problematic and at the time of our follow-up visit the Area was, as in 2004-05, predicting an overspend for 2005-06. Devon and Cornwall will undoubtedly have to make some hard choices if it is to remain in budget for this financial year.

CPS DEVON AND CORNWALL

PROGRESS AGAINST ASPECTS FOR IMPROVEMENT

PARA NUMBER	ASPECT FOR IMPROVEMENT	POSITION AS AT JULY 2005
4.4	The quality of advice needs to be improved to ensure a consistently high standard.	<p>Achieved. In line with all CPS Areas the percentage of cases submitted for formal advice is declining as those subject to pre-charge decisions increase.</p> <p>We looked at two cases that had been subject to formal advice. The <i>Code for Crown Prosecutors'</i> decisions were applied correctly in both, although more detail could have been given in one.</p> <p>We also looked at nine full files which had been subject to pre-charge advice and in a further ten made an assessment of quality from the MG3 form on CMS. In each of the 19 cases the Code was applied correctly.</p>
4.44	The recording of provision of pre-sentence information to the Probation Service.	<p>Achieved. Following our inspection, action had been taken at each of the Area's offices to ensure that their systems were robust. Our examination of those systems, together with our file examination, confirmed that the provision of pre-sentence information is being recorded correctly.</p>
5.6	The recording of case results on magistrates' courts' files.	<p>Substantial progress. In our file examination we considered whether case results were being recorded clearly and correctly. There was clarity of recording in all but one of the 26 files examined. In this file the endorsement was unclear as to whether or not the defendant pleaded guilty or was convicted after trial.</p>

PARA NUMBER	ASPECT FOR IMPROVEMENT	POSITION AS AT JULY 2005
6.5	Direct Communication with Victims letters to be sent in all appropriate cases.	Substantial progress. This aspect of performance is considered regularly at Area Management Group meetings. In our initial inspection we found that appropriate and timely letters were only sent out in 37.5% of relevant cases in the magistrates' courts' units and 76.9% in the Crown Court. In our follow-up visit we examined 13 files in which a need to send a DCV letter arose. An appropriate letter was sent in 12 cases (92.3%) and this was timely in ten of the 12 (83%). As at the time of our inspection we found that the quality was generally good, although one letter was terse.
7.16	Sharing of good practice between offices.	Limited progress. Good practice is shared between the OBMs and casework managers. However this needs to be organised on a more structured basis for it to be effective and have a significant impact on the Area.
8.20	The Area reviews its communications strategies across all the units in order to identify good practice and implement a consistent strategy across them.	Not progressed. Apart from the work undertaken by the Change Team at Truro no review of office communications has been undertaken.
11.4	Involvement of staff in Area and local planning.	Limited progress. The Area Business Plan was produced by the AMG at a two-day planning event. Staff were given the opportunity to comment on the draft and discuss it at team meetings. There was less evidence of staff involvement in local planning.
11.4	Creation of Unit Plans to support delivery of the Area Business Plan.	Not progressed. There were no Unit Plans in existence to support the 2005-06 Business Plan.