

Stop the Drift 2 – A Continuing Focus on 21st Century Criminal Justice (a joint review by HMIC and HMCPST)

In June 2013,, Her Majesty's Inspectorate of Constabulary (HMIC) and HM Crown Prosecution Service Inspectorate undertook an inspection of the end-to-end (arrest to disposal) processes within the criminal justice system to identify where practices can be more streamlined, joined-up and less bureaucratic.

This followed a similar HMIC study in 2010 which found a lack of clarity about what type of cases should enter the CJS; a lack of systematic control of costs and regulation of the criminal justice process; excessive bureaucracy and an historical, piecemeal approach to reform.

The Police and Crime Commissioner and Chief Constable respond to the findings of the report below.

Police and Crime Commissioner's response

I acknowledge the findings of the report and am determined to do all I can to make the criminal justice system more efficient and effective for the public.

Police and Crime Commissioners have an important role to play in bringing criminal justice agencies together to find ways of removing bureaucratic and out of date practices and improving outcomes for victims and witnesses.

I am particularly concerned about the ongoing issues regarding the safe custody of vulnerable people with mental health issues. I am looking into the findings from the study of the use of police cells as a 'place of safety' for those detained under the Mental Health Act. In the meantime I have instructed my staff to examine the application of S136 powers by this Force to establish whether they are being used appropriately.

The recommendations in the joint inspectorate report are welcomed. I will work with the Chief Constable and use my position at the local and regional Criminal Justice Boards and the four Health and Wellbeing Boards to influence the improvements that need to be made.

I have asked the Chief Constable to comment upon the findings in the report from Devon and Cornwall police's perspective. His response is provided below.

Chief Constable's response

Background & Context

In October 2010, Her Majesty's Inspectorate of Constabulary (HMIC) published *Stop the Drift: A Focus on 21st Century Criminal Justice*, which identified a number of concerns about the detrimental effect of some police systems and practices on the efficiency of the criminal justice system (CJS) as a whole. Issues included:

- a lack of clarity about what type of cases should enter the CJS;

- a lack of systematic control of costs and regulation of the criminal justice process;
- excessive bureaucracy and waste; and
- an historical, piecemeal approach to reform.

Since then, CJS agencies have tried to tackle some of these issues, especially those relating to bureaucracy and waste. Greater co-operation, increased collaboration and improved IT systems provide some evidence that improvements in the exchange of information across systems have been made. However, what is less clear is whether the changes in recent years have resulted in any unintended consequences. In the light of the renewed emphasis on reducing bureaucracy and freeing up police time, HMIC decided to re-examine some of the issues described in *Stop the Drift*.

This joint review by HMIC and HMCPSP therefore considered how police officer time might be freed up while improving performance within the criminal justice system. The Inspection was undertaken in four locations – South Wales, Avon and Somerset, Merseyside, and Bury St. Edmonds (a joint Criminal Justice Unit for Norfolk and Suffolk). The Inspection methodology included: focus groups with police and custody staff, case progressions officers and managers; a quality and compliance review of ten randomly selected case files from each location; an identification of paperwork in each area; and court observations to assess the impact of the quality of case files on the efficiency of the magistrates' court.

1. Findings

The review identifies key issues and areas for improvement. The force position is stated at the end of this section against these:

A. The Arrest-Disposal Process

- A dedicated CJ command has greater flexibility when using their specialist resources to meet demand and improve working practices.
- Three of the four force areas visited were using purpose-built 'super-suites', bringing together staff from smaller units. This centralisation of resources has resulted in a number of improvements. For example: increased numbers of female staff ensures that female police officers are not recalled from street duties to search female detainees; a greater concentration of staff reduces risk from violent detainees; purpose built DNA storage facilities, resulting in better samples being supplied to the Forensic Science Service (FSS); the use of 'live' identification parades has reduced significantly. The centralisation of staff means increased use of dedicated bail managers, increased availability of nurses and doctors and improved availability of interpreters.
- Issues still remaining include: too many people detained under section 136 of the Mental Health Act; the monitoring of vulnerable individuals; children and young people denied bail not being transferred to local authority accommodation; forensic sciences analyses taking too long; police officers being used to escort detainees to hospital or to court.

B. Prisoner Handling Teams (PHTs)

- There has been progress in the development of PHTs, comprising police officers and civilian investigators. The effectiveness of them varies however, depending on where responsibility for the investigation is placed. Too much

pressure on the officer to return to the front line can result in a 'dump and run' culture, when the officer should deal with the detainee outside of PHT hours wherever possible.

C. The Digital World of Criminal Justice

- Changes to the interface between police and CPS systems have reduced the need for the double-keying of information, file timeliness has improved and communication between agencies is more effective.

D. Files of Evidence

- Efforts have been made to reduce the unnecessary attendance of officers at court – it is therefore even more important that the case files are of good quality and are presented in a timely manner.

E. The Police Report

- The MG5 (case summary) should contain the full information the prosecutor needs in court and should be separated into three distinct areas:
 - *Summary of evidence*: in only 3 of the 40 files reviewed was this assessed as being of sufficient quality. It was regularly too long, showed a lack of understanding of the 'key witness', and missed important information.
 - *Summary of interview*: 48% were of sufficient quality. It was often excessively long, start and finish times were not completed and the use of CCTV evidence in interview was unclear.
 - *Additional information*: only 31% were of sufficient quality. The section on visually recorded information lacked detail, non-key witnesses were incorrectly listed and sometimes non-key witnesses were omitted altogether.

F. File Overbuild and Unused Material

- The inspection found these areas were doing well in correctly anticipating guilty/non-guilty pleas. This is important because the amount of information required by the prosecution and the court differs according to the plea entered by the defendant. However, despite their success at anticipating defendants' pleas, the police continue to overbuild anticipated guilty plea case files, providing material and documents not required, causing unnecessary administrative activity for the CPS. Conversely, documents which are required for anticipated guilty pleas, such as forms outlining the availability of witnesses to attend court, were often not on the file.

Devon and Cornwall Police

We are already making progress in many of the above areas. Some key points are:

- A dedicated CJ command exists within the ACC (Crime and Justice) portfolio. The criminal justice department includes custody provision and the administration of justice (file quality, witness care, collisions and ticket section, court liaison). This department is led by a superintendent.
- The force's geographic coverage has seen the designated custody estate develop around seven sites. Significant investment has been aligned to this estate to contribute to the Safer Detention agenda.

- Dedicated, stand alone prisoner handling teams are not currently in place across the force area. However, this area of business is being actively considered as part of the Safeguarding Vulnerable People and Crime Investigation reviews.
- The report's main issues concerning digital files are being addressed in force through the Criminal Justice System Efficiency Project, part of the force's adopted change programme. This project seeks to address prosecution file quality, digitisation and streamlined forensic reporting.
- We have now progressed electronic transfer of files to include summary upgrades (for magistrate trials). There have been some teething problems based on process but these are being resolved across agencies and are now working well. We are also now looking at how we can transfer Crown Court files.

3.

Recommendations

As a result of their inspection, HMIC have made the following short term and long term recommendations. A comment either on what we are already doing or what we intend to do follows each recommendation.

Short term recommendations

1. Insofar as police officers lack sufficient training in and experience of the workings of criminal courts, that deficit should be remedied, so that police officers have a sound appreciation of what happens when cases proceed to court, and how evidence is presented and tested. That way, they will have a far better understanding of the critical importance of the work they do in the earliest stages of the criminal justice process.

This is being addressed in the Bringing Offenders to Justice training programme which is discussed in more detail below.

2. The quality of supervision of police officers should be materially improved, so that mistakes are rectified promptly, time and effort is saved in the preparation of cases, and the interests of justice are served.

The File Quality Database/Checklist pilot started 25 March in Plymouth. Six supervisors have been identified to trial the equipment. It was originally intended to last four to six weeks but we have had to increase the length of the pilot to get data samples of statistical significance. To measure the benefits we will track their cases in NSPIS (our file management IT system) to see if there is any impact, alongside dip sampling of the assessments. Initial findings are that the reviewing supervisors do not have sufficient knowledge to carry out effective reviews, are struggling to complete the reviews due to conflicting demands, and are showing bias towards their staff. This was not wholly unexpected and emphasises the extra file quality training we need to undertake and introducing a completely objective process. The final results of this trial will ultimately enable the decision on whether this is rolled out at all, to all relevant supervisors or for specific team/s to be formed.

3. Forces should review their arrangements with local authorities to ensure that vulnerable adults and children are appropriately accommodated (this relates to the

use of section 136 of the Mental Health Act 1983, and to cases where children/young people are denied bail and continue to be detained in police cells after charge).

In regards to section 136 mental health detainees, our throughput remains one of the highest in the country. Work has now started to review the use of police custody as a place of safety for section 136 detainees, including a full analysis of its use, suitability and thresholds for accepting detainees in health-based places of safety. The peninsula Criminal Justice and Mental Health Liaison Group has reconvened (ACC LPP is force lead) and is prioritising the issue. NHS chief executives are supporting changes to the current ways of working. The opportunity costs of officers escorting or waiting for Mental Health Assessments remain a concern.

In line with legislation and best practice, Force Medical Examiners no longer undertake assessments for section 136 detainees. Delays are often experienced whilst we await the attendance of medical practitioners.

Long term recommendations

1. In order to improve file quality, forces should consider further training for police supervisors, perhaps delivered jointly with the CPS. This training should focus on the critical points raised in this report, with specific emphasis on ensuring that police officers accurately differentiate between key and non-key witnesses; understand how case papers need to be prepared and presented to improve the effectiveness of the prosecution; and limit file build to the required information.

We are currently working with Learning & Development to establish the Bringing Offenders to Justice training (which focuses on file quality) onto the core training programme. A business case to be presented to the Corporate Learning Management Group is now being developed to 'mainstream' the current Bringing Offenders to Justice training in the core training programme. This mainstreaming will also include elements such as shadowing prosecutors, attachments to the Criminal Justice Unit, presenting evidence role play in court, and introducing 'File Build' and 'File Supervision' core skills that have to be refreshed every two to three years. We will also be looking at who needs what training and how we can tailor this to suit. We have a pressing need to get response officers trained and are looking at introducing e-learning to facilitate this quickly whilst the wider strategic piece is being developed.

2. Forces should place greater emphasis on the quality of information contained in case files.

We will be releasing a regional 'intranet' guidance site on file quality, which is anticipated to be completed by 13 August. After some delays waiting for Gloucestershire to decide on whether to fully embrace the site, we are now ready to start populating it. This site will replace our existing 'Getting Files Right First Time' site on the intranet and have a more modern and interactive look and feel, to provide officers guidance. The File Quality Database, MG Wizard and all things file quality will reference and link into this site. One of the first agreed tasks at the CJSE Strategic Board was to determine a strategic 'roadmap' for developing the site, including costs and opportunities.

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