



# MAKING A DIFFERENCE: REDUCING BUREAUCRACY AND RED TAPE IN THE CRIMINAL JUSTICE SYSTEM

PUBLIC SECTOR TEAM  
REGULATORY IMPACT UNIT



## **Acknowledgements**

The Cabinet Office Public Sector Team (PST) would like to thank the front line staff and stakeholders that contributed to delivering the achievements set out in this report. Without their time and support, none of this work would have been possible. The organisations involved are listed in Annex 2.

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## FOREWORD BY:



### Home Secretary, Lord Chancellor, Attorney General, Minister for the Cabinet Office

The White Paper 'Justice For All'<sup>1</sup> set out our strategy for modernising and improving the criminal justice system, much of which has been incorporated in the Criminal Justice Bill. We want to rebalance the system in favour of victims, witnesses and communities, to deliver justice for all by building greater trust and credibility. The system will not be able to deliver if police officers, prosecution and court staff are delayed or distracted by unnecessary bureaucracy and red tape.

Front line staff from across the criminal justice system told us about the burdens that delayed or distracted them from their work. In this report we set out what these burdens were and the actions being implemented to remove them.

The actions will free up front line staff, giving them more time to deliver swift, high quality justice. They complement and integrate with the work of the Policing Bureaucracy Task Force published in September but are more wide ranging in removing unnecessary burdens across the criminal justice system.

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**David Blunkett**

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**Lord Irvine**

Handwritten signature of Lord Goldsmith in black ink.

**Lord Goldsmith**

Handwritten signature of Lord Macdonald in black ink.

**Lord Macdonald**

May 2003

<sup>1</sup> 'Justice For All', The Stationery Office, July 2002.  
[http://www.cjsonline.org/publications/whitepaper\\_2002/cjs\\_white\\_paper.html](http://www.cjsonline.org/publications/whitepaper_2002/cjs_white_paper.html)



# CONTENTS

FOREWORD	1	
CONTENTS	2	
EXECUTIVE SUMMARY	4	
INTRODUCTION	8	
<b>1</b>	<b>CHAPTER 1 – AN INCIDENT OR ENCOUNTER INVOLVING THE POLICE</b>	<b>9 - 16</b>
1.1	Police Incident Paperwork	9
1.2	Regulation of Police Work	13
1.3	Fixed Penalty Notices	13
1.4	The Summons Process	13
<b>2</b>	<b>CHAPTER 2 – PREPARING FOR COURT</b>	<b>17 - 31</b>
2.1	Improving Police and CPS Interface	17
2.2	Building Prosecution Files	19
2.3	Statements from Hospital Doctors	22
2.4	Forensic Evidence	23
2.5	Scheduling Court Hearings	24
2.6	CPS Circulars	25
2.7	CPS Working Groups and Meeting Structures	25
2.8	Inspection	26
2.9	CPS Brief for Counsel	27
2.10	Access to Legislative Rules and Procedures	27
2.11	Case Preparation: Being Ready for Court	29
2.12	Exchanging information	30
2.13	Storage of "SCOPE" IT system Printouts	31



<b>3</b>	<b>CHAPTER 3 - PROSECUTION</b>	<b>32 – 41</b>
3.1	The Powers of Designated Caseworkers	32
3.2	The Production of Prisoners at Court	33
3.3	The Disclosure of Prosecution Material to the Defence	35
3.4	Guilty Pleas	36
3.5	Protecting Vulnerable or Intimidated Witnesses	37
3.6	Penalties for Wasting Court Time	38
3.7	Paying Prosecution Counsel	38
3.8	Recovering Defence Costs	40
<b>4</b>	<b>CHAPTER 4 - POST VERDICT PROCESSES</b>	<b>42 – 49</b>
4.1	Crown Court Orders	42
4.2	Enforcement of Magistrates' Courts Warrants	43
4.3	Prisoners with Outstanding Fines	45
4.4	Performance Monitoring and Management Information	46
4.5	Expenditure within Magistrates' Courts Committees	47
4.6	Improving Implementation of New Policy and Initiatives	48
	<b>CONCLUSION</b>	<b>50</b>
	<b>BIBLIOGRAPHY</b>	<b>51 – 52</b>
	<b>ANNEX 1 – BACKGROUND AND METHODOLOGY</b>	<b>53 – 54</b>
	<b>ANNEX 2 – PARTICIPANTS</b>	<b>55 – 56</b>



## EXECUTIVE SUMMARY

In October 2001, the Prime Minister<sup>2</sup> explained the Government's mission to change and reform public services through:

- high standards;
- devolution to the front line;
- flexibility of employment; and
- greater choice.

This project is all about devolution to the front line. It frees up front line staff working in the criminal justice system from unnecessary activity, often centrally mandated, that restricts them from achieving high local standards of justice for victims and witnesses.

Nearly 250 police officers, Crown Prosecution Service (CPS) and courts staff were interviewed to find out what they perceived to be unnecessary burdens. Processes from an encounter with the police through to a conclusion at court were examined.

This report sets out the burdens identified and the measures the Government is taking to remove them. The measures are not recommendations or proposals but actions agreed by Government. Each measure will deliver benefits across the criminal justice system, not just to one organisation or group.

The report sets out the benefits anticipated and the time scales for action. Where possible the benefits have been quantified.

The project was lead by the Cabinet Office Public Sector Team (PST) and closely co-ordinated with the Policing Bureaucracy Task Force. The PST interview findings relating to policing matters were shared with the Task Force as they arose.

The Task Force, consisting of operational police officers and support staff, used their expertise to draw up "Change Proposals" that were published with their report<sup>3</sup>. The Change Proposals for which actions are set out in this report are:

- the establishment of a national editorial board to cut back and standardise all of the police forms that are used for key processes (Section **1.1**);
- extending the use of fixed penalty notices (Section **1.3**);
- co-location of criminal justice units (Section **2.1**);
- improvement to court listing (Section **2.5**);
- provision of information technology for the preparation of case files (Section **2.11**);
- and
- adoption of a "Policy Effects Framework", to prevent future burdens arising in the first place (Section **4.6**).

Note that in the first five of these six areas, additional actions are set out in this report to deliver benefits for the CPS and the courts.

<sup>2</sup> The Prime Minister's Speech on Public Service Reform, 16 October 2001  
<http://www.number-10.gov.uk/output/Page1632.asp>

<sup>3</sup> The Policing Bureaucracy Task Force was set up by the Home Secretary. 'Change Proposals to Increase the Presence of Police in Communities, Policing Bureaucracy Task Force' was published in September 2002,  
<http://www.policereform.gov.uk/bureaucracy/index.html>



Bureaucracy and red tape are often seen as unnecessary paperwork, inefficient processes and overly restrictive rules that waste time and create delay. The actions set out in this report can be summarised under these groups as follows:

### **Removing unnecessary paperwork:**

- reducing and simplifying paperwork completed by police by removing unnecessary forms and merging others;
- reducing the number of prosecution files produced by police officers and handled by CPS staff;
- by increasing the number of offences that can be dealt with by fixed penalty notices;
- simplifying the requirements and removing duplication from prosecution case files that police officers have to complete and the CPS have to process;
- simplifying and reducing the number of different court order forms that Crown Court staff have to produce;
- reducing the need for court staff to chase missing paperwork associated with prisoners that have outstanding fines;
- reducing the information returns and removing unnecessary approvals required for Magistrates' Court's building work; and
- removing the requirements for the CPS to store unused IT printouts.

### **Simplifying procedures:**

- protocols to share good practice for obtaining quality statements from hospital doctors and the Forensic Science Service on time;
- improving operational staff representation on, and simplifying the structure of CPS working groups and meeting structures so they are more effective and efficient;
- using "joined up" inspections to help drive up performance at organisational interfaces;
- improving the CPS briefs for prosecution counsel using a quality control scheme;
- conveying sentencing information to defendants in order to encourage those that are going to plead guilty to do so early in the process, saving time for CPS, court staff and the ordeal of giving evidence for witnesses;
- simplifying the administration of Defence Cost Orders;
- joining up performance monitoring requirements to avoid the loss of credibility when they are seen as creating perverse incentives;
- better access to legislative rules and procedures: steps towards codifying the Criminal Law and procedures to make it easier to understand;
- avoiding delay to court proceedings by delivering information to the right place at the right time using information technology;
- improving performance measures so each agencies' contribution to the criminal justice system is transparent;
- removing the unnecessary loop for the police to check with the court before they can issue a summons; and
- sharing good practice in implementing the following initiatives whilst recognising the linkages, dependencies and the need for flexibility: CPS lawyers' early review of case papers in police stations; co-location of CPS and police administrations; and the CPS assuming responsibility for charging suspects.



### **Removing unnecessarily restrictive rules:**

- allowing Designated Caseworkers to conduct more cases, avoiding the need for the court to adjourn or call in lawyers to take over the prosecution;
- sharing information so it is easier for Civilian Enforcement Officers to locate defendants and assess the risk of injury/assault;
- removing unnecessarily bureaucratic requirements included in the Police and Criminal Evidence Act.

The work to remove unnecessary bureaucracy and red tape in the criminal justice system does not stop here. Work will continue through:

- monitoring implementation of the actions set out in this report to see that they deliver the benefits envisaged;
- further simplification of processes via the Case Progression Project;
- providing information systems using IT; and
- preventing new burdens arising in the future through using a gateway such as the Policy Effects Framework.

The report shows how, in many cases, solutions are now being implemented quickly to deliver benefits for front line staff in a matter of months. These are blended with more substantial issues that have been widely acknowledged by criminal justice system professionals as problematic and where the solutions will take longer to implement.

A number of actions are being implemented in 31 areas. The areas are listed below and the organisations that will benefit are identified for ease of reference:



Area	Description	Benefits			Page
		Police	CPS <sup>4</sup>	Courts	

Chapter 1: An Incident or Encounter Involving the Police					
1.1	Police Incident Paperwork	•			9
1.2	Regulation of Police Work: the Police and Criminal Evidence Act	•			13
1.3	Fixed Penalty Notices	•	•	•	15
1.4	The Summons Process	•		•	16

Chapter 2: Preparing For Court					
2.1	Improving Police and CPS Interface	•	•		17
2.2	Building Prosecution Files	•	•		19
2.3	Statements from Hospital Doctors	•			22
2.4	Forensic Evidence	•			23
2.5	Scheduling Court Hearings	•	•	•	24
2.6	CPS Circulars		•		25
2.7	CPS Working Groups and Meeting Structures		•		25
2.8	Inspection	•	•	•	26
2.9	CPS Brief for Counsel		•		27
2.10	Access to Legislative Rules and Procedures	•	•	•	27
2.11	Case Preparation: Being Ready for Court	•	•	•	29
2.12	Exchanging Information	•	•	•	30
2.13	Storage of "Scope" IT System Printouts		•		31

Chapter 3: Prosecution					
3.1	The Powers of Designated Caseworkers		•		32
3.2	The Production of Prisoners at Court	•	•	•	33
3.3	The Disclosure of Evidence to the Defence	•	•		35
3.4	Guilty Pleas	•	•	•	36
3.5	Protecting Vulnerable or Intimidated Witnesses		•		37
3.6	Penalties for Wasting Court Time			•	38
3.7	Paying Prosecution Counsel		•		38
3.8	Recovering Defence Costs			•	40

Chapter 4: Post Verdict Processes					
4.1	Crown Court Orders			•	42
4.2	Enforcement of Magistrates' Courts Warrants			•	43
4.3	Prisoners with Outstanding Fines			•	45
4.4	Performance Monitoring and Management Information	•	•	•	46
4.5	Expenditure within Magistrates' Courts Committees			•	47
4.6	Improving Implementation of New Policy and Initiatives	•	•	•	48

<sup>4</sup> Crown Prosecution Service



# INTRODUCTION

In response to growing concerns about bureaucracy and red tape in the public sector, the Government commenced a programme of work to identify and remove unnecessary burdens. This is the eighth “*Making a Difference*” project report, and covers the criminal justice system. Details of previous reports, the majority of which cover other areas of the public sector, are set out at Annex 1.

Police officers, Crown Prosecution Service, Crown and Magistrates Courts’ staff were interviewed to hear from them what they perceived to be unnecessary burdens. The organisations involved are listed at Annex 2.

This report sets out:

- the issues identified;
- the action Government is taking to remove them;
- the anticipated benefits for front line staff – quantified where possible; and
- implementation/milestone dates.

Implementation of the actions will be monitored by the project team to ensure that the benefits anticipated are delivered on the ground.

The format of the report broadly follows the criminal justice process from police involvement in an incident through to what happens after a defendant is sentenced or acquitted by a court:

**Chapter 1:** an incident or encounter involving the police

**Chapter 2:** preparing for court

**Chapter 3:** prosecution

**Chapter 4:** post verdict processes

‘Policing a New Century’<sup>5</sup> announced the intention to start this project along with the creation of a Policing Bureaucracy Task Force.

The project was closely co-ordinated with the work of the Policing Bureaucracy Task Force whose report<sup>6</sup> was published on 17 September 2002. Where emerging findings from interviews carried out for this project related to policing matters, they were shared with the Task Force as they arose.

<sup>5</sup> ‘Policing a New Century: a blueprint for reform’, Home Office White Paper, 2001

<sup>6</sup> ‘Change Proposals to Increase the Presence of Police in Communities’, Police Bureaucracy Task Force, September 2002  
<http://www.policereform.gov.uk/bureaucracy/index.html>



# CHAPTER 1

## AN INCIDENT OR ENCOUNTER INVOLVING THE POLICE

This section sets out the issues identified by front line staff and the actions being implemented to remove unnecessary burdens arising between the police encountering an incident and charging a suspect.

The following areas are included:

- Police Incident Paperwork
  - Stolen motor vehicle reports
  - Phoenix forms
  - Forms for investigating nuisance and malicious telephone calls
  - Crime report forms
  - Forms issued to members of the public
  - Missing person reports
  - Road traffic collision reports
  - Notification of sudden deaths
  - Record of premises searched
  - Staff development and appraisal forms
- Regulation of police work: the Police and Criminal Evidence Act
- Fixed Penalty Notices
- The Summons Process

### 1.1 Police Incident Paperwork

The Manual of Guidance for the Preparation, Processing and Submission of Files<sup>7</sup> contains national procedures and forms that police officers need to complete in order to produce timely case files of sufficient quality. The Manual of Guidance is generally regarded as having been successful in managing prosecution paperwork. However, non-prosecution paperwork with a similar, if not larger, volume remains without any systematic mechanism for testing the need for a particular form, sharing good practice or ensuring the format and data content are not unnecessarily burdensome.

#### Action: Simplifying and Reducing Non-Prosecution Paperwork

- (i) A national Police Forms Editorial Board has been established to:
- Remove unnecessary non-prosecution paperwork demands on police officers;
  - Simplify existing demands; and
  - Prevent such burdens arising in the future.

The Police Forms Editorial Board is chaired by the Association of Chief Police Officers (ACPO) who will work with stakeholders to promote adoption of the simplified forms. The first revised forms will be disseminated to Forces in **June 2003**.

<sup>7</sup> <http://www.homeoffice.gov.uk/justice/legalprocess/courts/guidance.html>



- (ii) The work of the Police Forms Editorial Board is on-going, and they remain committed to continually issue updated, streamlined forms, and to encourage and assist forces in reviewing their internal forms, in order to achieve other reductions in bureaucracy – **on-going**.

The main forms being considered by the Police Editorial Board to date:

#### *(a) Stolen Motor Vehicle Reports*

A number of forces used the PNC 150 or notification of stolen vehicle form. The form was used to record the registration number, make, model, colour, chassis number and engine number but this information has been available on the Police National Computer which has had an interface with the Driver and Vehicle Licensing Agency for a number of years. The form also captured a great deal of information such as upholstery details, scratches on bodywork and stickers on windows but these are not searchable on any national system.

#### **Action: Police will no longer have to complete a Stolen Motor Vehicle Report Form**

There is no longer any need to complete this form and as a result the Police Forms Editorial Board have officially withdrawn it from use **(completed)**.

#### **Benefits**

The Reducing Police Bureaucracy Task Force<sup>8</sup> estimate that removing the PNC150 form will save 41,250 hours of officer time per year.

#### *(b) Phoenix Forms*

Police update the Police National Computer (PNC) with information on criminal activity. Information is sent on a “Phoenix” form by the police officer (usually) to a central bureau for quality checks and entry onto the national computer. Around a million PNC forms are completed each year. Some police forces have invested in custody computers that, in addition to helping manage the custody process, will complete some of the data fields on the PNC form. However, many police stations still use the paper-based system. The data required for updating the PNC are specified nationally so it is the same for every force. However, the forms vary in size and can be up to 16 pages.

#### **Action: A Shorter and more Streamlined Phoenix Form**

A simplified layout consisting of four pages is used in some forces, and it is this format that the Policing Bureaucracy Task Force perceive to be representative of ‘good practice’ from their research, and will prepare to promote this form nationally – **August 2003**.

<sup>8</sup> Chaired by Sir David O’Dowd. Figures from ‘Change Proposals to Increase the Presence of Police in Communities’, Police Bureaucracy Task Force, September 2002  
<http://www.policereform.gov.uk/bureaucracy/index.html>



### Benefits

The Reducing Police Bureaucracy Task Force<sup>9</sup> estimate that adopting the shorter Phoenix form will save 34,701 hours of officer time per year.

#### *(c) Forms for investigating nuisance and malicious telephone calls*

All police forces use three forms to collect information relating to telephone calls:

- Victims' reports of malicious/nuisance telephone calls;
- Requests from the police for a telephone operating company to provide details of a subscriber;
- Requests from the police for a telephone operating company to provide a suspect's itemised bill.

At the moment there are a substantial number of differing layouts in use, all of which contain similar data. The Association of Chief Police Officers (ACPO) have recently completed a standardised design. Often at least two of the forms need to be completed for the same case. For example, a victim's report of a malicious call may trigger a request for subscriber information.

### Action: A Single Form for Investigating Nuisance and Malicious Telephone Calls

The Police Forms Editorial Board will work with ACPO to produce and disseminate a single form. Combining all three forms will reduce duplication of core data such as names and addresses being entered on each form – **August 2003**.

### Benefits

The Reducing Police Bureaucracy Task Force<sup>9</sup> estimate that adoption of the combined form will save 13,750 hours of officer time per year.

#### *(d) Crime Report Forms*

Three forms are in common usage to record details of a crime or incident:

- Report of race/hate crime
- Domestic violence report
- Crime incident report

<sup>9</sup> Chaired by Sir David O'Dowd. Figures from 'Change Proposals to Increase the Presence of Police in Communities', Police Bureaucracy Task Force, September 2002  
<http://www.policereform.gov.uk/bureaucracy/index.html>



These forms all collect common data such as name, date of birth, address, ethnic origin and the circumstances of the incident. In the case of a race/hate incident or domestic violence, it is highly probable that a recordable crime will have been committed at the same time. Two, or on occasion all three, of these forms will have to be completed by the officer at the scene and there is significant duplication of effort. The forms currently in use vary in style and format but the data collected is generally the same.

#### Action: A Combined Form for Recording Details of a Crime or Accident

The Police Forms Editorial Board will work with stakeholders to produce a single Crime Report Form – **August 2003**.

#### Benefits

The Reducing Police Bureaucracy Task Force estimate that adoption of a combined form will save 7,828 hours of officer time<sup>9</sup> per year.

#### *(e) Forms issued to members of the public*

Three different forms are used by the police when dealing with members of the public:

- Vehicle Defect Rectification Notices (VDRN) are issued by police officers to drivers/owners of vehicles following identification of defects under the Construction and Use Regulations.
- The HO/RT1 forms are issued to drivers/owners of vehicles when they are required to produce their insurance and license documents to a police officer but are unable to do so at that time.
- The Stop and Search Record which is issued to persons searched in accordance with the Police and Criminal Evidence Act (PACE)<sup>10</sup>.

These forms all contain common information such as the person's name, time and location resulting in duplication.

#### Action: A Combined Form for Issue to Members of the Public

- (i) Many forces have combined the VDRN and the HO/RT1 and the Police Forms Editorial Board will promote this as good practice – **Summer 2003**.
- (ii) The Lawrence Steering Group will oversee the phased implementation of the Stop and Search Record. Several versions of this form are currently being piloted in forces nation-wide – **April 2003 onwards**.

<sup>10</sup> See section 1.2, page 13 for issues relating to PACE



#### *(f) Other Forms*

National standardisation of the following forms will provide an opportunity to implement good practice, make it easier for officers that transfer between forces and provide common processes suitable for IT solutions.

- Missing person reports
- Road traffic collision reports
- Notification of sudden death to HM Coroner
- Record of premises searched

Additionally work is also underway to standardise the Staff Personal Development Review/Appraisal form.

#### **Action: National Standardisation of Selected Forms**

- Progress is underway on all these forms, and a National Missing Persons Form is currently in the final stages of revision – **May 2003**.
- The Road Traffic Collision report will be standardised and will be available as a national form in **January 2005**.
- The work on the Notification of Sudden Death is awaiting the outcome of the Luce Report before being standardised – **Spring 2004**.
- The Record of Premises Searched form will be standardised and will be available as a national form – **August 2003**.
- National standards will also be issued for the Staff Personal Development Review/Appraisal form (Home Office Circular 14/2003 refers), and the Board will be careful to ensure that the impact on the front line is minimal – **April 2003 (completed)**.

## **1.2 Regulation of Police Work: the Police and Criminal Evidence Act**

The Police and Criminal Evidence Act (PACE) 1984 regulates the behaviour of law enforcement officers – most notably the police – but includes the work of other officers such as customs and elsewhere. It sets mandatory procedures for: stop and search; powers of entry, search and seizure; arrest; detention; and questioning and treatment of persons by police.

The PACE Act also requires the Secretary of State to issue Codes of Practice. Codes have been issued in the following areas:



- Stop and search
- Searching premises and seizure of property
- Detention, treatment and questioning
- Identification of persons
- Tape recording interviews

Since its creation nearly 20 years ago, the PACE Act has been amended and added to on a piecemeal basis. Along with the Codes, it now forms a detailed and prescriptive regulatory regime. The Codes have been under review for some time but Ministers felt the need for a fundamental review and that has now been completed.

A joint Home Office/Cabinet Office review of the PACE Act and its subordinate Codes commenced in July 2002 was published in November 2002. The purpose of the review was to identify possible changes to the rules, that without compromising the rights of those the Act protects, that could:

- simplify police processes;
- reduce procedural or administrative burdens on the police (and others);
- save police resources; and
- speed up the process of justice.

The 61 options outlined in the Review Report were divided into the following groups:

- Changes that could be addressed in the forthcoming interim Codes of Practice due to come into force in early 2003;
- Changes that could be included in forthcoming legislation in the next parliamentary session (2002/2003);
- Changes that would require further consultation perhaps through a Green Paper before possible changes to legislation;
- Changes that could be reflected in a more thorough restructuring of the Codes of Practice by early 2004;
- Changes that extend beyond PACE and the Codes of Practice and would require broader negotiation across the Criminal Justice System.



#### Action: New PACE Codes will be issued

- (i) New PACE codes reflecting a number of the Review's recommendations will be implemented – **April 2003 (completed)**.
- (ii) Work to pave the way for further changes to both the legislation and the Codes is also underway – **on-going**.

#### Benefits

Specific changes to PACE aimed at reducing administrative burdens are contained in the current Criminal Justice Bill. For example, reduced requirements to record detainees' property and an increased capacity to carry out reviews of detention by telephone.

### 1.3 Fixed Penalty Notices

Fixed Penalty Notices provide a simple and swift process for dealing with minor offences in a way that requires minimal administrative input. A notice is sent to the offender who can either pay a financial penalty or request a hearing before a Magistrates' Court. Fixed Penalty Notices are already used for many road traffic offences such as speeding. They may additionally be a simple alternative to dealing with other minor offences, currently prosecuted via the charge or summons process. (See section 1.4 below)

#### Action: Extending Fixed Penalty Notices

- (i) Action will be taken<sup>11</sup> to extend the fixed penalty system to deal with minor street crime. For example being drunk and disorderly; making false 999 calls; or drinking in a designated area. The scheme will be piloted in four police areas to be completed by **Summer 2003**.
- (ii) An assessment of the suitability of TV licence evasion as a fixed penalty offence will also be undertaken – **Summer 2003**.
- (iii) A review of further offences will additionally be undertaken by the Home Office to determine which ones might be suitable to add to the penalty notice for disorder scheme – **during 2003**.
- (iv) The provision of a Fixed Penalty Notice option for TV licence evasion and the addition of further offences to the penalty notice for disorder scheme will require changes to legislation and this will be subject to the availability of parliamentary time. In the meantime, therefore, measures in the Anti-Social Behaviour Bill currently before Parliament will seek to extend the power to issue penalty notices for specified disorder offences to accredited persons (part of the wider police family) and to extend the scheme to include juveniles, initially to 16 and 17 year olds. Pilots for this system are planned to commence in **January 2004** with a view to rolling out nationally by **Spring 2005** if pilots are successful.

<sup>11</sup> Criminal Justice & Police Act 2001



### Benefits

Over 105,000 persons were found guilty of wireless telegraphy offences in 2000<sup>12</sup> (mainly TV licence evasion). Considerable benefits will accrue to the criminal justice system if these cases no longer have to go through the courts.

Any further offences dealt with by Fixed Penalty Notices where the recipient does not request a trial will no longer need a police case file, CPS advocacy or a court hearing.

## 1.4 The Summons Process

Criminal prosecutions are investigated in two main ways:

- *By charge*: for the more serious offences, the police have a power of arrest. Usually the suspect is arrested and conveyed to the police station. If sufficient evidence exists the suspect is charged and detained in custody, or instead is released on bail to attend court.
- *By summons*: for the less serious cases where the police have no power of arrest, they can ask the court to issue a summons, requiring the accused to attend court. The court checks the paperwork and either sends the summons directly to the accused or returns batches for the police to send out.

Involvement of the court in the summons process adds an additional administrative activity that does not exist in the charge process. This is an anomaly: the lesser offences have to be checked by the court whereas the serious cases do not.

### Action: Removing the Summons Process

All prosecutions commenced by public prosecutors, including the police will be by charge administered either (as now) orally at a police station, or in writing. A written charge will be accompanied by a 'requisition' requiring the defendant to appear in court on a specified date. These documents will be issued together by the police without reference to the courts, and may be served either manually or by post. The changes necessary to enable this are being included in the Criminal Justice Bill which was introduced to the House of Commons in November 2002. Royal Assent<sup>13</sup> to the Bill is expected by November 2003. **Implementation dates for the above will be announced as part of the implementation programme for the Criminal Justice Bill.**

NB. The current arrangements for private individuals seeking to initiate a private prosecution will be retained.

### Benefits

Removing the involvement of the court in the procedure is expected to lead to an increase in efficiency and the extra administrative process for the police to check with the court before issuing a summons will be removed.

<sup>12</sup> 'Criminal Statistics, England and Wales, Supplementary Tables 2000 Vol. 2' Annex A <http://www.homeoffice.gov.uk/rds/pdfs/crimstatvol2.pdf>

<sup>13</sup> Royal Assent signifies when the Sovereign formally gives assent to the Bill, which will then become an Act and therefore part of Law.



# CHAPTER 2

## PREPARING FOR COURT

This section sets out the issues identified by front line staff and the actions being implemented to remove unnecessary burdens arising from charging through to the first hearing at court.

The following areas are included:

- Improving Police and CPS Interface
- Building Prosecution Files
  - Case summaries
  - Compensation from the bench
- Minor Process Forms
- Statements from Hospital Doctors
- Forensic Evidence
- Scheduling Court Hearings
- CPS Circulars
- CPS Working Groups and Meeting Structures
- Inspection
- CPS Brief for Counsel
- Access to Legislative Rules and Procedures
- Case Preparation: Being Ready for Court
- Exchanging Information
- Storage of “Scope” IT System Printouts

### 2.1 Improving Police and CPS Interface

The role of the police and the CPS are distinct<sup>14</sup>: the police prevent, reduce and detect crime, arrest, detain and charge suspects, investigate crimes and appear as expert witnesses in court. The CPS decide whether to prosecute and make the case for prosecution for defendants in England and Wales charged with an offence.

Effective and efficient prosecution relies on the police and the CPS working together where they interface. Three major initiatives seek to improve the way this interface works. They are:

- In 1996, Narey<sup>15</sup> recommended the location of CPS lawyers in police stations to: examine, with the police, case papers for defendants charged that day; and decide which were likely to plead guilty, that could be fast tracked through the criminal justice system with the minimum paperwork necessary and, where possible, sentenced at the first hearing the following day. This has been widely implemented.

<sup>14</sup> 'Route to Justice', Audit Commission, June 2002

<sup>15</sup> 'Review of Delay in the Criminal Justice System', Martin Narey, (1997)



- In 1998, Glidewell<sup>16</sup> identified duplication between the activities of police and CPS administrative units during the preparation of case papers. The report recommended the “co-location” of police and CPS administrative staff in Criminal Justice Units (concentrating on cases for the Magistrates’ Court) and Trials Units (concentrating on cases for the Crown Court). By March 2003, 68 Criminal Justice Units and 54 separate Trials Units had been established. A third evaluation report (due for publication in May 2003) has established, for the first time, that a decentralised arrangement is more efficient one and is capable of contributing up to 3% of the Narrowing of Justice Gap target.
- In 2001, Auld<sup>17</sup> identified delays and inefficiencies from the police incorrectly charging suspects and the CPS failing to review cases at an early stage. He recommended that the CPS assume responsibility for determining the charge. Pilots have commenced and the intention to implement this has been announced<sup>18</sup>.

The above innovative initiatives have been included in the Criminal Justice Bill currently before Parliament, which will provide the legislative measures for national implementation. But in order to fully realise all the benefits anticipated there is a need to identify how they can best be implemented together. There are significant dependencies between each project that need to be managed, and this is recognised by the project teams who are working closely with each other to overcome any difficulties

#### Action: A Flexible Model for Joint Administration

The CPS and police will establish a flexible model for joint administration that can be tailored to:

- (a) provide regular access by investigators to prosecutors
- (b) ensure effective advice
- (c) determine the right charge
- (d) influence the shape of the prosecution.

A scoping project will to identify what worked well and the difficulties that have been overcome on the ground, and this will be used to inform the creation of the model – **September 2002 onwards.**

#### Benefits

The Narey reforms have made a huge reduction in the paperwork completed by police officers through the introduction of expedited files<sup>19</sup>. Recent work<sup>20</sup> suggests the reductions in delay that were anticipated are materialising.

<sup>16</sup> ‘Review of the Crown Prosecution Service’, chaired by Sir Ian Glidewell

<sup>17</sup> ‘Review of the Criminal Courts of England and Wales’, led by Lord Justice Auld. <http://www.criminal-courts-review.org.uk>

<sup>18</sup> ‘Justice for All’, White Paper, Home Office, June 2002

<sup>19</sup> Expedited files are shortened, simplified prosecution case files used for first hearings and summonses. The majority of cases can be concluded using this file type without the need to produce a full file necessary for the more complex cases.

<sup>20</sup> ‘Trials Issues Group Newsletter’ 21 August 2001, <http://www.lcd.gov.uk/criminal/tignews/tigarchfr.htm>



The Glidewell reforms can deliver a 14% reduction in the cost of preparing a Magistrates' Court file<sup>21</sup>. The resources saved are being reinvested to improve the quality and timeliness of file preparation. One site has recorded a 26% reduction in the average number of hearings needed to bring each case to conclusion and a 20% increase in cases completed at the first court hearing<sup>22</sup>.

Early results from the charging pilots are showing that weak cases are being identified early, resulting in a reduction in adjournments. Further investigations are progressed in the areas of weakness, so the case can proceed. Alternatively the case is dropped early.

## 2.2 Building Prosecution Files

Information collected by the police during their investigations is passed to the CPS prosecutor in the form of a case file. Case files contain the charge sheet, bail conditions, witness statements and other information essential for the prosecution, case management and, if found guilty, sentencing of defendants. The Manual of Guidance for the Preparation, Processing and Submission of Files<sup>23</sup> contains national procedures and forms that police officers need to complete in order to produce timely case files of sufficient quality. The manual contains good practice and is regularly revised to ensure that it is still 'fit for purpose' and complies with changes in current legislation. Currently, compliance by police forces with the manual is not mandatory. Many forces follow the manual in broad terms but have adapted some of the forms. Views on this are mixed. Some forces do not benefit from the good practice, while others have used the flexibility to innovate locally, allowing new good practice to develop which can be shared through updates to the manual.

### *(a) Case Summaries and Short Descriptive Notes*

The manual contains rules that set out when police officers should include a case summary (form MG5) in the file. Generally, a summary is only required if the case is complicated. The manual also contains rules for the inclusion of interview evidence in the case file. For simple cases, a Short Descriptive Note (on form MG15) is required. The Short Descriptive Note should be a short account of the key aspects of the interview. In practice, 18 police forces have made local agreements with the area CPS to produce an MG5 for all files, complex and simple. This is because there are some simple cases where the CPS is not getting all the information it needs.

Three quarters of the defendants brought to court plead guilty<sup>24</sup>. In many cases, a guilty plea can be anticipated before court; the accused may have made an admission of guilt to the police. A simplified file is prepared and the case will normally go to court within one or two days of charge<sup>25</sup>. Justice is delivered swiftly and public resources can be focused on the cases where the defendant disputes the charge.

Where the defendant is expected to plead guilty the case summary adds value by communicating to the prosecutor all the key issues in the case – some of which may not be elsewhere in the simplified file. For example: what other witnesses that have not yet provided statements may say. Furthermore, along with other extracts from the file, the MG5 is disclosed to the defence. The summary facilitates the duty solicitor in particular in understanding cases where a number of defendants are to be seen in the short time available before the hearing at the Magistrates' Court.

<sup>21</sup> 'A Review of Cost Efficiency Savings within Glidewell Collocated Criminal Justice Units', December 2001, Police/CPS Glidewell Working Group

<sup>22</sup> 'Justice for All', White Paper, Home Office, June 2002

<sup>23</sup> <http://www.homeoffice.gov.uk/justice/legalprocess/courts/guidance.html>

<sup>24</sup> 'The Crown Prosecution Service Annual report 2000 – 2001', <http://www.cps.gov.uk/Home/CPSPublications/#2>

<sup>25</sup> The Police and Criminal Evidence Act 1984, which requires the suspect to be brought to court no later than the first sitting after charge.



### Action: Simplifying the Requirements for Case Summaries and Short Descriptive Notes

The Manual of Guidance will be revised so that a summary is provided when:

- A case involves complex issues of fact, especially where there are multiple changes and/or defendants;
- A case involves complicated issues of disputed identification, particularly in denied public order or violence cases involving conflicting witness statements; and
- In anticipated guilty plea cases where witness statements provided do not cover all evidential aspects of the case.

Where there is a need for a summary and a Short Descriptive Note, the latter can also go on the MG5 form. If there is no summary on file, the Short Descriptive note will be included on the file on form MG15 – **February 2003 (completed)**.

### Benefits

While summaries take time for the police to prepare, they save a disproportionately larger amount of time for the prosecutors that have to read the file. This is compounded where more than one person has to read the file. Cases heard in the Crown Court are often more complex and the summary helps the prosecutor understand the issues. In the Magistrates' Court, where a prosecutor may be presenting 30 or so cases a day, the summary helps them get to the key issues quickly. There is also a view held by many that the act of producing a summary helps the police check that all the elements necessary for a successful prosecution exist in the case. Police will only have to provide an MG5 when it adds value. The CPS will have all the information they need to prosecute the case.

#### *(b) Duplication of Witness Details*

The list of witnesses (MG9 form) is completed by the police and sent to the CPS as part of the case file. The MG9 conveys to the CPS the names and addresses of all the witnesses involved in the case, their statement references, whether they are vulnerable or likely to be intimidated, and if they have previous convictions. The CPS and the defence will agree which witnesses need to appear before the court to give evidence. The CPS will then complete a Witness List For Warning (LWAC form) and send it to the police. The police are responsible for advising witnesses if and when they will be required to attend court – a process known as “warning”. The CPS retain a copy of the LWAC and record on it witness attendance at court; data which is later used to verify witness expense claims.

### Action: Removing Duplication of Witness Details

The MG9 and the LWAC both contain the witness names and addresses. A project will be undertaken which will identify how to remove this duplication and a solution will be available by **end of 2003**.



### Benefits

A cost benefit analysis will be included in the project.

#### *(c) Compensation from the bench, MG19*

A defendant may be ordered by the court to pay compensation for any injury, loss or damage resulting from an offence for which he/she has been convicted. The police will supply a compensation claim form (MG19) to the victim as soon as possible after the defendant has been charged, so that the victim can provide details of any financial loss or injury. There will often be insufficient time between charge and the first appearance at court for the form to be returned. Cases will normally go to court within one to two days of charge<sup>26</sup>. Guilty pleas can be sentenced at the first appearance but, without a completed form, the compensation claim might not be considered by the court.

### Action: Reducing the Opportunity to Overlook Compensation

The 2002 edition of the Manual of Guidance will include the following amendment to prevent the opportunity to overlook compensation:

“Where possible the MG19 should be completed at the time of the complaint. If this is not practicable, an estimate of the compensation request should be included in the victim’s statement. By local agreement, small claims may be awarded by court on this basis”.

**February 2002 (completed).**

### Benefits

There will be better justice for victims as there will be less opportunity to overlook their compensation needs.

#### *(d) Minor Process Forms*

Forces have each developed forms for dealing with less serious crimes, such as some road traffic offences that would typically end up with a caution or summons<sup>27</sup> and a fine.

### Action: Simplified Minor Process Forms

The Manual of Guidance Editorial Board has established a Minor Processes Sub-Group to seek out good practice and design a national minor process form which will be included in the 2004 Manual of Guidance.

The objective of this project will be to review existing practice and recommend common forms and procedures that:

<sup>26</sup> The Police and Criminal Evidence Act 1984, which requires the suspect to be brought to court no later than the first sitting after charge.

<sup>27</sup> See also Section 1.4; removing the summons process



- allow for efficient and effective prosecutions;
- reduce bureaucracy;
- produce a nationally accepted standard;
- account for charging principles; and
- consider the appropriateness of proforma statements.

Following a pilot scheme in **Summer 2003** a new national form will be quality assessed by the Manual of Guidance Editorial Champions at their annual seminar (Autumn 2003) and issued **by Autumn 2004**.

### Benefits

Forms will be standardised nationally incorporating best practice.

A facility to easily update the forms to reflect the latest good practice and accommodate changing operational needs without each police force having to duplicate the same design work.

Provision of common systems that make future IT solutions more economical.

### 2.3 Statements from Hospital Doctors

Statements are required from Accident & Emergency staff at hospitals in order to confirm that an injury has been sustained and the nature of the injury. The information is used to determine the offence that the defendant will be charged with, for example, common assault or grievous bodily harm. The police sometimes have difficulty in obtaining these statements and it can be difficult to track down the doctor that attended to the victim. They may have moved on to another department or hospital, and other doctors may be reluctant to provide a statement based on medical records without having personally examined the victim.

### Action: A National Protocol will be established

- (i) A national protocol between the Association of Chief Police Officers, CPS and the British Association of Emergency Medicine (BAEM) to define service standards for obtaining medical statements from Accident & Emergency Departments was circulated in **January 2002**. Following its implementation, comments were sought from CPS areas and police forces to establish how well local protocols have been implemented. Feedback has indicated that the protocol has been well received in the majority of CPS areas and police forces.
- (ii) A number of police forces have already successfully reached agreement with their local hospital trusts and the protocol has been implemented. Other forces have chosen to incorporate their 'tried and trusted' local agreements with hospitals into the protocol and a small number of police areas and trusts that have not reached agreement are negotiating a way forward. It is expected that complete implementation of the national protocol or equivalent local service agreement in all police areas and trusts will be completed by the **end of 2003**.



### Benefits

Police time will be saved by not having to chase hospital staff for medical statements.

Reduced turnaround times coupled with early advice from the CPS will help the right charge to be selected. Correct charging will:

- Save time for the CPS and the court and saves dashed expectations for victims; and
- Encourage early guilty pleas – the defendant will be faced with the weight of evidence against them and the correct charge at an early stage. Early guilty pleas will reduce the ordeal for victims and witnesses and save public resources. (See section **3.4** page 36).

## 2.4 Forensic Evidence

The Forensic Science Service (FSS) provides scientific support in the investigation of crime, and expert witnesses. This includes sample test results for use as evidence in court. It is not always clear to the court when sample test results will be available. This can lead to court hearings being scheduled before the evidence is ready, leading to adjournments. Sometimes cases will be adjourned several times.

The CPS has developed a protocol with the Association of Chief Police Officers and the Forensic Science Service to set national standards for the provision of forensic evidence but communication between the police and CPS is patchy about when evidence will be ready for court.

### Action: Revised National Protocol

Following Phase 1 of a review of Forensic Science Service by the National Audit Office and the Home Office, the national protocol will be revised completely and a project team will be launched shortly to revisit the protocol and the submission of forms. The revised protocol will assist the police in focussing on the evidence required for the individual prosecution and will improve communications between the police, the Forensic Science Service and CPS, as to when the evidence will be ready for court, so that court hearings can be scheduled to suit – **Autumn 2003**.

### Benefits

The number of adjournments will be reduced, thus lessening the number of times that the defendant, defence, prosecutor court staff and security are brought together, but have to be sent away without making progress in the case.



## 2.5 Scheduling Court Hearings

The process of scheduling court hearings is known as “listing” and is carried out by the court. Listing requires a compromise between: delivering swift justice; keeping the court occupied; and the availability of those that need to attend – the witnesses (some of whom will be police officers), the defendant, the defence lawyer, the prosecutor, the court staff, specialist equipment and security. Often the process is complicated by the unpredictable nature of trials, which may last a full day but more often adjourn early. It is common practice for courts to book three cases to a courtroom on the same day in order to keep the court occupied.

Success relies on the skill of the court but it is almost inevitable that one or more of the parties will have to wait before a hearing commences. If this is the court, prosecutor, police or (in many cases) defence, waiting times are a waste of public resources. Where witnesses have to wait, they begin to lose faith in the system. This is made worse if the case is adjourned (sometimes repeatedly) before they give evidence and they have to come back another day.

### Action: Reducing Delay and Disruption to Court Hearings

- (i) The following actions (detailed elsewhere in this report) will act to improve the listing process:
- Improving the information available at first hearing on compensation claims so cases can be completed on the day instead of being adjourned. (See section **2.2**).
  - Defence and prosecution being ready to proceed, with case papers that are sufficient and suitably disclosed. (See section **2.2** and section **3.3**).
  - IT systems to help the court keep in contact with witnesses so they do not have to wait at court during the day, but can be paged or sent a text message. (See section **2.12**).
  - Extending the powers of Designated Caseworkers (DCWs). (See section **3.1**).
  - Defendants pleading guilty early in the case. (See section **3.4**).
  - Joined up performance indicators. (See section **4.4**).
  - Case Preparation Pilots (see section **2.11**)
- (ii) The three Inspectorates, (HM Inspector of Constabulary, HM Crown Prosecution Service Inspectorate and HM Magistrates’ Courts Service Inspectorate) will join together to undertake an investigation into ways to solve the problems associated with listing. An interim report, covering Magistrates’ Courts (published in February 2003) will be superseded by a final report, which will also cover the Crown Courts – **October 2003**.

### Benefits

Improving the listings will save time for police officers, prosecutors, court staff and the defence.

It will also improve witnesses’ experience of giving evidence at court. Currently, the experience is one of delay and disruption that is believed to be a disincentive for them to attend future hearings.



## 2.6 CPS Circulars

Communications between CPS headquarters and the 42 operational areas requesting action or providing information are generally written by the responsible policy divisions, using a template managed by a “Gateway Team”. This Team disseminates the information mainly to Chief Crown Prosecutors and Area Business Managers for onward transmission to their front-line staff. CPS Policy and Casework Directorates also send out specific guidance on the handling of casework. The Gateway Team also distribute information on behalf of other government departments, and are responsible for quality checks before dissemination but the circulars are not always prioritised sufficiently to enable Chief Crown Prosecutors and Area Business Managers to alert front line staff to important information quickly.

### Action: New Communications Strategy

The CPS will undertake a broad review of their internal communications strategy, drawing on best practice from other government departments and a revised strategy will be drawn up – **Spring 2003**.

### Benefits

On average ten circulars are issued per week. The Gateway Team will have an enhanced role in monitoring distribution that will assist in avoiding problems such as overload and will help with prioritisation.

## 2.7 CPS Working Groups and Meeting Structures

The CPS utilises working groups to help develop, implement and review policy and initiatives. A number of these Working Groups with similar issues have similar membership. Front line staff are also keen to have more participation in those working groups that will have implications on operational matters.

### Action: Improved Representation and Reduced Number

- (i) The CPS is reviewing the number of working groups and looking at their roles. The aim is to ensure that all groups are advantaged in having an interested and informed practitioner perspective, in order that a critical “what works” analysis can be applied to the development of policy and new initiatives. The review will be completed and a central project list will be published on the CPS Intranet with expected time scales, terms of reference, members and recent minutes, giving people the opportunity to contribute views and suggestions – **Spring 2003**.
- (ii) Once completed, the review’s findings will be discussed by the CPS Board and changes will be implemented – **Autumn 2003**.



### Benefits

Better use of staff time and a reduction in the number of overlapping working groups.

A spread of staff across all levels and seniority will improve decision making through inclusive representation of perspectives, experience, and, in particular, operational needs.

## 2.8 Inspection

The performance of police forces, CPS areas and Magistrates' Courts is examined and reported on by independent Inspectorates. Part of their function is to share good practice in order to help drive up standards. Inspectorates exist for the police (HM Inspector of Constabulary), the CPS (HM Crown Prosecution Service Inspectorate) and the Magistrates' Courts<sup>28</sup> (HM Magistrates' Courts Service Inspectorate), HM Prisons (HM Inspectorate of Prisons) and HM Inspectorate of Probation (HMI Probation).

All the inspectorates all have slightly different remits and methodologies to undertake single agency inspection and join together on a thematic basis to undertake joint inspections. The CJS Chief Inspectors have established a small joint inspection secretariat to co-ordinate joint work, although this unit does not commission or manage joint inspections. The Review produced an Interim Report in March 2003 which identified the following emerging issues:

- Need for a system that is more effective at dealing with cross cutting CJS issues and supporting the delivery of PSA targets;
- Need for a system that facilitates the balancing of single, joint and area inspections;
- Need for a system that ensures that front line services are not overloaded with inspection timetables and duplicated requests.

A new approach to CJS inspections should be developed, with the emphasis on tough joint inspections across CJS agencies, to be done on a thematic or regional basis.

### Action: Joined up Inspections

The CJS Review of Inspection will consider how the requirement for a 'tough new inspection regime' can be met – **June 2003**.

### Benefits

A new CJS inspection regime that retains the efficiency and effectiveness of the current system, will at the same time, reduce the overall inspection burden on service agencies. The new system will focus on the new structures for the CJS and propose a system that is the best way ahead on the inspection of cross cutting issues and CJS areas.

<sup>28</sup> 'Justice for All' announced the intention to create a new courts' inspectorate that will include the Magistrates' Court and the Crown Court.



## 2.9 CPS Brief for Counsel

The CPS instructs external advocates to prosecute in the majority of Crown Court cases. The advocates are generally barristers and the CPS provides instructions by way of a file of relevant evidential and supporting material and written instructions, known as a brief. The brief will provide guidance on the significant issues in the case and instructions on the acceptability of any lesser pleas to the charges on the indictment.

The target for issuing briefs to Counsel in Crown Court cases is 14 days for straight-forward cases and 21 days for more complex cases likely to take more than three days if contested. Care needs to be taken that, to meet the timeliness target, completeness of the file is not compromised.

### Action: Implementation of Quality Measures

CPS will implement a Casework Quality Assurance scheme to ensure a consistent analysis of brief quality (e.g. whether it dealt with the issues, contained a satisfactory case summary and guidance about acceptability of lesser pleas). Local managers will be able to read across the outcome of the quality assessment with the result of separate timeliness monitoring, so that they can manage any tensions that exist between the two. Following satisfactory field tests the new scheme will be implemented nationally – **April 2003 (completed)**.

### Benefits

External advocates instructed by the CPS will have a better analysis of the important issues in the case and the CPS view on the acceptability of any lesser pleas to the indictment, which can otherwise be a source of delay and dissatisfaction with the process.

## 2.10 Access to Legislative Rules and Procedures

In Britain criminal law has been accumulated and amended over time. A complex library of documents are now needed to understand the law's rules and procedures. Developing electronic access to the criminal law should make it more easily accessible not only to those who work in the criminal justice system but also to the public. Work on an electronic database is well under way with the creation of the Statute Law Database. The Government also has a long-term commitment to codification of the criminal law. This is a separate and complex exercise because it is contained in a vast number of Acts of Parliament and decisions made by the courts.

### Action: Codification of and Electronic Access to the Law

The Government is actively looking at the stages towards codification of the criminal law. A number of important issues have been identified, including the resources needed for a full-scale exercise and for subsequent maintenance and updating such a code. Codification is more than organised and systematic consolidation. Large areas of the criminal law need fundamental updating and reform.



The Government is committed to a code as its long-term objective to cover four main areas: criminal evidence; criminal procedure; criminal offences and the purposes and principles of sentencing. It intends to deliver this incrementally to ensure a sustainable reform.

As a first step the Government is reforming existing law in a comprehensive way to bring it up to date, rather than adopting a piecemeal approach. The Government has already comprehensively consolidated and reformed the law on proceeds of crime. The Sexual Offences Bill currently before Parliament combines consolidation with fundamental reform, bringing together all provisions specific to sex offending into one place for easier use by agencies such as the police and others. For example the Bill rationalises and streamlines various orders at present spread across several pieces of legislation. The Powers of Criminal Courts (Sentencing) Act 2000 consolidated sentencing law and made possible the comprehensive reform on sentencing now under way as part of the Criminal Justice Bill also currently before Parliament. The Criminal Justice Bill also makes a significant contribution to the reform and codification of the law of evidence, dealing with a number of key areas such as evidence of bad character and the hearsay rules. The Bill also reforms procedures for the pre-trial process, laying the foundations for ultimate codification, and the Courts Bill makes provision for a new Criminal Procedure Rules Committee that will take on the task of providing a coherent body of rules to support legislative procedures. Future developments include a draft Bill consolidating and reforming the complete law on corruption which is before Parliament for pre-legislative scrutiny.

The Government is setting up an electronic database of statute law (the Statute Law Database). This will allow access to the particular criminal law provisions in place not just at present but also at the time an offence was committed. The work is at present underway, and the aim is to make the database available both to Government agencies and the public within the next year – **Spring 2004.**

## Benefits

Codification will ultimately bring the criminal law clearly together in coherent form. This should help users understand and gain confidence in the justice system. In the short term, more transparent and consistent approach to the making of rules for the criminal courts will streamline procedures and improve understanding. The introduction of standard, efficient procedures as part of the integration of the criminal courts should lead to a better throughput of cases and hence more cases being dealt with each year.

Access to existing law through an electronic database, even in its present complex state, will provide great benefits in terms of speed of access to the relevant provisions accessible all in one place.



## 2.11 Case Preparation: Being Ready for Court

The Auld report<sup>29</sup> made a number of recommendations aimed at modernising the criminal justice system. This included a recommendation that a review of the way agencies prepare for and manage criminal proceedings should be undertaken. As a result the CJS Strategic Board<sup>30</sup> endorsed a package of reforms that included a project to improve case preparation.

The current processes, which govern the way a case progresses through the criminal justice system, are highly complex and involve many different organisations. No one agency has overall responsibility for ensuring cases are managed effectively, and current incentives and sanctions are not sufficient to motivate parties to prepare cases early, or to call them to account when things go wrong.

The impact of this is huge, with £80million in wasted costs per annum<sup>31</sup>, poor witness and victim service and a lack of confidence by the public in the effectiveness of the criminal justice system.

### Action: Simplified Processes

- (i) The Case Preparation Project, (a tri-partite project group comprising stakeholders from the Lord Chancellor's Department, Crown Prosecution Service and the Home Office), will consider ways to improve case preparation and management within the criminal courts as part of the package of criminal justice system reforms<sup>32</sup>. The project will consider a wide range of forms and procedures that are currently used within the criminal justice system from charge to disposal. It will take into account the development of supporting roles and responsibilities together with enabling mechanisms to underpin the process for all Criminal Justice Practitioners, ensuring that all cases are progressed effectively – **April 2002 onwards**.
- (ii) The Case Preparation Project will pilot new processes and the development of supporting enablers in seven Criminal Justice areas. The pilots will run for 12 months – **April 2003 onwards**.
- (iii) Following the pilots, consideration will be given to implementation and rollout of proposed changes. If the evaluation proves successful, it is anticipated that the national rollout programme will take two to three years. This process will run in tandem with proposed legislative reforms – **from April 2004**.

### Benefits

Working with other stakeholders involved in projects across the criminal justice system will mean more joined up working, and will enable new processes to deliver unified performance measures and a management framework across all agencies, but managed at a local level.

The result will be a redesigned and simplified end to end criminal justice process, which will lead to more effective case progression and the delivery of justice.

<sup>29</sup> 'Review of the Criminal Courts of England and Wales'

<sup>30</sup> The Criminal Justice System Strategic Board will be replaced by a new National Criminal Justice Board, which will be responsible for overall CJS delivery – 'Justice for All'

<sup>31</sup> Based on figures published in the National Audit Office report – 'Criminal Justice: Working Together' – December 1999

<sup>32</sup> 'Justice for All', White Paper, Home Office, June 2002



## 2.12 Exchanging Information

The criminal justice system relies on the flow of information both within and between organisations. Demands to improve the delivery of justice have increased the volume, complexity and speed of this flow.

Too often information is in the criminal justice system but it is not available when and where it is required, causing delay and rework. Current systems are struggling to cope with the increased volume, complexity and flow. This is compounded by information usually being communicated in written form on paper which is arduous, slow and often requires the same information to be written down many times at different points in the criminal justice process. Many information technology systems have been implemented to reduce this but communication between systems is poor and usually involves printing out and re-keying the data; systems within organisations do not communicate with one another, and systems between organisations do not communicate with one another.

A programme of work to deliver a modern IT support for the criminal justice system has been in progress for some time but the technical and cultural complexities must not be underestimated.

### Action: Delivering Criminal Justice Information Technology

- (i) A new programme (CJS I.T.) is being established, funded as a joint initiative between the Home Office, Lord Chancellor's and Attorney General's Departments<sup>33</sup>. It will enable practitioners and other partners to work together more effectively, at all levels, across the whole range of their work through the provision of enabling technology.

The plan will balance the delivery of the following components:

- Police care and custody systems;
- CPS case and management system;
- Magistrates' Courts case management system;
- Crown Court I.T. infrastructure and hearing information system;
- Probation service I.T. infrastructure and risk assessment tool;
- Prison service I.T. infrastructure and risk assessment tool;
- Secure e-mail delivered to enable criminal justice agency staff and other partners (e.g. Youth Offending Teams and defence solicitors to communicate electronically);
- A CJS Exchange to enable the sharing of case data;
- Facilities for victims to begin to track their cases on-line.

The plan will be published by the end of **July 2003**.

### Benefits

Duplication of data entry will be removed.

The information necessary for a case to proceed will be available to the right people at the right time.

Reduction in administrative duties such as collecting performance data.



### 2.13 Storage of “SCOPE” IT System Printouts

Just over half of all CPS Offices currently use an IT system called SCOPE that was installed between 1991 and 1995. The system generates up to 72 reports on a daily basis amounting to some 60-70 pages.

Only a third of the print out contains useful information that is relevant to current business requirements. Nevertheless, all the information is subject to the departmental rules on the retention of papers.

#### Action: Removing Unnecessary Storage

- (i) The CPS will replace the SCOPE system through their COMPASS IT Case Management System which will have the facilities to generate specific reports, removing the need for lengthy printouts. The system is due to be rolled out in London in May 2003 and completed by October 2003 with a national roll out across England and Wales by **March 2004**.
- (ii) In the meantime, the SCOPE Support Manager, on behalf of the business users, will review the relevancy of the current reports and will issue instructions to users detailing which pages should be kept and which pages should be destroyed immediately. The revised list of reports and their retention instructions will be issued to the SCOPE administrative managers at each CPS site – **April 2003 (completed)**.

#### Benefits

The CPS staff will no longer have to unnecessarily print out, store and search through material in order to obtain the information they need.



## CHAPTER 3 PROSECUTION

This section sets out the issues identified by front line staff and the actions being implemented to remove unnecessary burdens arising from the first hearing at court through to sentencing.

The following areas are included:

- The Powers of Designated Caseworkers
- The Production of Prisoners at Court
- The Disclosure of Evidence to the Defence
- Guilty Pleas
- Protecting Vulnerable or Intimidated Witnesses
- Penalties for Wasting Court Time
- Paying Prosecution Counsel
- Recovering Defence Costs

### 3.1 The Powers of Designated Caseworkers

Designated Caseworkers are specially trained and accredited CPS caseworkers. They may, under the supervision of lawyers, review and present Magistrates' Court cases that are straightforward and with no technical issues or complications of fact or law. The cases they may undertake are restricted<sup>34</sup> by statute and criteria issued by the Director of Public Prosecutions.

Designated Caseworkers were introduced following recommendations by Narey<sup>35</sup>. The intention was to release lawyers to work on more serious cases whilst at the same time enhancing the role of the caseworker. To date the CPS has trained 268.

At present the work assigned to Designated Caseworkers consists of those straightforward cases where the defendant is expected to plead guilty or are likely to be dealt with under the proof in absence procedure<sup>36</sup>. They also have the power to handle Mode of Trial and Plea Before Venue issues where the defendant unexpectedly pleads not guilty. This enables some progress to be made and the case may then proceed to a later pre-trial review hearing. They are specifically not allowed to prosecute trials or cases involving youths, nor are they allowed to examine or cross-examine witnesses or defendants.

The introduction of Designated Caseworkers is widely perceived as having been successful. However, some of the anticipated benefits are lost if, having commenced a hearing, matters arise that prevent the Designated Caseworker from continuing and the case has to be handed over to a lawyer. For example, where a defendant pleads guilty to a road traffic offence but claims the sentence should be reduced due to exceptional hardship. If their current powers were extended, for example to enable Designated Caseworkers to handle Mode of Trial and Plea Before Venue in cases where a guilty plea was not necessarily expected, then the court and the CPS would be better able to optimise the use of Designated Caseworkers, and free up valuable lawyer time

<sup>34</sup> By the 'Designated Caseworkers Review and Presentation Criteria' issued by the Director of Public Prosecutions under Section 7A(4) of the Prosecution of Offences Act 1985

<sup>35</sup> 'A Review of the Delay in the Criminal Justice System', Martin Narey, 1997

<sup>36</sup> For the majority of road traffic offences that end up going to court, the defendant fails to appear. The case will be heard in their absence. The evidence is often such that the defendant is found guilty.



### Action: Extending the Powers of Designated Case Workers

- (i) An Advocacy Strategy Group chaired by the Director of Public Prosecutions has been formed to consider both the extension of the remit of Designated Caseworkers and the role of CPS Higher Court Advocates. Consultation with external stakeholders and Law Officers will take place when the reports of the two sub-groups of the Advocacy Strategy Group have been completed and accepted. It is expected that consultation will be completed by **September 2003**.
- (ii) Once the consultation has been completed and approval is given by the Attorney General, any extended remit for Designated Caseworkers and changes to the deployment of Higher Court Advocates will be implemented. The time scale will be dependent on the preparation and delivery of additional training for the Designated Caseworkers. The intention is that there should be a rolling training programme starting in **February 2004**.

### Benefits

The Designated Caseworker will be able to conduct more of the straightforward cases, avoiding the need for the court to adjourn or call in lawyers, disrupting their work on more serious cases.

## 3.2 The Production of Prisoners at Court

A prisoner on remand must be transported between the prison and the court to attend their case hearings. Prisoners serving a custodial sentence may also be required to appear at court in the interests of justice or for the purpose of a public enquiry<sup>37</sup>. A decision to produce a prisoner at court has to balance the rights of the prisoner against security and cost. The prisoner's well being also has to be considered; movement from prison can be extremely disruptive to a prisoner's routine. In some cases they may not even return to the same establishment if they are retained in custody following a court appearance. The production of prisoners at court is a resource intensive process. Prison staff have to complete discharge and reception procedures each time. These include searching the prisoners, auditing their property and form filling. Prisoners are transported by road, sometimes long distances. Precautions against escape have to be taken and these are extremely resource intensive for high-risk prisoners. On average 30,000 productions from prison to court are made each month and 20% are late.

### Action: Video Linking, Guidance and New Escort Contracts

- (i) Prisoners will be able to take part in intermediate court hearings<sup>38</sup> using a video link rather than appearing in person following an interdepartmental project to install a video-link network between prisons and Magistrates' Courts. Links will be installed in all 57 local and remand prisons, 156 (of the 399) Magistrates' Courts and Manchester Crown Court. The courts will be chosen according to the largest throughput of cases – **September 2002 (completed)**.

<sup>37</sup> Under the Crime (Sentencing) Act 1997

<sup>38</sup> Under Section 57 of the Criminal Justice Act 1998



- (ii) Video links will additionally be installed in a further 28 Crown Courts (including the Old Bailey) which could overall reduce the production of prisoners by up to 50% – **December 2003.**
- (iii) HM Prison Service will also look at the guidance issued for the production of prisoners to court in criminal proceedings and will consider combining guidance relating to both criminal and civil proceedings, with a view to reissuing a unified Prison Service Order – **April 2003.**
- (iv) A new generation of contracts for prisoner escort services will also be prepared. The contracts will have higher specifications, with more robust penalties. There will be new governance arrangements that will bring together stakeholders to oversee the contracts. Mechanisms will ensure contractors have sufficient resources in place if workload volumes change – **April 2004.**

## Benefits

Video links will reduce significantly the number of times prisoners have to be: discharged; transported to the court cells; moved from the court cells to the court room; and returned to prison. They will reduce the risk of escape and increase court staff/public safety.

Prisoners will benefit from less disruption to their routine. They will have to undertake fewer journeys to court, with less possibility of not returning to the same establishment if kept in custody.

Prison staff will spend less of their time on discharging and receiving prisoners, whilst prisoner escort services will be able to concentrate on timely delivery of those prisoners that still have to attend court in person. There will also be savings on police resources i.e. police security and transportation arrangements in transfers to court in cases involving high-risk category prisoners.

The video-link network will also enable legal representatives and probation officers to access prisoners without having to travel or gain entry to the prison. All linked prisons and courts have private consultative booths for this purpose.

The review and reissue of up-to-date guidance to prison establishments will ensure that staff are able to make informed decisions about when a production at court is appropriate and lead to standardisation of procedures across the establishment.

The new contracts for prisoner escort contractor services will lead to a greater standardisation of services nationally and help achieve high standards that meet the needs of agencies locally. For example, by ensuring timely delivery of prisoners to court and reducing delays in court proceedings as a result.

Collectively the actions will reduce delay to court proceedings and improve the courts' ability to deliver swift justice. It will save the time that witnesses spend at court and improve their faith in the criminal justice system. It will also save time for the prosecution, police officers (attending as witnesses) and the defence.



### 3.3 The Disclosure of Prosecution Material to the Defence

Disclosure rules regulate what, when and how material collected during the course of a criminal investigation must be disclosed to the defendant. The prosecution is required to give the accused copies of the evidence that they intend to use against him/her in court. In addition, the prosecutor must disclose any unused material that might undermine the prosecution case or assist the defence. The accused is also required to provide a statement outlining their defence to assist both the prosecution disclosure and the judge to manage the trial. The rules for the Disclosure of the unwanted material are set out in the Criminal Procedure and Investigations Act 1996 and the Attorney General's Guidelines<sup>39</sup>. The rules are seen as an important element of a fair trial.

In practice, the rules are seen by front-line staff as being too complicated leading to late or inadequate compliance. They are also seen as an opportunity for the defendant – and possibly the defendant's legal representative – to frustrate the process and create delay.

#### Action: Measures to Improve Disclosure

A range of measures to improve the disclosure process will be pursued including<sup>40</sup>:

- (i) Revised joint guidance for police and CPS will be issued to the police and CPS – **December 2002 (completed)**.
- (ii) Police and CPS training based on the new guidance will begin in **April 2003** with a view to full implementation in **Summer 2003**.
- (iii) Improvements in prosecution disclosure will be assisted by closer co-operation between the police and the CPS through the new charging arrangements – **from April 2003**.
- (iv) Prosecuting counsel will play a more active role in advising on and challenging the adequacy of the defence statement<sup>41</sup>. This issue is being considered as part of the Criminal Justice Bill, which was introduced to the House of Commons in November 2002. Royal Assent<sup>42</sup> to the Bill is expected by November 2003. **Implementation dates for this issue will be announced as part of the implementation programme for the Criminal Justice Bill.**
- (v) Equipping the judiciary with the right case management skills to take a robust line at preliminary hearings (part of the Case Preparation Project), to ensure that both prosecution and defence have complied with the disclosure to identify triable issues (see Section 2.11 for more information).
- (vi) A number of additional measures, detailed below, are also being included in the Criminal Justice Bill, which was introduced to the House of Commons in November 2002.
  - A single disclosure test to replace the present two tests, thus simplifying the prosecution disclosure
  - Enhancing the requirements of the defence statement

<sup>39</sup> 'Disclosure of Information in Criminal Proceedings', Attorney General, November 2000 <http://www.lslo.gov.uk/pdf/guidelines.pdf>

<sup>40</sup> 'Justice for All', White Paper, July 2002

<sup>41</sup> The defence statement is mandatory in Crown Court cases and voluntary in Magistrates' Court cases. It is provided by the defence and should identify the issues in dispute and the details of any alibi witnesses.

<sup>42</sup> Royal Assent signifies when the Sovereign formally gives assent to the Bill, which will then become an Act and therefore part of Law.



- Requiring the judge to alert the defence to inadequacies in the defence statement from which adverse inference may be drawn
- Widening the matters on which an adverse inference may be drawn to include any omission from the defence statement
- Removing the present requirement for permission from a judge before comment can be made on discrepancies between the defence statement and the defence at trial

Royal Assent<sup>42</sup> to the Bill is expected by November 2003. **Implementation dates for the actions above will be announced as part of the implementation programme for the Criminal Justice Bill.**

### Benefits

The measures will reduce delay. Inadequacies in disclosure often result in adjournments, which cause delays that waste public resources and lead to the victims and witnesses losing confidence in the system.

## 3.4 Guilty Pleas

The practice of the court discounting sentence by 25% to 30% following a plea of guilty is well established. It can deliver benefits for the victims, witnesses, defendant and the criminal justice system. The earlier in the proceedings that the defendant pleads guilty, the greater are the benefits for all the parties and to achieve this it is important for the defendant to receive appropriate information at the right time.

Information on discounts is not systematically made available to the defendant. Where it is not passed on, the opportunity to deliver the benefits is lost.

### Action: Notification of Discounts

White Paper 'Justice for All' (July 2002) announced the intention to provide defendants.

- (i) The provision to allow defendants with an entitlement to ask the judge for an indication of the maximum sentence following a guilty plea in the Crown Court, will be brought about non-legislatively – **December 2003**.
- (ii) The Criminal Justice Bill, now before Parliament, includes new arrangements for determining where either-way cases should be tried. This will make it possible in cases which the magistrates consider suitable for summary trial, for defendants to ask whether or not a custodial sentence is likely – **April 2005**.

### Benefits

Early guilty pleas reduce the ordeal for victims and witnesses at the trial (i.e. often saving them from having to give evidence) and save time for the court, the prosecution and the defence (which may be publicly funded).



At present there are around 70,000<sup>43</sup> Crown Court trials and 500,000 either way cases in the Magistrates' Courts. Two thirds of defendants plead guilty before the end of the trial but sometimes they do not do so until the proceedings have been going on for some time.

### 3.5 Protecting Vulnerable or Intimidated Witnesses

Witnesses may be vulnerable through age, physical or mental disability. They may feel intimidated through fear or distress. The Youth Justice and Criminal Evidence Act 1999 Part II provides for a range of special measures aiming to help vulnerable or intimidated witnesses to give their best evidence in criminal proceedings. The measures include: recorded video evidence; live video link; removal of wigs and gowns; giving evidence in private (i.e. clearing the public gallery); and help to overcome communication difficulties (e.g. the use of technical devices or giving evidence through a third party or intermediary). The police identify the witnesses likely to be eligible for special measures and notify the CPS. The CPS considers the information provided by the police and the witness and decide whether to make an application to the court for a Special Measures Direction.

The CPS sometimes makes a different assessment to the police and advice given to the witness by the police may have to be withdrawn.

#### Action: Early Identification of Vulnerable or Intimidated Witnesses

- (i) The police, CPS and courts will receive guidance and training so that risk assessments are done earlier on in the process to identify eligible witnesses. Guidance on risk assessment will be issued in **Autumn 2003**.
- (ii) In appropriate cases, the police and CPS will hold an early special measures meeting to identify vulnerable or intimidated witnesses and agree the measures needed to enable witnesses to attend court and give their best evidence. Application will then be made to the court for a Special Measures Direction Hearing at which the court will make the final decision regarding the measures to be granted – **July 2002 onwards**.
- (iii) The CPS and police will pilot a case management approach to witness care in the summer and autumn of 2003. Lessons learnt from this pilot will be disseminated – **Autumn 2003 onwards**.
- (iv) The Home Office will also commission a research project to evaluate the effectiveness of special measures and associated provisions introduced by the Youth Justice and Criminal Evidence Act. A report is based on the findings of the project expected in **April 2004**.

#### Benefits

Implementation of these measures on the ground will do much to assist vulnerable and intimidated witnesses to give their best evidence.

<sup>43</sup> 'The Crown Prosecution Service Annual Report 2000–2001'



### 3.6 Penalties for Wasting Court Time

If a trial judge or magistrate believes a prosecution or defence legal representative has delayed court proceedings through negligence, improper or unreasonable behaviour they can make a “wasted cost order”. These orders seek to compensate the court and penalise the perpetrator<sup>44</sup>.

Use of wasted cost orders is at the discretion of the judiciary and not consistent across England and Wales. They could be used more frequently to discourage delays (greater use in Hampshire & Isle of Wight Magistrates’ Court Committee has met with some success) and there ought to be flexibility to award an order against any party involved in the proceedings (for example, the police or third parties involved in the case), not just the legal representatives. However wasted cost orders are just one option for providing sanctions to protect against court delays.

#### Action: Interventions and Incentives to Support the Better Management and Progression of Criminal Cases

Appropriate incentives and interventions that better bind all parties to case preparation are needed in the criminal courts. The Case Preparation Project will seek to put incentives and interventions in place which will encourage and allow all parties to prepare cases adequately for an effective trial, on the day it is scheduled. Specific proposals, which will form part of the Case Preparation Project pilots commencing from April 2003, will seek to address defendant non-attendance, the lack of quality and timely preparation on the part of legal practitioners and a collective approach to local areas problems by the CJS agencies (see Section 2.11 for more information).

#### Benefits

Better cross agency working, better rates of defendant attendance and better preparation by legal practitioners will lead to a reduction in ineffective trials, more offences brought to justice and increase satisfaction of victims and witnesses throughout the process.

### 3.7 Paying Prosecution Counsel

The CPS instructs counsel to carry out case preparation and advocacy in the Crown Court. Where the defence is publicly funded, defence counsel is instructed to act on behalf of the defendant. In the past, the systems for paying Counsel were different and defence work was better paid than prosecution work. In October 2001, the CPS adopted a “Graduated Fee Scheme” (GFS) applying the same rates as the defence scheme administered by the Court Service in order to remove this disparity.

To administer the new scheme, the CPS caseworker completes a Fees Information Sheet. This includes detailed information about the case, such as the charge, the number of pages of evidence, number of witnesses and the preparation time. These parameters are used to calculate the fee due to Counsel. Counsel submits their claim and if the two figures agree, they will be paid. If the figures are different the CPS will investigate.

<sup>44</sup> Under section 19 of the Prosecution of Offences Act 1985



The GFS process is relatively new to CPS staff (the first set of claims under the scheme only started coming through in February 2002) and more complicated than the old system it replaced. Although it involves a slightly greater administrative burden, the GFS avoids a lengthy negotiation exercise, provides effective control of public funds, and certainty for the advocate as to the value of the case.

#### Action: Improving Implementation of the New Scheme

(i) To overcome difficulties and concerns in the operation of the new scheme, the CPS will set up a user group of operational staff involved in processing the claims. Their terms of reference are:

- To support Areas in the effective use of the GFS;
- Improve knowledge and understanding of the GFS;
- Assist the CPS to use the scheme effectively and efficiently, to help obtain the best, and most able, advocates;
- Raise CPS performance; and
- Ensure that GFS payments are made accurately and in accordance with service standards on timeliness.

Meetings scheduled for **July, October 2002** and **February 2003 (completed)** will look at identifying enhancements to the scheme, training and workshops, providing and updating guidance, communication and developing systems for evaluating the effectiveness of the scheme.

The group will continue to meet initially every three months to oversee the implementation of the scheme, after which meetings will be held as necessary – **ongoing**.

(ii) After it has had time to bed in, the new scheme will be reviewed to see if it can usefully be simplified. Phase 1 of a new CPS accounts system is proposed to be implemented in **October 2003**, and Phase 2 in **April 2004**. Phase 2 will enable an automatic link with GFS, saving a significant amount of double keying.

#### Benefits

The expected total payment per annum under the scheme is expected to be almost £100 million.

The average number of claims currently being processed is about 16,000 per month.

A better understanding of the scheme will reduce the frequency of errors and raise the confidence and efficiency with which claims are administered.



### 3.8 Recovering Defence Costs

The Criminal Defence Service<sup>45</sup> provides publicly funded advice and assistance or representation. When a defendant applies for representation and it is in the interests of justice, a Representation Order is issued by the Court. Publicly funded defence representation is no longer means tested. Defendants are required to provide details of their means four days before the first Crown Court hearing. The court staff use this information to prepare a report for the judge. In cases where the defendant has complex means, they can refer the matter to the Special Investigations Unit of the Legal Services Commission for investigation. If a defendant fails to provide the details, the judge can order them to do so. The judge will use the report to decide whether or not to make a Recovery of Defence Cost Order and its value. If at the end of the proceedings, the defendant has failed to provide any information that is required by the court, the judge has a duty to make a full costs order unless there are exceptional circumstances.

The small number of Orders made is disproportionate to the amount of work involved in determining whether a defendant has the means to pay. The system also depends heavily on defendants being honest about their means.

#### Action: Review of the New System

- (i) Following the introduction of the system in April 2001, the Lord Chancellor's Department (LCD) will complete a post-implementation review, involving a wide consultation with Crown Court staff and other stakeholders, particularly with regards to the perceived burden of an additional work load for Crown Court staff – **April 2003 onwards**.
- (ii) Following the post-implementation review, a report will be submitted to the Lord Chancellor, and new guidance will be issued to all courts. The new guidance will clarify procedures that court staff should follow – **Spring 2003 (completed)**.
- (iii) LCD is additionally looking at ways to ensure that judges consider Recovery of Defence Cost Orders in all appropriate cases. A practice direction will be handed down by the Lord Chief Justice which aims to encourage judges to make an RDCO in all appropriate cases – **Summer 2003**.

#### Benefits

The new scheme will help to speed up proceedings in the criminal justice system – under the old legal aid system means testing in Magistrates' Courts involved staff dealing with a million applications per annum, yet cost orders were made in less than 5% of cases. Paper processing volume has been cut drastically.

It will enable Crown Court staff to better target those defendants who are likely to be able to pay some or all of the costs incurred for the representation they receive.

<sup>45</sup> Established by the Legal Services Commission under Section 1 of the Access to Justice Act 1999.



In the first year, 100,000 Representation Orders were dealt with in the Crown Court and Recovery of Defence Cost Orders were made in about 1.5% of cases (1,500), according to returns submitted by the courts.

This compares favourably with the old legal aid system, where means testing was time consuming and could lead to delay. Contributions received from defendants barely covered the direct cost of conducting the means test. On average over 900,000 applications were processed by Magistrates' Court staff annually.

The number of Recovery of Defence Cost Orders will always be less than the number of legal aid contribution orders made, since Recovery of Defence Cost Orders can only be made in the Crown Court and the financial threshold is higher than it was under the legal aid system. The new scheme focuses on those defendants who can pay towards their costs.



## CHAPTER 4

# POST VERDICT PROCESSES

This section sets out the issues identified by front line staff and the actions being implemented to remove unnecessary burdens arising after the court has delivered its verdict.

The following areas are included:

- Crown Court Orders
- Enforcement of Magistrates' Courts Warrants
- Prisoners with Outstanding Fines
- Performance Monitoring and Management Information
- Expenditure within Magistrates' Courts Committees
- Improving Implementation of New Policy and Initiatives

### 4.1 Crown Court Orders

During the course of a trial at Crown Court a judge may make a number of decisions on action that will directly affect the defendant. The judge's order is recorded on a court form, which is completed by court staff.

The number and variations of court order forms (both statutory and non-statutory) currently in use within the Crown Court can be extremely burdensome for court staff. There are over 70 forms. Each can be quite complex to complete and is not always accompanied by guidance notes to help.

Some forms are not easy to follow, written in legal terms. Others (such as bail forms) require the same information to be recorded more than once but are not available electronically. Some, such as warrants and hospital orders have several variations, which can be confusing and delay completion whilst the correct form is identified.

#### Action: Reducing and Simplifying Court Order Forms

(i) The Court Service is committed to completing a review of the more complex forms and making changes to the forms that cause most difficulty on an ongoing basis. The Court Service will review all Crown Court order forms to:

- Reduce the number of forms;
- Simplify the forms that remain; and
- Issue user-friendly guidance for the more complex forms, which will include the introduction of a reader box. This means that these forms would have a simple summary sheet that outlines the content of the document and key actions required by court staff.

Forms currently under review include Imprisonment Orders, Youth Detention Orders, Hospital Orders, and Plea and Direction Forms (numbering some 14 forms) and revisions will be taken forward by a working group, whose aim will be to review all orders used by the Crown Court with a view to simplifying and making them more understandable for staff and the public. As a result of this work a number of forms may be reduced and the most commonly used forms will be re-issued – **December 2003**.



- (ii) XHIBIT (Exchanging Hearing Information by Information Technology) is a system that seeks to improve many of the Crown Court's activities. It is currently being piloted at Chelmsford and Southend Crown Courts and Basildon Combined Court and will be extended to Snaresbrook Crown Court in **June 2003**.
- (iii) The Court Service will also develop a further programme to enable court staff to complete and update the most commonly used court order forms using the technology available with XHIBIT, including:
  - Order for imprisonment
  - Youth detention order
  - Bench warrant
  - Conditions of bail form
  - Remand order
  - Community punishment order
  - Community rehabilitation order

This will be completed by **June 2003**.

### Benefits

The introduction of simpler, user-friendlier court order forms (supported by technology that will cut down on duplication) will reduce the amount of time Crown Court staff spend form filling.

## 4.2 Enforcement of Magistrates' Courts Warrants

Responsibility for the execution of a range of warrants was transferred from the police to Magistrates' Courts Committees in England and Wales in April 2001. This means that the courts now have lead responsibility for their own fine enforcement activities.

Civilian Enforcement Officers or Approved Enforcement Agencies employed by the courts trace, arrest and bring to court those people who have not paid fines, compensation and cost orders, or who have breached community penalties imposed by the court.

Civilian Enforcement Officers' efforts to arrest fine defaulters are often constrained by rules that restrict their access to information that would help them locate defendants and complete risk assessments. For example, on the Police National Computer (PNC) there may be information about a history of offending by a defendant, which would be helpful to the officers when making an assessment.

A protocol exists to enable the courts to obtain information from the Department for Work and Pensions, but there are opportunities for wide ranging information sharing agreements with other government agencies, which would assist the courts' civilian enforcement teams when carrying out their duties.



### Action: Removing the Rules that Restrict Civilian Enforcement Officers' Access to the Information they need to locate Defendants and Complete Risk Assessments

The Lord Chancellors' Department will establish a Criminal Enforcement Policy Advisory Group (CEPAG), which will work closely with the courts to improve performance in fine enforcement and develop a programme of work to build on the achievements already made – **July 2002 (completed)**.

Measures it will instigate will include:

- *Information sharing.* The Lord Chancellor's Department will build on the success of the information-sharing scheme with the Department of Work and Pensions and will agree protocols with other government agencies, for further information schemes<sup>46</sup> – **Summer 2004**.
- *Access to information held by police national computer.* The Police Information Technology Organisation (PITO) will give approval in principle to the establishment of a national policy to allow Magistrates' Courts access to information held by police for enforcement purposes – **May 2002 (completed)**. Following an interchange agreement a PNC working group (comprising key stakeholders) will undertake further work to consider security and IT issues and identify solutions for implementing this project – **during 2003**.
- *Best practice.* The Lord Chancellor's Department will provide support and guidance for Magistrates' Courts Committees during the implementation of the transfer of warrant execution project. A series of practitioners' conferences will share best practice, consider Home Office research on fine enforcement and make suggestions where greater success can be achieved. The Criminal Enforcement Policy Advisory Group will work closely with the Magistrates' Courts community in the future to take this work forwards (**ongoing**). In addition, the Association of Justices Chief Executives will establish its own Enforcement Forum to provide an opportunity for staff within the magistrates' courts service to share good practice and provide advice and information on enforcement issues – **Summer 2002 (on-going)**.
- *Netting off fines.* A national trial to allow courts to bid for additional resources (such as a number of Civilian Enforcement Officers) to improve their enforcement performance is currently being undertaken. A proportion of income from fines will be recycled (i.e. netted-off) to provide extra cash for enforcement purposes – **April 2002 – April 2004**.

### Benefits

Providing access to information on the whereabouts of defendants and any risk factors will assist Civilian Enforcement Officers to locate defendants more quickly and better assess the risk of injury/assault during the course of their work.

A regular forum to enable courts to share best practice will provide information on approaches to fine enforcement that have been tested in the field and reduce risk in new initiatives undertaken by the courts.

<sup>46</sup> Under Section 94 of the Access to Justice Act 1999



The netting off scheme will enable courts to channel more money towards enforcement, allowing them to implement good practice initiatives and increase their resources, both in terms of staff and equipment, (including, for example, warrant tracking software or vehicles). It is estimated that the introduction of netting-off will increase the funds available by £9 million in the first year and a further £9 million in the current financial year. The execution of non-financial warrants also benefits from the extra resource, as more time can be spent on tracing offenders.

All of these measures have the potential to deliver higher levels of enforcement and improve the courts' performance in the execution of warrants and the successful delivery of justice by making sure that best practice systems are adopted nationally. For example, by being better informed about potential dangers, there will be improved safety for court staff. This means that they will not have to adopt unnecessarily burdensome procedures in cases where safety is not an issue. Also, access to first hand information means not having to make unnecessary indirect enquiries.

### 4.3 Prisoners with Outstanding Fines

A person who is sentenced to a prison term following their arrest for non payment of a fine can ask the Magistrates' Court to allow them to serve an extension to the sentence instead of paying the fine<sup>47</sup>.

When the person is sent to prison, HM Prison Service staff complete a form 986 (part A) and send it to the court to confirm that they have received the person into custody. The second part of the form (part B) is retained and sent to the court once the sentence has been served. Part B also confirms whether the fine was paid or an extended sentence served by the person in respect of the amount due (where this was agreed by the court).

If the person does not settle the fine, it will remain outstanding against them. Until the court receives part B of the form confirming what the person has done, the fine is not discharged from the court's records.

Every year many thousands of people are sentenced to a prison term for non-payment of a fine. In a number of these cases however, Part B of form 986 is not returned to the court and court staff can waste a lot of time in chasing up the outstanding ones up. The situation is compounded where a prisoner is transferred to another prison mid-sentence and the court has to chase around looking for the right prison official to talk to.

#### **Action: Review of Form 986 and Issue of Guidance on its use to Prison Establishments**

HM Prison Service will review the use of form 986 and revise its design according the amendments identified and comprehensive instructions on completion of the form will also be prepared for issue to all prison establishments via a Prison Service Order (PSO) and will be submitted to the Operational Policy Group for approval prior to issue – **May 2003**.

<sup>47</sup> Under rule 61(1) of the Magistrates' Courts Rules 1981



## Benefits

The proposed changes will result in the standardisation of the use of form 986 across HM Prison Service. Potentially, this will lead to greater success for the courts in their fine enforcement activities by cutting down the number of outstanding fines on their records, and time-savings for court staff engaged in chasing up non receipt of part B of the form. It will also ensure that correct credit rating information is recorded against a person when they have paid their fine.

### 4.4 Performance Monitoring and Management Information

A great deal of performance information is collected from all organisations working in the criminal justice system in order to monitor policy implementation and inform decisions.

Much of the information collected focuses on the performance of individual agencies rather than the joint performance of the criminal justice system as a whole. Individual targets can be seen as creating perverse incentives and credibility suffers. For example the police are measured against the number of people they charge yet some feel the real measure of their performance is their contribution in bringing criminals to justice. The amount of time a courtroom is in use is measured as an indicator of court efficiency but some feel this creates an incentive to keep courtrooms occupied as a priority over the needs of others such as the CPS, police and witnesses.

Management information is collected, but front line staff perceive little management action as a result. For example Joint Performance Management information that monitors police case file quality and timeliness delivers figures, but the CPS feel the police take little action to improve file quality.

#### Action: The Development of a Joint Performance Management Framework with Shared Indicators supported Locally and Nationally

- (i) 'Justice for All' announced a number of reforms to continue work already completed to achieve a more joined up criminal justice system. The Government will now establish a new National Criminal Justice Board representing all agencies, which will be responsible for overall criminal justice system delivery. This will in turn be supported by 42 local Criminal Justice Boards with accompanying advisory and consultative machinery – from **April 2003 onwards**.
- (ii) The Local Performance and Delivery Unit will recruit dedicated Performance Officers who will work in each of the 42 areas. Their role will be hands-on support to their Local Criminal Justice Board and include collecting, analysing and joint monitoring performance data, providing a vital link with other areas and ensuring that information can be shared between agencies. An IT based Management Information System is currently being developed to support them in their work and Performance Officers will be trained in its use – **April 2003**.
- (iii) Persistent Young Offenders' (PYO) timeliness targets have shown how the criminal justice system can work together to deliver a common improvement in performance. A similar common and supportive approach will be adopted for all other criminal justice system-wide targets, providing even greater impetus for joint working locally – **April 2003 onwards**.



- (iv) Following an exercise they supported in Merseyside to identify shared CJS performance targets and indicators the Local Performance and Delivery Support Unit will rationalise the existing set of criminal justice system targets for 2003-4 to make them smaller in number more unified to the criminal justice system rather than individual agencies, and with more clearly defined accountabilities for delivery. This will be adopted by Local Criminal Justice Boards who will work only to shared CJS targets thus reducing some of the tensions and mismatches experienced previously – **2003-4**.

### Benefits

Joining up different parts of the criminal justice system by improving the mechanisms for managing performance and achieving accountability and better information sharing will lead to better linking of targets, delivery objectives, strategic plans and the daily work of all staff within every criminal agency. It will:

- Drive up performance by establishing a culture that focuses on outcomes rather than inputs (which has worked so well with persistent young offenders<sup>48</sup>);
- Remove or reshape performance measures and targets that distract agencies from the overall goals of the criminal justice system and create perverse incentives;
- Take a whole system approach, so each agency can see their contribution to the overall aims of the criminal justice system, which will drive co-operation and collaboration; and
- Increase the value of performance management in the criminal justice system to both local and central management.

## 4.5 Expenditure within Magistrates' Courts Committees

Magistrates' Courts Committees are required to submit bids for proposed capital expenditure on buildings' maintenance and improvements to the Lord Chancellor's Department (from whom they receive 80%<sup>49</sup> of their funding) on an annual basis.

Previously, if the funds were awarded, Magistrates' Courts Committees had no flexibility to move funds between projects in order to balance variations in costs. They had to report overspend and underspend regularly on a project by project basis, seeking approval for extra funding on one project, even if money had been saved on another project. This was time consuming for court staff and especially cumbersome where the sums of money involved were small.

<sup>48</sup> Youth Justice Board Annual Review 2001/02 – "The average time from arrest to sentence for persistent youth offenders has been cut by more than half, from 142 days to 63 days in April 2002".

<sup>49</sup> The other 20% is provided by Local Authorities



### Action: Providing Greater Freedom and Flexibility

Magistrates Courts Committees will have more freedom and flexibility to manage their own building projects. They will need to submit a fully costed and prioritised work programme for each of the three following financial years, but need only submit a limited amount of paperwork to support their submission, (i.e. an accommodation strategy; confirmation that their Local Authority has “signed up” to the Government’s achieving excellence initiative; and a list of priorities for the next three years). This will enable Magistrates’ Court Committees to move funds between approved projects in order to manage their delivery, without the need to keep returning to the Court Service for approval – **April 2002 (completed)**.

### Benefits

The streamlining of the systems used by Magistrates’ Court Committees and the Court Service will lead to increased devolution of responsibility and enable them to manage their courts in accordance with local needs with minimal constraints. Now, once funds are approved, Magistrates’ Courts Committees are in control and only have to submit monitoring returns to the Court Service.

## 4.6 Improving Implementation of New Policy and Initiatives

A large programme of change is underway in the criminal justice system<sup>50</sup>. There is a risk that the benefits anticipated will not materialise if these changes are implemented in a way that creates more unnecessary bureaucracy and red tape. Front line staff will not want to deliver initiatives that seem unnecessarily burdensome.

Nearly all the work set out in this report is focused on removing existing burdens but this will be undermined if the burdens removed are simply replaced with more of the same. There is a need to ensure new policies and initiatives are designed to avoid unnecessary red tape and bureaucracy. Once this has been done, policy makers need to check that the time taken by front line staff to administer a new policy is not disproportionate to the benefits anticipated.

### Action: Adoption of a Policy Gateway

The Home Office will undertake the following actions to ensure that the Policy Effects Framework is effectively implemented:

- Establishing local strategic implementation gateways looking at initiatives and data requests before rollout. e.g. Operational Policy Group in the Prison Service; Police Forms Editorial Board and the role of the Local Performance and Delivery Support Unit in the CJS context;
- Embedding concern for the reduction of unnecessary bureaucracy into Home Office delivery agenda and performance monitoring systems;
- Building on progress to date in simplifying funding streams e.g. merging Drug Action Teams and Crime, Disorder Reduction Partnerships;

<sup>50</sup> ‘Policing a New Century’ and ‘Justice for All’, White Papers



- Holding of a seminar on Better Regulation for Policy leads to be held on 19th May;
- Consideration is being given to a "Myth Buster" i.e. a central point of contact for Frontline staff to raise issues associated with duplicate data requests, excessive regulation etc.;
- Launching of an "out of office" scheme to provide opportunities, by "buddying" or volunteering, to meet front line services and see the effect of our work on individuals and society – **on-going**.

### Benefits

Careful consideration will be given to the impact of policy and legislation on frontline staff, society and the individual. It will improve efficiency and the quality of the task by removing the burden of unnecessary bureaucracy. Where actions have been identified in the Police service this is estimated to release in excess of 120 Full Time Equivalent officers.



## CONCLUSION

The interviews uncovered an overwhelming commitment amongst staff working in the criminal justice system to delivering a high quality service, particularly with respect to the needs of victims, witnesses and communities. However, this was often being hampered by unnecessary bureaucracy and red tape in the form of paperwork, inefficient processes and overly restrictive rules. Working with the Home Office, Policing Bureaucracy Task Force, Crown Prosecution Service, Lord Chancellor's Department and Court Service, a number of actions have been agreed in 31 areas. A summary listing the actions is available in conjunction with this report.

Over the next twelve months, the Cabinet Office Public Sector Team (PST) will work in partnership with the stakeholders responsible for delivering these actions. Progress will be included in the PST's regular reports to the Prime Minister. Front line staff will also have a role to play in disseminating the information contained within this report and changing the way they work so the benefits anticipated materialise on the ground.



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# ANNEX 1

## BACKGROUND AND METHODOLOGY

Unnecessary processes and paperwork erode the time front line staff have to deliver good quality responsive public services. The Public Sector Team (PST) is part of the Cabinet Office's Regulatory Impact Unit and its work is targeted towards removing unnecessary burdens and freeing up the time of front line staff in the public sector.

The PST was set up in November 1999 to reduce the burden of regulation and bureaucracy. The team's remit is to:

- identify paperwork and processes that are a burden to front line staff;
- identify practical solutions that will reduce these burdens for staff; and
- broker agreement with stake holders to deliver these solutions and facilitate real change.

### The Project Team

The project team consists of secondees from the private and public sectors and permanent civil servants working closely in collaboration with stakeholders and front line staff.

The (PST) project team members were Steven Blake (Project Manager), Terry Mason, Polly Rowell, Cassandra Chideock, Sheela Udayakumar, Tony Part and Leslie Mayne.

### Previous Reports

Up to the present time, seven 'Making a Difference' projects have been completed and their outcomes have or are being implemented. Estimates of the time saved by frontline staff are noted below:

- **Reducing Police Paperwork (April 2000)** – Identified measures to simplify prisoner custody and traffic accident paperwork, as well as standardisation of criminal case file preparation. The outcomes were estimated to free up 166,000 hours of police time, equivalent to 90 police officers. Approximately 156,000 hours of police time has been saved.
- **Reducing School Paperwork (December 2000)** – Up to 4.5 million hours of time would be saved when all of the outcomes focussing on head teachers burdens, principally primary heads, are implemented. An estimated 2.7 million hours of time has been saved.
- **Reducing General Practitioner [GP] Paperwork (March 2001)** – Thirty-six outcomes, spanning sickness certification to health records and requests for tests, were identified to ease the clinical and other paperwork affecting GPs. An estimated 750,000 hours of time will be saved when all of the changes have been implemented, as well as eliminating 7.2 million GP unnecessary appointments.
- **Reducing Local Government Paperwork (February 2002)** – This report includes greater freedoms for local administrations on statutory planning, legal consents from central government, children's services, and wider flexibility in the ways services are provided and paid for.



- **Reducing Burdens on General Practitioners [GP] – second report (June 2002)** – Outlines nineteen new outcomes following the earlier report in March 2001. These outcomes are based around medicine management, primary and secondary health-care interface, children, disability and benefits, interface with other Departments and Agencies, and other burdens. New outcome savings are estimated as being a further 3.2 million GP appointments, an additional 2.7 million hours and the removal of up to 80,000 requests for medical information.
- **Reducing Burdens in Hospitals (July 2002)** – This report identifies a wide range of administrative burdens and red tape in secondary and tertiary level healthcare establishments. Outcomes achieved are based around the patient journey, the flow of information and quality issues within hospitals.
- **Reducing Red Tape and Bureaucracy in Schools – second report (March 2003)** – Outlines 125 outcomes based around pupil management issues, special education needs, assessments and examinations, raising standards, communicating with schools, statistics and information management, interface with other departments & agencies, and staffing issues.

In addition, the Team has produced a Progress Report in January 2002 that reviewed the implementation of outcomes on the first three reports.

All of the above reports can be downloaded free of charge from the Public Sector Team's web-site, at the following web address:

<http://www.cabinet-office.gov.uk/regulation/PublicSector/reports.htm>

### **Reports in development**

In addition to the reports mentioned above, joint work is also being undertaken on a further three 'Making a Difference' projects to tackle other topics where bureaucratic burdens exist:

- **Health Inspection Project** – aims to reduce or remove unnecessary burdens on the NHS caused by inspection, audit and accreditation and to ensure that this review activity is proportionate, targeted and joined up (final report Spring 2003).
- **Public Procurement Project** – work is in partnership with the Office of Government Commerce to reduce the cost and time taken to procure public services from the private sector (final report Summer 2003).
- **Transport** – a joint project with the Department for Transport is being developed on addressing rail-related bureaucracy involving several stakeholders (final report Winter 2003).



# ANNEX 2

## PARTICIPANTS

The Cabinet Office Public Sector Team would like to thank the front line staff and stakeholders that contributed to delivering the achievements set out in this report. Without their support none of this work would have been possible.

### **Police**

Birmingham Police Station, West Midlands  
British Transport Police HQ, London  
Exeter Police Station, Devon and Cornwall  
Fareham Police Station, Hampshire  
Gwent Police Station, South Wales  
Newcastle Police Station, Northumbria  
Norwich Police Station, Norfolk  
Redhill Police Station, Surrey  
Stoke Police Station, Staffordshire  
Stretford Police Station, Manchester  
Walworth Police Station, London

### **Crown Prosecution Service**

Birmingham, West Midlands  
Bournemouth, Dorset  
Exeter, Devon and Cornwall  
Guildford, Surrey  
Gwent, South Wales  
Hammersmith/Kensington, London  
Harrow, Middlesex  
Lichfield, Staffordshire  
Manchester, Greater Manchester  
Newcastle, Northumbria  
Norwich, Norfolk  
Portsmouth, Hampshire

### **Magistrates' Courts**

Birmingham Magistrates Court, West Midlands  
Exeter Magistrates Court, Devon and Cornwall  
Havant Magistrates Court, Hampshire  
Newcastle Magistrates Court, Northumbria  
Newport Magistrates Court, South Wales  
Redhill Magistrates Court, Surrey  
Stafford Magistrates Court, Staffordshire  
Stockport Magistrates Court, Greater Manchester  
Stratford Magistrates Court, London



### **Crown Courts**

Birmingham Crown Court, West Midlands  
Chelmsford Crown Court, Essex  
Guildford Crown Court, Surrey  
Senior Presiding Judge, Royal Courts of Justice, London  
Southwark Crown Court, London  
Stafford Crown Court, Staffordshire

### **Others**

British Medical Association  
Cabinet Office Units  
CAFCASS (Children and Family Courts Advisory and Support Service)  
Criminal Justice Joint Planning Unit  
Criminal Justice System Information Technology  
Crown Prosecution Service  
Crown Prosecution Service Inspectorate  
Department of Health  
Greater London Magistrates' Courts Authority, London  
HM Prison Service  
Home Office  
Lord Chancellors' Department  
Magistrates' Inspectorate  
Policing Bureaucracy Task Force  
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