



# A CASE STUDY

A Joint Thematic Inspection of Case Management



# **A CASE STUDY**

A Joint Thematic Inspection of Case Management

© Crown copyright 2006

ISBN: 0-7559-5094-1

Scottish Executive  
St Andrew's House  
Edinburgh  
EH1 3DG

Produced for the Scottish Executive by Astron B46885 07/06

Published by the Scottish Executive, July, 2006

Further copies are available from  
Blackwell's Bookshop  
53 South Bridge  
Edinburgh  
EH1 1YS

The text pages of this document are printed on recycled paper and are 100% recyclable

# Contents

|  |           |
|--|-----------|
| <b>EXECUTIVE SUMMARY</b>   | <b>1</b>  |
| <b>SUMMARY OF RECOMMENDATIONS</b>  | <b>2</b>  |
| <b>INTRODUCTION</b>  | <b>3</b>  |
| <b>CHAPTER 1 – Criminal Justice Strategy</b>                               | <b>5</b>  |
| 1.1 What is Case Management?   | 6         |
| 1.2 Criminal Justice Reform in Scotland                                    | 6         |
| 1.3 Bonomy Report  | 6         |
| 1.4 Normand Report   | 6         |
| 1.5 McInnes Report   | 7         |
| 1.6 Scottish Executive Strategy  | 7         |
| 1.7 Victims  | 9         |
| 1.8 ACPOS/COPFS Protocol   | 9         |
| <b>CHAPTER 2 – Working Together</b>  | <b>10</b> |
| 2.1 ACPOS Criminal Justice Business Area                                   | 11        |
| 2.2 COPFS  | 11        |
| 2.3 Bi-Lateral Relationships   | 12        |
| 2.4 Criminal Justice Boards  | 12        |
| 2.5 National Criminal Justice Board  | 12        |
| 2.6 Local Criminal Justice Boards  | 13        |
| 2.7 English and Welsh Approach to Criminal Justice Boards                  | 14        |
| 2.8 Youth Justice  | 15        |
| 2.9 Community Justice Authorities  | 15        |
| 2.10 Integration of Scottish Criminal Justice Information Systems (ISCJIS) | 16        |
| <b>CHAPTER 3 – Target Setting</b>  | <b>17</b> |
| 3.1 Driving Performance  | 18        |
| 3.2 Reporting Offenders  | 19        |
| 3.3 Milestones for Improvement   | 21        |
| 3.4 End-to-End Performance   | 21        |
| 3.5 Youth Justice Comparisons  | 24        |
| 3.6 Fast Tracking  | 24        |
| 3.7 Management Information   | <b>24</b> |

|   |           |
|---|-----------|
| <b>CHAPTER 4 – Quality</b>                            | <b>26</b> |
| 4.1 Guidance on Police Reports                        | 27        |
| 4.2 Getting it Right First Time                       | 27        |
| 4.3 No Proceedings as an Indicator of Quality         | 27        |
| 4.4 Approaches to Quality Assurance                   | 29        |
| 4.5 Case Management Approach                          | 29        |
| 4.6 Supervisory Approach                              | 31        |
| 4.7 Direct Submission Approach                        | 33        |
| <b>CHAPTER 5 – Case Management Processes</b>          | <b>34</b> |
| 5.1 Police Case Management                            | 35        |
| 5.2 Procurator Fiscal Case Management                 | 37        |
| 5.3 System Improvement                                | 38        |
| 5.4 Development of SPR2                               | 40        |
| <b>CHAPTER 6 – Co-Location</b>                        | <b>41</b> |
| <b>CHAPTER 7 – Serious Crime Protocol</b>             | <b>43</b> |
| <b>CHAPTER 8 – Alternatives to Prosecution</b>        | <b>45</b> |
| 8.1 Criminal Justice Reform                           | 46        |
| 8.2 Tackling Triviality                               | 47        |
| 8.3 Police Non-Reporting Options                      | 48        |
| 8.4 Procurator Fiscal Non-Court Options               | 50        |
| 8.5 Benefits from Non-Reporting and Non-Court Options | 50        |
| <b>CHAPTER 9 – Abbreviated Reports</b>                | <b>52</b> |
| 9.1 Abbreviated Reports                               | 53        |
| 9.2 Abbreviated Reporting                             | 54        |
| <b>CHAPTER 10 – Requests for Information</b>          | <b>55</b> |
| <b>CHAPTER 11 – Statements</b>                        | <b>58</b> |
| 11.1 Submission of Statements                         | 59        |
| 11.2 Holland and Sinclair                             | 61        |
| <b>CHAPTER 12 – Training</b>                          | <b>62</b> |
| 12.1 Joint Training                                   | 63        |
| 12.2 Training in Reports and Statements               | 63        |

## Executive Summary

In recent years, the Scottish Executive has embarked on a process of reform of the criminal justice system, recognising the distinctive roles performed by its various constituent parts. The challenge is for all services to work together more effectively and coherently.

The reporting of offenders by the police to the Procurator Fiscal is a key initial stage in the criminal justice system. Its effectiveness in ensuring appropriate prosecution decisions is significant in securing confidence that those who offend will be brought to justice speedily and efficiently, then sentenced and dealt with in a way appropriate to their crimes, thereby reducing re-offending in the future. This early stage of the process has been influenced by reports published following a number of reviews – Bonomy, Normand, McInnes – commissioned as part of the reform process. Their recommendations have been taken forward by the Crown Office and Procurator Fiscal Service (COPFS) and the Association of Chief Police Officers in Scotland (ACPOS), representing the police.

In the light of these considerations, Her Majesty's Inspectorate of Constabulary (HMIC) and the newly formed Inspectorate of Prosecution in Scotland (IPS) together agreed that it was appropriate to review police and Procurator Fiscal case management. Moreover, doing so jointly would offer greater scope to comment on the effectiveness of the relationship between the two services. However, the joint inspection team quickly realised that the range of subject matter that could be considered as part of its work was potentially vast. Consequently the team has focused on a fairly narrow area of activity for the time being, acknowledging the scope for further inspection activity to be carried out in related areas in the future.

In 2003, an ACPOS/COPFS steering group commissioned a review to consider the timing, quality and volume of police reports and witness statements. The work was influenced by the wider process of criminal justice reform being conducted by the Scottish Executive, and resulted in an agreed ACPOS/COPFS Joint Protocol. The joint inspection team has used this as the main focus of its inspection activity.

The inspection has confirmed the strength of the bi-lateral relationship between the police and the Procurator Fiscal. It also found increased sharing of key

management information and the development of a substantial number of joint initiatives throughout the country. The latter has included the co-location of police staff within Procurator Fiscal offices, leading to improved performance of both police and Procurators Fiscal. In some areas, joint working, e.g. the "Cleanstream" projects, has been taken forward under the broader umbrella of criminal justice boards. Under the growing influence of the National Criminal Justice Board, these local boards represent the cross-agency approach needed to deliver criminal justice reforms.

That said, the inspection team identified scope for a review of existing Joint Protocols and for a more structured approach to performance monitoring. The latter can be made more meaningful by introducing end-to-end targets, monitored under the auspices of criminal justice boards. A general observation was that in meeting performance targets, COPFS benefits greatly from the use of a single management system, the Future Office System. This is in stark contrast to the police, where case management process support remains uncoordinated.

In focusing on continuous improvement, it is vital to consider the training and quality assurance needs around preparing standard police reports and statements. The police and Procurators Fiscal are only now feeling the full implications of the decision of the Judicial Committee of the Privy Council, in the cases of Holland and Sinclair, in relation to disclosure. Clearly this development places significant and increased demands on the ability of both services to meet performance targets. HMIC and the IPS are supportive of the joint work being carried out to address areas of concern.

The inspection team identified a range of initiatives in relation to non-reporting and abbreviated reporting by police, in addition to non-court disposals by the Procurator Fiscal. Together these are used to help prioritise work within the criminal justice system. Clearly this needs to be managed carefully if communities are to be reassured that persistent offenders are being dealt with in an effective manner. The inspection team is encouraged by the initiatives being undertaken, but urges a review in order that a national framework of options can be considered for common application.

## Summary of Recommendations

**RECOMMENDATION 1** – that ACPOS and COPFS progress a review of the existing Joint Protocol in light of current developments within the criminal justice system, and agree a refreshed joint protocol that will serve as a catalyst for further improvements in case management. ACPOS and COPFS should also develop an implementation plan to deliver the refreshed Joint Protocol, with key deliverables, milestones and monitoring arrangements. (Page 9)

**RECOMMENDATION 2** – that police forces not already compliant, assess their current performance in consultation with Procurators Fiscal and identify achievable incremental milestones for submitting police reports to the Procurator Fiscal within 28 days. These should include a realistic milestone for when they expect to meet the target of 80% within 28 days. (Page 21)

**RECOMMENDATION 3** – that ACPOS and COPFS support the introduction of end-to-end targets which drive the joint performance of criminal justice partners in relation to their key processes in bringing offenders to justice. (Page 23)

**RECOMMENDATION 4** – that ACPOS incorporate the current and proposed data requirements for criminal justice as part of the user specification for any common IT solution to support police performance management. (Page 25)

**RECOMMENDATION 5** – that ACPOS and COPFS review and update the *“Guidance on Police Reports, Statements and the Presentation of Evidence in Court”*, previously revised in 2004, and disseminate this updated guidance across police forces and Area Procurators Fiscal. (Page 27)

**RECOMMENDATION 6** – that Area Procurators Fiscal routinely share information in respect of “no proceedings” with police forces and jointly develop these as an indicator for the quality of police reports submitted. Information in respect of cases marked “No Proceedings Further Action Disproportionate” should be jointly developed as an indicator for the effectiveness of non-reporting and non-court options. (Page 29)

**RECOMMENDATION 7** – that where forces elect for case management units, these units should have clearly defined roles which support officers in providing reports of an appropriate standard, and should monitor the internal sub-processes to ensure

that reports are submitted within appropriate timescales and are ISCJIS compliant. (Page 30)

**RECOMMENDATION 8** – that forces, in consultation with Area Procurators Fiscal, examine the role of the police co-located officer to define priorities and core responsibilities. The role should be subject to annual review and evaluated to quantify business benefits to both services. Forces and Area Procurators Fiscal should also assess the information requirements of co-located officers and provide appropriate access to relevant systems. (Page 42)

**RECOMMENDATION 9** – that ACPOS and COPFS review the current and proposed range of non-reporting and non-court options, with a view to establishing a national framework to inform forces and Procurators Fiscal of which offences are most suited to which disposal. (Page 51)

**RECOMMENDATION 10** – that ACPOS and COPFS evaluate the benefits of abbreviated reports against developments in non-reporting and non-court disposals, with a view to including reporting formats within any national framework to inform forces and Procurators Fiscal which offences are most suited to the use of abbreviated reports. (Page 53)

**RECOMMENDATION 11** – that ACPOS and COPFS review the current target to respond to all requests for information within 14 days, and establish a new target set against the date by which the response is required. COPFS should also explore the feasibility of using the Future Office System (FOS) to record and monitor performance relating to requests for information. (Page 57)

**RECOMMENDATION 12** – that ACPOS and COPFS establish a new target for submitting statements, set against the date by which the statements are required. COPFS should also explore the feasibility of using the Future Office System (FOS) to record and monitor performance in relation to submitting statements. (Page 60)

**RECOMMENDATION 13** – that ACPOS and COPFS develop a joint protocol for disclosure requests. (Page 61)

**RECOMMENDATION 14** – that ACPOS and COPFS, as part of the review of the Joint Protocols, establish a joint working group to develop a strategy for training on criminal justice issues, including Standard Police Reports and statement taking. (Page 64)

## Introduction

### ROLE OF HER MAJESTY'S INSPECTORATE OF CONSTABULARY (HMIC)

Her Majesty's Inspectorate of Constabulary (HMIC) is a statutory body established under the terms of the Police (Scotland) Act 1967, as amended. HMIC's primary function is to promote efficiency and effectiveness in the forces and organisations that make up the Scottish police service. Other functions include providing advice to Scottish Ministers and examining the manner in which forces deal with complaints against the police. HMIC discharges its duty through an inspection programme. This involves primary and review inspections of forces and Common Police Service (CPS) agencies, as well as thematic inspections on areas of particular interest or concern.

### ROLE OF THE INSPECTORATE OF PROSECUTION IN SCOTLAND (IPS)

The Inspectorate of Prosecution in Scotland (IPS) was created in December 2003. It is the independent Inspectorate for the Crown Office and Procurator Fiscal Service, the sole prosecuting authority in Scotland and responsible for investigating sudden deaths and complaints of a criminal nature against the police. The aim of the IPS is to make recommendations that will result in clear and measurable improvements in Crown Office and Procurator Fiscal Service (COPFS) service delivery, making COPFS more accountable and enhancing public confidence. The principal functions of the IPS are to inspect, or arrange for the inspection of, the operation of COPFS and to report to the Lord Advocate on any matter connected with the operation of COPFS which the Lord Advocate refers.

### SCOPE OF THE JOINT THEMATIC INSPECTION

Both Inspectorates are committed to carrying out thematic inspections with the objective of advancing policing and prosecution in Scotland. This is achieved by establishing the state of current practice, by consulting widely with stakeholders, and then formulating comment and recommendations to promote continuous improvement. Given the inextricable links between police forces and COPFS in bringing offenders to justice, it was decided that this thematic inspection should be conducted jointly by HMIC and IPS, using staff from both inspectorates.

This inspection is timed to draw on significant developments within Scotland following the publication of the *Bonomy Report* in 2002<sup>1</sup>, the *Normand Report*<sup>2</sup> in 2002 and the *McInnes Report* in 2004<sup>3</sup>. It has reviewed progress made by the Association of Chief Police Officers in Scotland (ACPOS) and COPFS against recommendations made in a Joint Protocol, agreed in 2004 (Section 1.8). The inspection has focused upon developments within the "adult" criminal justice system that impact on case management, has examined best practice and made suggestions for improvement, while also identifying good practice. The inspection took cognisance of parallel developments within youth justice across Scotland, and made relevant comparisons with current approaches to improve performance and develop end-to-end targets across all partner agencies.

### AIM

The aim of this inspection was to examine the current state of case management across the Scottish criminal justice system following the publication of key reports, and to review progress by ACPOS and COPFS against the recommendations made in the Joint Protocol agreed in 2004.

<sup>1</sup> Bonomy Report – "2002 Review of the Practices and Procedure of the High Court of Justiciary"

<sup>2</sup> Normand Report – "Proposals for the Integration of Aims, Objectives and Targets in the Criminal Justice System 2002"

<sup>3</sup> McInnes Report – "The Summary Justice Review Committee Report to Ministers" – 2004

## OBJECTIVES

The objectives were to:

- examine criminal justice strategies, partnership working, target setting, approaches to quality, case management processes, co-location, alternatives to prosecution, police reports, requests for information, statements and training
- identify instances of good practice
- make recommendations designed to promote continuous improvement of case management across the criminal justice system in Scotland.

The inspection report has been structured to address issues in the same order in which they were raised by the 2004 ACPOS and COPFS Joint Protocol. Each of the recommendations has been reproduced with relevant background information.

## METHODOLOGY

Both HMIC and IPS methodology is to conduct inspections through the use of protocols aligned with the Business Excellence Model created by the European Foundation for Quality Management (EFQM). This provides a structured and comprehensive examination of key organisational functions including leadership, people, policy and strategy, partnership and resources, processes and results. The approach is now established practice for HMIC and IPS, and ensures that inspections are evidence based.

The joint inspection of the eight Scottish forces and eleven Area Procurators Fiscal was conducted during the months of November and December 2005. Analysis of the protocol responses provided a wealth of information and allowed the inspection team to focus on the most relevant issues during the fieldwork visits. Fieldwork consisted of examining systems and reports, and of interviews with police and Procurators Fiscal staff across a range of levels and responsibilities. An important aspect of this work was interviews with all Chief Constables and Area Procurators Fiscal.

The inspection team consulted with ACPOS, COPFS, Scottish Courts Service, Scottish Children's Reporters Administration (SCRA) and the National Criminal Justice Board secretariat. Liaison was established with representatives of all relevant Scottish Executive departments, Integration of Scottish Criminal Justice Information Systems (ISCJIS), Audit Scotland, the Sheriffs' Association, the Scottish Drug Enforcement Agency, British Transport Police, Ministry of Defence Police and the Civil Nuclear Constabulary. The team also observed a joint inspection of the Manchester Local Criminal Justice Board, involving HMIC in England and Wales as a partner agency.

HMIC and IPS acknowledge the valuable assistance of police forces, Area Procurators Fiscal, and all stakeholders consulted as part of the inspection.

The joint inspection was carried out by staff from HMIC and IPS, under the direction of Mr Kenny McInnes, Assistant Inspector of Constabulary.

CHAPTER 1 – Criminal Justice Strategy

## 1.1 WHAT IS CASE MANAGEMENT?

The term “case management” has been used by HMIC and IPS as an all-encompassing term to describe the various processes used by police forces to report offenders and by COPFS in deciding on prosecution. It represents the initial stages of the Scottish criminal justice system and is instrumental in bringing offenders to justice through the courts.

HMIC and IPS recognise that increasingly efficient case management will provide significant benefits. These can be achieved through improving the quality of information available to inform decision-making by other criminal justice partners, and by reducing the overall time taken to make offenders accountable for their actions. Improvements in case management which support prompt and appropriate disposals for offenders, will also go some way towards reducing the impact upon the victims of crime and increasing public confidence in the Scottish criminal justice system.

Forces use a number of key processes to support the recording and investigation of crimes and to provide victim care. These processes are applied in advance of case management and have an impact on the efficiency of the criminal justice system. They have recently been scrutinised by HMIC and fall outwith the scope of this joint inspection.<sup>4</sup>

## 1.2 CRIMINAL JUSTICE REFORM IN SCOTLAND

**“But we want a different kind of justice service, which does more than simply process offenders who come through its entry points. We want a service which addresses the needs of communities as well as the deeds – and needs – of the offenders.”**

Smarter Justice, Safer Communities – Summary Justice Reform<sup>5</sup>.

The joint inspection was completed against a backdrop of significant criminal justice reform, driven by the Scottish Executive and impacting positively upon all criminal justice agencies. This reform has been ongoing since 2002 and was informed by a series of influential reviews, including the *Bonony* and *Normand Reports* in 2002 and the *McInnes Report* in 2004. HMIC and IPS acknowledge these reports as catalysts for change and improvements across the Scottish criminal justice system.

## 1.3 BONOMY REPORT

In December 2001, the Deputy First Minister (as Minister for Justice) commissioned Lord Bonomy to review improving practices and procedures within the High Court of Justiciary. The report was published in December 2002. It was followed by publication of a *Scottish Executive White Paper*<sup>6</sup> and the introduction of the Criminal Procedure (Amendment) (Scotland) Act 2004. *The Bonomy Report* has been particularly influential in improving processes between police forces and COPFS in relation to reporting serious crime, statements and disclosure. These aspects have been examined as part of this inspection.

## 1.4 NORMAND REPORT

In March 2002 the Lord Advocate and the Deputy First Minister (as Minister for Justice) commissioned a review to consider integrating the aims, objectives and targets of the principal agencies which make up the criminal justice system in Scotland, and to secure delivery of the Scottish Executive’s criminal justice priorities. This review was carried out by the then Crown Agent, Andrew Normand CB. It built on earlier work by the Scottish Executive Criminal Justice Liaison Group, which recognised both the importance of improved integration between agencies and the possibility of overarching aims and objectives within the criminal justice system. The review also coincided with a COPFS Management Review Report 2002<sup>7</sup>, which examined relationships with other criminal justice partners to improve joined up working across the criminal justice system.

In reviewing the lifespan of a case, from offence to disposal, the Normand Report highlighted the need to manage end-to-end processes throughout the criminal justice system as being a means of improving efficiency. The review made recommendations in relation to target setting for reducing persistent offending. It also commented on the proportion of recorded crimes for which action is taken against offenders, as well as the level of reported cases in which no proceedings are taken because of insufficient evidence or triviality. Again, within the wider context of criminal justice services, the review recommended an effective framework of cross system mechanisms to support better joined up working. It was recommended that a national Board oversee the operation and performance against the overarching aims and objectives and that there should be an effective framework of local boards throughout Scotland.

<sup>4</sup> “Partners in Crime” – Thematic Inspection of Crime Management – October 2003 & “Meeting the Standard” – Thematic Inspection on Crime Recording – October 2005

<sup>5</sup> “Smarter Justice, Safer Communities – Summary Justice Reform” – March 2005 – Scottish Executive – ISBN – 0-7559-4562-X

<sup>6</sup> “Modernising Justice in Scotland: The reform of the High Court of Justiciary”, Scottish Executive, June 2003

<sup>7</sup> Pryce/Dyer Management Review Report 2002 of COPFS

HMIC and IPS acknowledge the significant influence of the Normand Report in reforming criminal justice. So too, its impact on informing subsequent developments within police forces and COPFS in relation to case management. It also provided the impetus behind establishing the National Criminal Justice Board and local criminal justice boards (Section 2.4).

## 1.5 McINNES REPORT

In November 2001 the Deputy First Minister (as Minister for Justice) announced the formation of The Summary Justice Review Committee in Scotland, under the chairmanship of Sheriff Principal John McInnes. The committee set out to review the provision of summary justice in Scotland, including the structures and procedures of the Sheriff and District Court. It went on to make recommendations for a more efficient and effective delivery of summary justice in Scotland.

In January 2004, the Committee published a report which identified the key aims of a summary justice system as follows: to be fair to victims and accused; to be effective in deterring, punishing and helping to rehabilitate; and to make efficient use of time and resources where overall speed in dealing with cases is considered a priority. The committee contended that the criminal justice system should be easily understood by lay people, and be “user-centred” rather than “service-driven”. The system should also be consistent and increase public confidence in its ability to deter re-offending and tackle young offenders. The Committee concluded that the summary justice system required a comprehensive overhaul and that active management of the whole system was needed. It welcomed the recommendation made within the Normand Report, identifying Criminal Justice Boards as a vehicle to address corporate performance issues within the system. Whilst many of the recommendations fall outwith the scope of the joint inspection, the inspection team considered:

- target setting in regard to speeding up the criminal justice process
- proportionate management of cases within the criminal justice system

- streamlining of information flows between partner agencies
- lack of available management information regarding “lifespan” of cases
- lack of consistency of approach across the spectrum of the criminal justice system
- extension in use of alternatives to prosecution
- extension of police non-reporting.

These issues have been commented on throughout this report.

## 1.6 SCOTTISH EXECUTIVE STRATEGY

The Scottish Executive has embarked upon the most radical reform of the criminal justice system for more than a generation. In December 2004 it published *Supporting Safer, Stronger Communities – Scotland’s Criminal Justice Plan*<sup>8</sup>. This document recognises that all the services which make Scotland’s criminal justice system have distinct responsibilities. It also appreciates that there are good reasons for the constitutional independence of the courts, the discretion exercised by the prosecution services and the operational independence of Chief Constables. However, it recognised that all work together with other agencies, especially the prisons, criminal justice social work, voluntary agencies and others who deal directly with offenders. Significantly, the plan highlights the fact that criminal justice services do not operate apart from the communities they serve.

The challenge identified in the plan is for all services “to work together more effectively and more coherently, securing public confidence that those who offend will be brought to justice speedily and efficiently, then sentenced and dealt with in a way appropriate to their crime and which will reduce re-offending in the future”. HMIC and IPS acknowledge that implicit in this challenge is the need for effective communication and partnership working between police forces and COPFS. Also required are improvements in case management that will reduce the volume of reports and the time taken to bring offenders to justice.

<sup>8</sup> *“Supporting Safer, Stronger Communities: Scotland’s Criminal Justice Plan” – December 2004 – Scottish Executive – ISBN 0-7559-4309-0*

Scotland's *Criminal Justice Plan* establishes reducing offending as the common priority for all criminal justice agencies. It identifies a series of actions around the following areas:

- protecting communities and preventing crime
- tackling drugs in our communities
- reform of Scotland's courts
- effective interventions and sentences which fit the crime
- integrated services for managing offenders.

While many actions impact upon Scottish police forces and COPFS, the most relevant in terms of case management are:

- introduction of the Antisocial Behaviour etc (Scotland) Act 2004
- integration of the criminal justice information system through the ISCJIS project so that IT can be fully exploited in improving case handling and management information
- establishment of the National Criminal Justice System Board concerned with efficiency levels and roll out of local boards across Scotland
- reforms to make the courts work more efficiently to deliver faster, visible justice to confront offenders swiftly with the consequences of their actions
- developments in drugs and youth courts and evaluation of domestic abuse courts.

In March 2005, the Scottish Executive published *Smarter Justice, Safer Communities – Summary Justice Reform*<sup>9</sup>, which outlines plans for reforming summary criminal justice in Scotland. This report was informed by the McInnes Report and establishes the Scottish Executive vision of a summary justice system that:

- is faster and more visible to the communities it serves
- works across organisations more effectively and efficiently
- tackles lower level offending quickly and appropriately, leading to reductions in re-offending
- involves and engages with communities to ensure that their concerns are addressed.

The summary justice system deals with those less serious offences. These account for 96% of criminal court business, and include offences ranging from minor breaches of the peace through to assaults and weapons offences, and include almost all road traffic offences. While the offences may not individually be serious, their volume means that cumulatively they are a major concern to communities.

The proposals reinforce the need for effective communication and partnership working between forces and COPFS, to seek improvements in the time taken to report offenders. However, it is significant that these proposals promote the *"better management of cases – diverting from prosecution where appropriate, swift prosecution where necessary – helping to reduce the upwards flow of business towards short sentences"*. There is a risk that focusing on efficiency in isolation may simply mean that more people end up in prison faster. Thus there is a need to balance the emphasis on handling cases at the appropriate level. HMIC and IPS endorse this view. They further believe that while improvements in case management are essential in improving criminal justice, these must form part of a wider criminal justice strategy which delivers successful outcomes and not simply quicker processes.

Building public confidence is a key feature of these proposals. This flows from concerns around invisible justice, where the public perception is that the system prioritises serious crime and underestimates the community impact of less serious but persistent offending. The Scottish Executive is committed to engaging with communities in tackling low level offending and delivering visible and speedy reparation.

HMIC and IPS acknowledge the important roles of forces and COPFS in delivering summary justice reform. Likewise they recognise the need for forces and COPFS to develop effective strategies which engage with communities and visibly tackle less serious but persistent offending. Implicit within this will be the need to develop innovative non-reporting options and non-court disposals (Chapter 8).

Undertaking the Joint Thematic Inspection within the wider context of criminal justice reform has allowed HMIC and IPS to comment beyond the scope of case management and to consider the range of initiatives which involve forces and COPFS in seeking to deliver this reform.

<sup>9</sup> *"Smarter Justice, Safer Communities – Summary Justice Reform"* – March 2005 – Scottish Executive – ISBN – 0-7559-4562-X

## 1.7 VICTIMS

**“The purpose of the strategy is to ensure that all victims of crime will be able to get support and assistance at all stages of the criminal justice process and thereafter if needed.”**

(Jim Wallace, Deputy first Minister and Minister for Justice, 2000)

In January 2001 the Scottish Executive launched the Scottish Strategy for Victims, which outlined a framework for responding to victims' needs. It recognised that the needs of all victims, irrespective of whether or not they are also witnesses, should be taken into consideration by all relevant agencies.

HMIC and IPS recognise the requirement for forces and Procurators Fiscal to acknowledge the needs of victims and witnesses within their joint working practice. Appropriate consideration should be given to providing a system which is responsive to victim and witness needs, encourages active participation in the criminal justice process and delivers appropriate support and information to victims and witnesses. While witnesses and victims fall outwith the scope of the current inspection, the IPS has recently completed a Joint Thematic Inspection with the Witness Service on the provision of services to witnesses.

## 1.8 ACPOS/COPFS PROTOCOL

During 2003 an ACPOS and COPFS steering group commissioned a review to consider the timing, quality and volume of police reports and witness statements. This review also considered recorded police warnings, submission deadlines and the implications of a previously agreed target of 28 days for forces to submit reports to COPFS. The review produced the *ACPOS/COPFS Joint Protocol*, containing 33 separate recommendations that sought improvements in the timeliness and quality of police reports and statements, in communications between police forces and COPFS and in training.

The agreement of the Joint Protocol was followed by an action plan that identified lead responsibilities for each recommendation. Some were considered more suitable for national implementation through ACPOS or COPFS, whilst others were to be progressed at a local level by individual forces or Area Procurators Fiscal. Three specific actions were considered to fall under the responsibility of ISCJIS (Section 2.2). In an effort to

assist with local implementation, templates were produced for forces and Area Procurators Fiscal to agree local protocols in respect of reports, communications, serious crime, minor offences, exchange of information and training. The action plan was approved for implementation in March 2004.

Though considerable progress has been made relative to a number of the recommendations, the inspection team confirmed that there has been limited national co-ordination by ACPOS or COPFS. Tayside and Fife have developed local action plans with their respective Area Procurators Fiscal, while Northern has progressed the recommendations through the local Criminal Justice Board. The remaining police forces and Area Procurators Fiscal have progressed recommendations on an “issue-by-issue” basis.

During the inspection, forces and Area Procurators Fiscal questioned the current validity of some Joint Protocol recommendations, particularly in light of summary justice reform and the antisocial behaviour agenda. The inspection team was informed of ongoing discussion between ACPOS and COPFS to review the Joint Protocol and to agree a refreshed Joint Protocol, based on more precise business rules. HMIC and IPS believe that this review will present opportunities for ACPOS and COPFS to consider the recommendations of this joint thematic inspection, and ultimately will serve as a catalyst for further improvements in case management.

While the inspection team acknowledges ACPOS and COPFS efforts in developing an implementation plan for the current Joint Protocol, it found limited evidence of national or local co-ordination and progress review. HMIC and IPS believe that ACPOS and COPFS should deliver the refreshed joint protocol through a structured implementation plan, with key deliverables and milestones. They should also introduce processes for monitoring progress and review.

**RECOMMENDATION 1 – that ACPOS and COPFS progress a review of the existing Joint Protocol in light of current developments within the criminal justice system, and agree a refreshed Joint Protocol which will serve as a catalyst for further improvements in case management. ACPOS and COPFS should also develop an implementation plan to deliver the refreshed Joint Protocol, with key deliverables, milestones and monitoring arrangements.**

## CHAPTER 2 – Working Together

“A multi-agency system, as we have in our criminal justice system, must be more than the sum of its parts. You know as well as I do that organisations must work as part of a bigger team. Individuals within each agency must be able to see the bigger picture.”

Cathy Jamieson MSP, Minister for Justice, APEX Speech – September 2005

Partnership working has rightly been identified as an essential element of Scottish criminal justice reform. It reflects the imperative for all agencies within the system to have a greater appreciation of the role played by partner agencies and, perhaps more significantly, the impact upon these agencies through changes to their own processes or priorities. While there is clearly a need to sustain effective working relationships amongst all partners, the relationship between police forces and COPFS through the Area and District Procurators Fiscal is particularly crucial in terms of case management and bringing offenders to justice.

## 2.1 ACPOS CRIMINAL JUSTICE BUSINESS AREA

Scotland's eight forces, together with the Scottish Drug Enforcement Agency (SDEA), have a key role in reporting offenders to COPFS. While each force enjoys effective bi-lateral relationships with local Area Procurators Fiscal, there is an identified need to develop strategies and policies at a national level. As with all other areas of policing in Scotland, this national role is filled by ACPOS. Although ACPOS has no legal authority to bind Chief Constables to any particular policy, the practice is for ACPOS to consult with forces and seek consensus in implementing national agreements.

Criminal justice accounts for a significant proportion of police forces' core activity and covers the spectrum of operational policing, crime management, corporate planning and information technology. Until recently ACPOS has dealt with criminal justice across the range of Business Areas on an issue-by-issue basis. However, the emerging criminal justice reform agenda and key reviews intensified the need for a more co-ordinated approach within ACPOS. And so, in August 2005, it established a new Criminal Justice Business Area.

The ACPOS Criminal Justice Business Area provides a platform for Scottish police forces to respond to criminal justice reform and has the following remit:

- to develop an ACPOS Criminal Justice Strategy in order to fill statutory obligations, whilst recognising the importance of working within the wider criminal justice system
- to maximise the performance of the Scottish police forces in all aspects of the criminal justice system
- to engage in, and influence, the programme of criminal justice reform
- to do so in co-operation and collaboration with criminal justice partners.

The inspection team was impressed by the willingness and determination of the ACPOS Criminal Justice Business Area to address the key issues affecting case management. Of particular note is its commitment to improve the quality and timeliness of criminal justice processes, including police reports, statements, and correspondence. HMIC and IPS welcome the creation of the ACPOS Criminal Justice Business Area and believe that it has a significant role in developing sustainable strategies which will drive performance improvements in criminal justice across Scotland.

## 2.2 COPFS

The Crown Office and Procurator Fiscal Service (COPFS) is a single service with responsibility for the prosecution of crime in Scotland. It operates from the Crown Office, which provides national support for policy, management services and preparation of cases for the High Court and Court of Appeal. There are 11 geographical areas across Scotland, each led by an Area Procurator Fiscal. These areas match with the boundaries of the eight Scottish police forces, except for Strathclyde, where there are four Area Procurators Fiscal.

COPFS has a Management Board to determine national strategy and monitor national performance. The Board makes decisions on priorities and working practices. COPFS also has a Legal and Policy Forum which includes all Area Procurators Fiscal. Its primary task is to discuss and make decisions on prosecution policy and issues which have an impact on legal decision making. The management decisions of the Management Board will normally be reported to the Legal and Policy Forum on a regular basis. However, there might be some management issues on which the Management Board will seek wider agreement from the Legal and Policy Forum before further action is taken.

### 2.3 BI-LATERAL RELATIONSHIPS

While there has been a long tradition of police forces and Procurators Fiscal working together across Scotland, HMIC and IPS were particularly impressed by the strength of existing relationships. There was ample evidence of regular strategic meetings between chief officers and Area Procurators Fiscal, as well as tactical and operational meetings between local police commanders and District Procurators Fiscal. It was clear that close professional relationships exist between police and Procurators Fiscal across Scotland, with a shared understanding of their respective roles and responsibilities. Both services respect the need to maintain their independence and are aware of their constitutional boundaries. The inspection team was particularly encouraged by a change in dynamic between forces and Procurators Fiscal, which has developed into a productive and professional business partnership.

HMIC and IPS were encouraged by the effective bi-lateral relationships at national policy level between COPFS and ACPOS. A recent example of effective joint working was the shared response to the introduction of the disclosure of witness statements (Section 11.2), where a joint ACPOS/COPFS conference was held with other stakeholders to identify key issues and agree relevant processes. The inspection team was also aware of a mutual desire to provide co-ordinated media responses to topical issues. This approach is helpful in demonstrating that both services are working together, and can only serve to increase public confidence in the criminal justice system.

The inspection team found that ACPOS and COPFS used bi-lateral relationships as the means of implementing the Joint Protocol and for driving improvements in case management at a force and area level.

For example, HMIC and IPS were impressed by the partnership working arrangements in Strathclyde which, because of its size, presents a number of complex management issues. The creation of a new post of Assistant Chief Constable (Criminal Justice and Territorial Policing) has led to greater co-ordination between the four Area Procurators Fiscal. Through the development of Strathclyde Area Liaison Meetings (SALM), there has been a range of bi-lateral agreements covering productions, persistent offenders, reporting volumes and the use of abbreviated reports. On a more local level, formal meetings take place between Divisional

Commanders and Area Procurators Fiscal, as do practitioner meetings involving Deputy Commanders, District Procurators Fiscal, Sub-Divisional Officers and Police Departmental Managers. These meetings address operational issues, including racist crime, case management, warrants, quality and submission of police reports and statements, citations and prisoner escorting.

### 2.4 CRIMINAL JUSTICE BOARDS

The Normand Report identified the need to establish a top level National Board of senior officials to oversee the operation and performance of the criminal justice system in Scotland and to develop a National Criminal Justice Strategic Plan. It also identified the requirement for an effective, coherent and consistent framework of co-ordination and liaison at local level, in the form of Local Criminal Justice Boards.

### 2.5 NATIONAL CRIMINAL JUSTICE BOARD

The National Criminal Justice Board held its inaugural meeting in December 2003. It consists of senior representation from the Scottish Executive Justice Department, COPFS, ACPOS, Scottish Courts Service, Scottish Prison Service, Association of the Directors of Social Work, District Courts Association, Scottish Children’s Reporter Authority, Scottish Legal Aid Board, Sheriffs Principal and representatives from the Scottish Executive Criminal Justice Group and Police and Community Safety Group.

The inspection team was aware of criminal justice partners’ early frustration around the role and function of the National Board and the limited strategic direction provided to local boards. Initially the National Board appeared to lack a clear remit, while the focus of local boards lacked consistency. The inspection team acknowledges both the initial difficulties in establishing a National Board and the need to balance strategic direction and national priorities within a framework of shrieval independence and local flexibility. That said, both the National and Local Criminal Justice Boards have evolved and matured since 2003, and a full time secretariat is now in place to support the work of the former. Significant progress has been made in relation to its role and strategic direction. This has clarified the initial uncertainty and should start to provide a framework against which local boards can develop their local action plans.

The remit of the National Board is to make recommendations on the overall aims, objectives and targets for the criminal justice system and to monitor the performance of the system as a whole. In light of this, the National Board has agreed four “System Goals”, which will help to guide the work of both the National and local boards. These goals are:

- for the public have confidence that the criminal justice system is accessible, effective and serves all communities fairly
- for victims and witnesses to receive a consistent, high standard of service from all criminal justice agencies
- for continuous improvement to be delivered through more efficient and effective processes
- to contribute to reducing re-offending by efficient case handling and robust enforcement of appropriate disposals.

These goals restate the major priorities set by the Scottish Executive Criminal Justice Strategy, and should become the primary mechanism by which criminal justice agencies deliver criminal justice reform. The National Board has approved a work plan to be taken forward by various “action teams”, and identifies a number of priorities for the criminal justice system. The programme is such that it can only be achieved by joint working between criminal justice agencies. Individual Board members will sponsor and lead on identified areas of work and action teams consisting of representatives of the criminal justice agencies affected by the work will be formed. Six areas have been identified, namely Management Information, Warrants Review, Witnesses, System Improvement, Persistent and Prolific Offenders, and Sheriff and Jury Protocols.

By developing an overarching picture of summary justice, systems improvement aims to reduce the number of wasted and ineffective court diets. An action team will examine what may be done to come up with an end-to-end picture of summary justice. This will take cognisance of reforms to the summary justice system, summary legal aid and the Holland and Sinclair provisions (Section 11.2). It is envisaged that local criminal justice boards will provide a forum through which summary justice reforms may be implemented.

## 2.6 LOCAL CRIMINAL JUSTICE BOARDS

There are currently eleven local criminal justice boards across Scotland, which correspond to the same local boundaries as the Area Procurators Fiscal. The inspection team found that some boards are more active than others and that most are still at the early stages of development. The range of activities undertaken by the local boards varies considerably and, in the absence of early national direction, they have developed differently.

The inspection team was impressed by the approach taken by the Highlands and Islands Board, which was established in March 2003. It is chaired by the Sheriff Principal and consists of the Area Procurator Fiscal, the Chief Constable, the Head of Police Operations, the Procurator Fiscal Area Manager and the assistant Area Director of the Scottish Court Service. Strong working relationships exist and a number of local concerns have been addressed by establishing working groups and drawing up action plans. This includes time spent by officers at court, early disposal of productions, antisocial behaviour and persistent offenders. The Board has introduced joint targets for case disposal (Section 3.4). This had enabled Northern Constabulary to introduce measures to improve report submission times and the quality of police reports and statements. One of the main benefits emerging from the formation of the local board is each agency’s extended understanding in relation to individual processes and issues. The strategic approach adopted by the Highlands and Islands Board is viewed as good practice, in terms of the Normand Report.

The Grampian Criminal Justice Board has been effective in establishing a pilot project to improve processes across the summary justice system. Known as “Cleanstream”, it aims to improve performance by decreasing the length of time from incident to court disposal and by increasing capacity within the system by eliminating waste. Cleanstream demonstrates Grampian Board’s significant commitment to improve end-to-end processes, and is in line with the recommendations contained in the Normand and McInnes Reports. The Lothian and Borders Board has started up a similar project in West Lothian. The inspection team took the opportunity to visit both projects and has made comment on specific aspects throughout this report. Both projects will be subject to independent evaluation, which will undoubtedly inform other boards of the benefits of this approach.

Initially it was envisaged that the core of the local boards would be the Sheriff Principal, Chief Constable, Area Procurator Fiscal, Assistant Director of Scottish Court Service, a representative from the Scottish Prison Service and a representative of the Criminal Justice Social Work. In practice there is some regional variation, with key individuals from other organisations such as the SCRA, Reliance Custodial Services and Witness Services being invited to local board meetings. Some local boards have a more limited membership. HMIC and IPS believe that these would benefit from extending membership to include representatives from other criminal justice partners.

There was a consistent view amongst police and Procurators Fiscal that the National Board should offer a greater degree of strategic guidance to local boards, in terms of their functioning. In respect of this, it is believed that the recently developed system goals and work plan of the National Board will provide a framework for local boards, whose work will be crucial to delivering the national goals. The priorities for local boards include:

- closer collaboration on target setting, business planning and performance monitoring
- increasing the quality of police reports and alternatives to reporting
- testing the process for intermediate and trial diets to determine if it is as efficient and effective as it could be
- exploring the potential use of technology in new and imaginative ways
- continuing to monitor the local warrants process.

It is recognised that local boards must be able to take action that will lead to improvements in their own areas. That said, the National Board believes there is room to improve the links between the centre and local boards, and proposes to introduce the following in the near future:

- a newsletter to improve communication with local boards
- the provision of a package of management information to local boards
- a networking event for local boards
- a work plan framed by local boards but within the context of the National Board's goals

- the National Board's Secretariat to make recommendations to local boards on particular areas of importance.

HMIC and IPS acknowledge the recent efforts by the National Board in terms of setting the strategic direction nationally and locally. It is believed that this will provide the foundation for greater information sharing and increased understanding amongst local criminal justice agencies. Local criminal justice boards should provide a forum to agree actions for improvement to the overall efficiency and effectiveness of the local system.

## 2.7 ENGLISH AND WELSH APPROACH TO CRIMINAL JUSTICE BOARDS

The National Criminal Justice Board for England and Wales is responsible for supporting 42 local boards in implementing *Criminal Justice System Public Service Agreements* to narrow the justice gap and improve public confidence. A Criminal Justice System Strategic Plan has been created for 2005/06 and targets set for each local board. The performance of local criminal justice boards is monitored and published by the National Board.

The inspection team took the opportunity to observe an inspection of the Manchester Criminal Justice Board and made some comparisons with the approach to Criminal Justice Boards in Scotland. The Manchester Board comprises representatives from the Police, Crown Prosecution Service, Courts, Probation Service, Prisons and Youth Offender Teams. On occasions, associate members may be included (e.g. Victim Support and Witness Services). The Manchester Criminal Justice Board has a service delivery plan which is progressed by a support team and performance group. The delivery plan has delivery groups relative to diversity, confidence, case management, enforcement, victims and witnesses, information technology and prosecution. The support team and performance groups co-ordinate performance reporting between the local criminal justice groups and the criminal justice board.

The inspection process is well established, with joint inspections conducted by one lead agency with contributions from Inspectorates of the other criminal justice agencies represented on the board. The thematic inspection of Manchester Criminal Justice Board was conducted along three themes: Inspecting Outcomes in Criminal Justice Areas; Bringing Offenders to Justice; and Reducing Ineffective Trials.

The inspection team recognises that the English and Welsh Criminal Justice Boards are at a more advanced stage of maturity than those operating in Scotland, with a priority on delivering national strategy and driving performance across all criminal justice agencies. HMIC and IPS anticipate that the Scottish boards will develop along similar lines and have the potential to emerge as a primary vehicle to deliver, monitor and publicly report on criminal justice reform.

## 2.8 YOUTH JUSTICE

There are strong parallels within youth justice. In considering ways of improving the effectiveness of youth justice, priority has been given to minimising delays in the end-to-end process of the Children's Hearing system, maximising inter-agency co-operation and providing facilities that meet service user needs. Under the direction and guidance of a National Youth Justice Strategy Group, a framework of national objectives and inter-agency standards entitled "*The Time Interval Standards*" was introduced to improve the effectiveness of the Hearing system. The overarching aim is to reduce the number of persistent young offenders by 10% from the baseline year 2003/2004 to the target year 2005/2006. This was to be realised through a management structure reflecting both local and national service delivery.

The inspection team endorses the principles adopted by youth justice agencies in providing an inter-agency structure that underpins overarching aims and objectives and acknowledges the need to improve performance and co-operation throughout the end-to-end youth justice process. HMIC and IPS acknowledge the development of strong inter-agency relationships between police and youth justice partners. They are also pleased to note the clear indication of regular strategic meetings between chief police officers and Children's Reporters, as well as regular operational meetings between local police representatives and Children's Reporters, to discuss and deal with issues within the management framework of youth justice.

## 2.9 COMMUNITY JUSTICE AUTHORITIES

As part of the Scottish Executive criminal justice reforms, eight new Community Justice Authorities (CJA) will be established across Scotland. They will be responsible for distributing funding for criminal justice social work and for monitoring and reporting on the effectiveness

of joint working between local agencies to tackle re-offending. Membership of the new authorities will be drawn from local authority partners, bringing individual councils together for the purposes of:

- developing a strategic plan for the management of offenders in liaison with the Scottish Prison Service and other partners
- receiving and distributing amongst local authorities funds provided by Ministers for Criminal Justice Social Work
- promoting and sharing good practice
- monitoring and reporting on local authority performance
- if necessary intervening to ensure the local authority elements of the area plan are delivered
- carrying out wider monitoring and reporting functions on other partners, including the Scottish Prison Service.

Each new authority will have statutory partner bodies that will be consulted on the strategic plan, annual reports and area performance. Partner bodies will also be expected to be brought within the information-sharing framework within each area. This will include those public bodies which deal directly with offenders, ex-offenders and victims and those voluntary bodies in receipt of public funds for this purpose. Police forces and COPFS will be included as statutory partners. A wider range of organisations, not partner bodies, will be included in guidance to the CJA. These bodies include community planning partnerships, community safety partnerships, community health partnerships, and child protection committees and youth justice services.

HMIC and IPS acknowledge the important role of police forces and COPFS as partner bodies, but are unclear as to the linkages between the new authorities and the National and Local Criminal Justice Boards and the Youth Justice Strategy Group. There may also be some practical issues in relation to the geographic distribution of these new authorities, which are not coterminous with either police or COPFS boundaries. However, with the emphasis on reducing re-offending, it is likely that the work of the new authorities will have some considerable overlap with the work of local criminal justice boards, through fast tracking offenders through the courts and other initiatives.

## 2.10 INTEGRATION OF SCOTTISH CRIMINAL JUSTICE INFORMATION SYSTEMS (ISCJIS)

The Integration of Scottish Criminal Justice Information Systems (ISCJIS) is a programme of work which began in 1996. Its purpose is to integrate technologies used by criminal justice partners to enable more effective case management. ISCJIS has since emerged as the only forum where all members of the Criminal Justice Community meet on a regular basis to discuss information technology or data sharing. ISCJIS has been successful in establishing the “Primary Loop”, which connects the key criminal justice partners and enables data sharing. This has been particularly relevant for ACPOS and COPFS, with all forces routinely transferring police reports and other information electronically to Procurators Fiscal.

ISCJIS is driven through a Programme Board on which key criminal justice partners, including ACPOS and COPFS, are represented. A working group exists to address routine implementation issues on behalf of the Programme Board, while various of sub groups have been set up to address specific technical and specialist areas. The Programme Board was previously overseen by a Steering Committee, but this has recently been replaced by the National Criminal Justice Board. The inspection team views this as a positive change that should allow ISCJIS to take forward the information technology aspects of the emerging National Criminal Justice Board Strategy.

The inspection team notes that ACPOS has reviewed its representation on the ISCJIS Programme Board. The previous technical focus provided by the ACPOS Information Management Business Area, has now been replaced with a greater business focus provided by the ACPOS Criminal Justice Business Area. HMIC and IPS view this as a positive change that will ensure ACPOS is better placed to assess the strategic and operational impact of ISCJIS developments.

## CHAPTER 3 – Target Setting

“Performance management is therefore a process, not an event, which operates as part of a continuous planning cycle. It does not work in isolation, but rather in a holistic fashion, pervading every aspect of the organisation (or process). The aim should be to create a culture where high standards and quality of service are part of every day life.”

“Managing Improvement” A Thematic Inspection of Performance Management in the Scottish Police service – HMIC (2005)

Performance management is a crucial tool for delivering continuous improvement within organisations. HMIC recently completed a *Thematic Inspection of Performance Management in the Scottish police service*<sup>10</sup>. One of the issues identified from this thematic was that performance cannot take place in isolation, but must be linked to the overall strategy and priorities of the organisation. Otherwise the proposition that ‘what gets measured gets done’ becomes counter productive, where inappropriate measurement systems or indicators can have adverse consequences for management and those to whom the service is provided.

When examining the issue of target setting and performance within the criminal justice process, the inspection team suggests that great care be taken to ensure that targets are positioned within the wider context of performance management. They should not be considered in isolation or in preference to other policing or COPFS priorities. Failure to acknowledge these wider aspects may result in conflicts in performance or in excessive bureaucratic processes being placed on organisations which may hinder or skew the service delivery. HMIC and IPS believe that targets should be considered within the wider context of end-to-end performance across the criminal justice system and acknowledge the comments made by the Normand and McInnes reports in this regard. Whilst current criminal justice targets express a specific level of performance that forces and COPFS are seeking to achieve unilaterally, there is a need to develop targets which deliver a joined up criminal justice process that is both efficient and effective and will realise identified benefits. The issue of end-to-end performance is discussed later within this section.

### 3.1 DRIVING PERFORMANCE

The inspection confirmed the increased profile of criminal justice within forces, while arrangements for reporting cases to Procurators Fiscal has become a

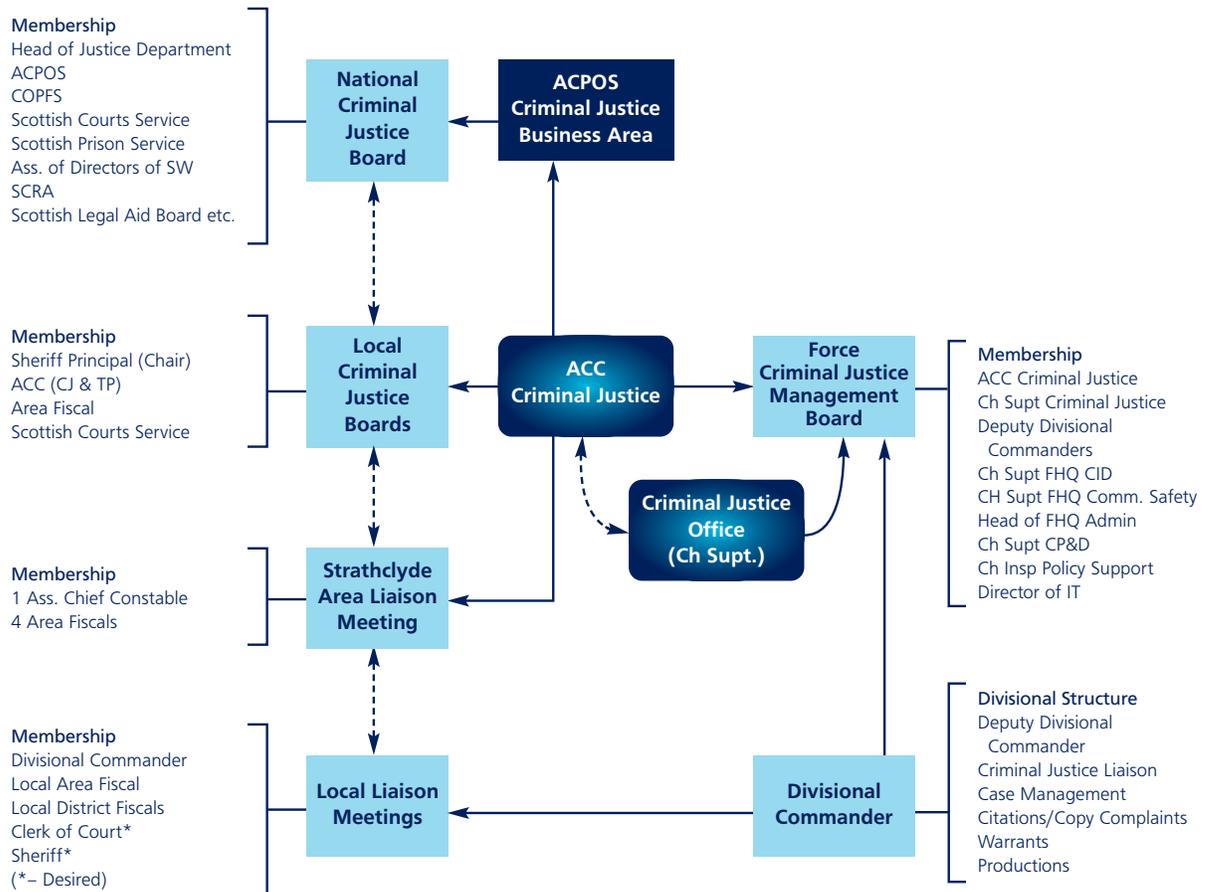
priority. Though not all forces have a formal strategy for case management, the inspection team found that most included criminal justice improvements in their business planning and monitor delivery of these as part of their performance management regime. The inspection team acknowledges that some forces had produced detailed action plans, in partnership with Procurators Fiscal, to implement the ACPOS/COPFS Joint Protocol. Those developed within Fife and Tayside were seen to represent good practice.

HMIC and IPS were aware that having identified criminal justice as a priority business area, a number of forces have created new criminal justice departments of varying structures and size. These departments are at early stages of development and it was encouraging to note that some forces had consulted widely in terms of developing a remit and sharing good practice. HMIC and IPS accept that this may not be suitable for all forces. However, there are benefits in streamlining functions which support case management into a single structure, and having in place a senior manager who is accountable to the force executive for performance and delivering continuous improvement across the area. Given the impetus shown by ACPOS to co-ordinate criminal justice through a new business area, there are also advantages for forces in appointing a senior manager to lead on criminal justice and implement nationally agreed policies at a force level.

A notable piece of work identified during the inspection was the Force Criminal Justice Plan by Strathclyde Police. This is being led by the Assistant Chief Constable (Criminal Justice and Territorial Policing) and aims to develop a shared understanding of national and local criminal justice agenda. The detailed structure reflects the scale and diversity of the force and a flow chart outlining the partnership arrangements and internal roles is shown opposite.

<sup>10</sup> “Managing Improvement” A Thematic Inspection of Performance Management in the Scottish Police service – HMIC (2005)

**Figure 1 – Strathclyde Police – Criminal Justice Partnership Arrangements**



The inspection team was encouraged by the responsibility given to Strathclyde Police Deputy Divisional Commanders to drive performance and be accountable for achieving targets. This accountability is mirrored in many forces, including Tayside Police and Northern Constabulary where performance is owned by local Divisional Commanders and the Head of Operations within their respective forces.

Performance in COPFS is driven primarily by the management board, which consists of the senior managers in the service. Its remit is to ensure that the service is organised and managed in the most effective way, and to provide visible and accountable leadership to staff – setting the strategic direction for the organisation, monitoring and stimulating its performance and managing its people and resources to best effect. At Area level performance is driven by the Area Procurator Fiscal who is responsible for ensuring that District Procurators Fiscal within the area meet the targets set nationally by the Management Board.

**3.2 REPORTING OFFENDERS**

One of the key objectives of the Scottish Executive criminal justice reforms is to bring offenders to justice more quickly. Case management describes the various processes used by police forces to report offenders to COPFS and the subsequent processes by COPFS in deciding on prosecution. Clearly, any improvements in the time taken by police forces to report offenders to COPFS has the potential to bring offenders to justice more quickly.

During 2003, there was concern about the increasing number of cases marked by Procurators Fiscal for “no proceedings”, due to police delay in submitting reports. The number of such cases in that year was exceptional, attracting political and media interest. However late reporting had, for some time, been the subject of concern.

The ACPOS and COPFS Working Group formed in 2003 (Section 1.8) considered the issue of late submission of police reports. Information was gathered on the performance of various police forces in their compliance with a previously accepted target of 28 days from caution and charge to submission of the report to the Procurator Fiscal. It became apparent that, although some forces could readily produce information, others used stand-alone databases and produced information on an ad hoc basis. The Working Group accepted that the 28 day target should be retained on the basis that it had been agreed historically by forces, and that the public was entitled to expect cases to be progressed in such a timescale. In light of increasing numbers of custody cases, “fast track” options and the increased use of non-reporting options, achieving the target was considered more likely in future.

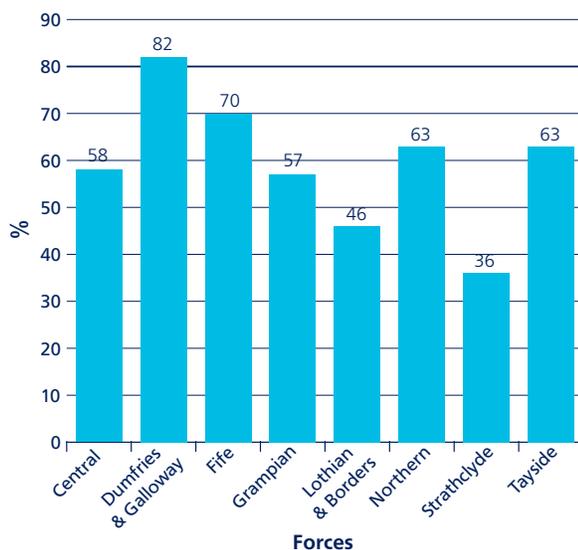
The Working Group accepted that achieving the target would be challenging for some forces, and that milestones for improvement might be needed as a staged process towards achieving the target. This was included within the resulting ACPOS/COPFS Protocol through the following:

- *The period of 28 days from caution and charge, or conclusion of fixed penalty process, to submission of a Police Report to the Procurator Fiscal should be affirmed as the aspirational target for the majority of reports, set at 80%. – [ACPOS/COPFS – Rec. 1]*
- *Milestones for improvement towards the target of 80% should be set between Area Procurators Fiscal (who have responsibility for the performance against COPFS targets within their Area) and Chief Constables, based on historical data, to take account of local conditions, current volume of reports and existing backlogs – [ACPOS/COPFS – Rec. 2]*
- *Further development work on differential targets should be taken on by the Performance Indicators Working Group on which both ACPOS and COPFS are represented – [ACPOS/COPFS – Rec. 3]*
- *The provision of appropriate management information that can be routinely shared with criminal justice partners, to assist with monitoring of target compliance, should be considered by the ISCJIS Project Board – [ACPOS/COPFS – Rec. 4].*

Taking into account the recommendations made in the ACPOS/COPFS Protocol, in 2004 Audit Scotland introduced a new Statutory Performance Indicator (SPI) relating to submitting Standard Police Reports to the Procurator Fiscal. A further SPI was established for submitting standard police reports to the Children’s Reporter. This is commented upon in this Section 3.1 of this report. The inspection team notes that these SPIs are reported in isolation of the wider performance of other criminal justice partners, and make no links to actual outcomes or reducing offending behaviour.

While ACPOS has accepted that the existing 28 day target is achievable, the inspection team identified some concern over its validity. Some forces believed that it was not the best measure of performance, did not accurately reflect the practice of reporting cases, nor did it increase quality. Evidence was provided showing that in certain circumstances cases were reported within considerably shorter timescales, whereas some cases requiring extended investigation could only be reported “as soon as possible”. One force felt the SPI to be limiting, as it did not encompass the entire criminal justice process. For example, it failed to recognise delays by other criminal justice partners after submission of the police report.

**Figure 2 – Force Performance against 28-day target for submission of police reports**



Published Data from Audit Scotland

The above chart highlights the finding that Dumfries and Galloway Constabulary was the only force to achieve the target in 2004/05. While all forces are committed to achieving the 28-day target, and have made significant progress towards achieving it, the inspection team recognises that a number of forces still fall considerably short. It was evident that each force is identifying how timeliness of reporting can be improved, what measures can be introduced to collect management information and how processes can be improved. The inspection team was also made aware of “fast track” initiatives which reduced the time taken to report cases, including the West Lothian and Grampian “Cleanstream” projects and the Hamilton and Airdrie Youth courts. These are discussed later within this report (Section 3.6).

Although the published data for 2005/06 were not available at the time of the inspection, the inspection team was encouraged by evidence of marked performance improvements in most forces. HMIC has introduced internal processes to monitor routinely the performance of all forces in relation to the 28-day target and will consider this as part of all future primary and review inspections of forces.

### 3.3 MILESTONES FOR IMPROVEMENT

The ACPOS/COPFS Joint Protocol recommended that forces set incremental milestones for achieving the 28-day target. The inspection team reviewed the use of incremental milestones within Fife Constabulary. Here the force set a target to submit 70% of all reports to the Procurator Fiscal within 28 days by April 2005, and to improve this to 75% of all reports by October 2005. The actual performance of the force during 2004/05 was 70.3%, and from April 2005 to December 2005, 76.5%. This achievement was driven by the force executive’s commitment to scrutinise performance and make police commanders accountable.

The inspection team believes that forces could make greater use of incremental milestones in providing a focus for improvement and should plan incremental improvements which are achievable and set against current performance. Incremental milestones are a useful means of managing improvement and achieving the 28-day target. The range of current performance by forces in achieving the 80% submission target suggests that some forces face greater challenges than others and will take longer to reach compliance.

HMIC and IPS recommend that forces who are not already compliant assess their current performance in consultation with Procurators Fiscal and identify achievable incremental milestones. This should include a realistic milestone for when they expect to meet the target of 80% within 28 days.

**RECOMMENDATION 2 – that police forces not already compliant, assess their current performance in consultation with Procurators Fiscal and identify achievable incremental milestones for submitting police reports to the Procurator Fiscal within 28 days. This should include a realistic milestone for when they expect to meet the target of 80% within 28 days.**

### 3.4 END-TO-END PERFORMANCE

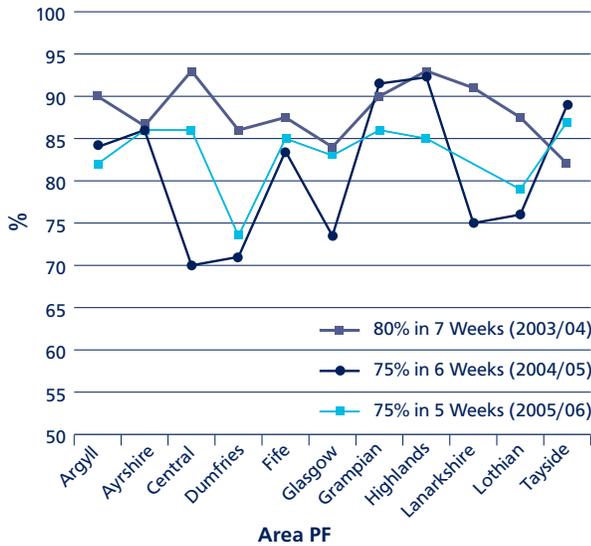
Whilst police forces are subject to Statutory Performance Indicators (SPIs) in relation to the submitting police reports to the Procurator Fiscal, there are a number of non-statutory performance indicators which monitor key processes by COPFS and other criminal justice partners in bringing offenders to justice.

COPFS operates a target in relation to the time taken by Procurators Fiscal to take and implement a decision to prosecute. This target impacts directly on the time taken to bring offenders to justice, although in keeping with the SPI for police reports it takes no cognisance of quality. COPFS introduced this indicator in April 2003, through the following series of incremental milestones:

- Milestone 1 – April 2003 – March 2004 – Target 80% in 7 weeks
- Milestone 2 – April 2004 – March 2005 – Target 75% in 6 weeks
- Milestone 3 – April 2005 – March 2006 – Target 75% in 5 weeks

The following charts show the performance of the 11 Area Procurators Fiscal against these incremental milestones:

**Figure 3 – Procurators Fiscal Performance against Take and Implement Decision Target**



Published Data from COPFS

HMIC and IPS were encouraged by the continuous improvement shown since the introduction of this target, and acknowledge that the most recent data indicate performance which is well in excess of the 75% target within five weeks. This improvement has been driven centrally by COPFS and locally by Area Procurators Fiscal, and demonstrates the value of setting incremental milestones for improvement.

Although falling outwith the scope of this inspection, HMIC and IPS learned of COPFS targets in relation to citing 75% of offenders to appear in court within three weeks of a decision to prosecute. There is an SCS target to dispose of 85% of cases within 20 weeks. When combined with the SPI for submitting police reports and the COPFS target to take and implement a decision to prosecute, these targets usefully track the joint end-to-end performance of all three agencies in bringing offenders to justice.

**Figure 4 – Schematic showing End-to-End Targets in Bringing Offenders to Justice**

Start

▶ Finish

| Police                         | COPFS   |   | Scottish Court Service            |
|--------------------------------|---|---|-----------------------------------|
| Report to PF<br>80% in 28 Days | Take and Implement Decision<br>75% in 35 days | Cite Accused<br>75% in minimum of 3 weeks | Court Disposal<br>85% in 20 weeks |

The inspection team acknowledges the recommendations of the Normand and McInnes reports which call for a more effective, efficient and joined up operation of the criminal justice system in securing delivery of criminal justice priorities. It found clear evidence of joined up working between Procurators Fiscal and forces in local areas where the “lifespan” of a case, from offence to disposal, was being actively considered and managed within a framework which supports end-to-end performance.

The inspection team was encouraged by the approach taken by the Highlands & Islands Criminal Justice Board

to develop joint targets and performance indicators. The agreed suite of indicators adds value to the current SPI target submission time by providing qualitative measures on performance. The Board completed a sampling exercise to inform target setting and has successfully applied incremental milestones to submission times for police reports. The inspection found that the approach recognises end-to-end service delivery through agreed practices, targets and protocols. Furthermore, it seeks to improve all aspects of a collective process, rather than developing a series of individual processes operating in isolation and without due regard for the impact on others.

## Highlands & Islands Local Criminal Justice Board Targets

The inspection team considered the approach adopted by Highlands & Islands Local Criminal Justice Board to develop joint targets, which involved:

- setting a baseline figure for current performance
- refining targets based on previous reviews including sampling exercises
- setting incremental milestones for achievement
- prioritising workstreams within an action plan
- introducing auditing system to examine processes
- identifying of lead agencies for targets set
- developing joint management information
- considering evaluation at the outset.

The Board has determined a wide range of agreed indicators for improvement throughout the end-to-end process. These include:

- police reports submitted to PF within 28 days (police and PF)
- police reports returned by the PF due to poor quality (police and PF)
- cases where fixed penalties or alternatives to prosecution used (PF)
- reports submitted using an abbreviated reporting system (police & PF)
- reports submitted using pro forma reports (police & PF).

It also agreed indicators to improve the public perception of the criminal justice process:

- trials which do not proceed on the day (PF & SCS)
- cases which result in an accepted plea (PF)
- cases lost through administrative errors (police, PF & SCS)
- countermand of witnesses (police and civilian) notified less than 72 hours before the trial (police & PF).

In addition, the collective targets set for the Board are as follows:

- Target 2004/2005 – 80% of cases to be disposed of within 30 weeks of caution and charge
- Target 2005/2008 – 60% of Sheriff Summary and District Court cases to be disposed of within 26 weeks of the date of caution and charge

Establishing high level performance indicators and a supporting action plan across all parties can drive improvements across the range of criminal justice processes. The principle of joint target setting between Northern Constabulary, the Area Procurator Fiscal and partner agencies participating within the Highlands and Island Criminal Justice Board is acknowledged as good practice and should be considered for implementation in other areas.

**RECOMMENDATION 3 – that ACPOS and COPFS support the introduction of end-to-end targets which drive the joint performance of criminal justice partners in relation to their key processes in bringing offenders to justice.**



### 3.5 YOUTH JUSTICE COMPARISONS

In 2004, the Scottish Executive launched the Youth Justice Strategy to reduce by 10% the number of persistent offenders by 2005/2006. The inspection team recognises this as a key target which seeks to deliver a specific outcome and does not concentrate directly on process improvements within individual agencies. Given the Scottish Executive strategic priority to reduce adult re-offending (Section 1.6) there would appear to be scope to develop a similar “outcome” based target for the adult criminal justice system. Criminal Justice Boards and Community Justice Authorities could monitor and report on these.

In setting the standards for Youth Justice, an end-to-end target was set to implement the decision of a Children’s Hearing within 80 working days of the child being cautioned and charged by the police. A series of separate targets were set for key sub-processes, namely:

- Police will provide report to Children’s Reporter within 14 calendar days of caution and charge
- Children’s Reporter will request assessment form Criminal Justice Social Work Department within two working days of receipt of offence
- the local Youth Justice Team will assess the case and submit an action plan for the offender within 20 working days
- Children’s Reporter will make a decision about the referral (hearing or otherwise) within 28 working days of receipt
- Hearing is scheduled to take place within a maximum of 15 working days of Reporter’s decision
- Local Authority will implement requirement of decision of children’s hearing within five working days of being advised of decision made.

This approach promotes transparency in relation to the performance of individual partners and their contribution to the lifespan of a case. HMIC and IPS consider that the approach to target setting within the Youth Justice Strategy is valid and lends support for a similar approach being adopted across the adult criminal justice system.

### 3.6 FAST TRACKING

The *McInnes Report* identified the need to improve speed and efficiency and highlighted the concept of “fast tracking” cases within the criminal justice system. The inspection team was apprised of examples of good communication and joint working between local criminal justice partners, where specific offenders or types of offenders can be identified and brought to justice more quickly. As fast tracking involves processes beyond reporting offenders and taking decisions to prosecute, it has not been examined in detail by this inspection. However, the inspection team acknowledges the innovative developments of “Cleanstream” projects within Grampian and West Lothian, which seek process improvements across all criminal justice partners. “Fast Tracking” has also been successfully introduced through initiatives such as the Hamilton and Airdrie Youth courts. These are all examples where specific types of offenders can be dealt with more effectively. HMIC and IPS are aware that these initiatives are all subject to separate evaluation which will inform ACPOS, COPFS and other criminal justice partners on the potential benefits and wider application across Scotland.

### 3.7 MANAGEMENT INFORMATION

The ACPOS/COPFS Joint Protocol recommended that the ISCJIS Project Board consider the provision of appropriate management information, that can be routinely shared with criminal justice partners, to assist with monitoring targets. The inspection team was informed of the Statistical and Management Information System (SMIS), which was established as a proof of concept to examine ways of exploiting data within the criminal justice community. The project is seeking to:

- test the logistics of capturing, processing and summarising data electronically on the dates of key events in the life cycle of criminal justice cases
- develop a front-end analysis tool for users to generate standard summaries of this information, broken down by factors of interest to them, such as police force area and type of offence.

A trial system was delivered in November 2005 and has since undergone initial evaluation. Work to test the operational requirements is expected to continue until mid-April 2006, when the system will be made more widely available to the user community. The inspection team recognises that a key consideration in the future development of the SMIS project will be the need to meet the emerging information requirements of the National Criminal Justice Board and local criminal justice boards. This is likely to include reporting on end-to-end performance of criminal cases. Progressing from a pilot SMIS system to a fully operational one will depend on the successful evaluation of the pilot system.

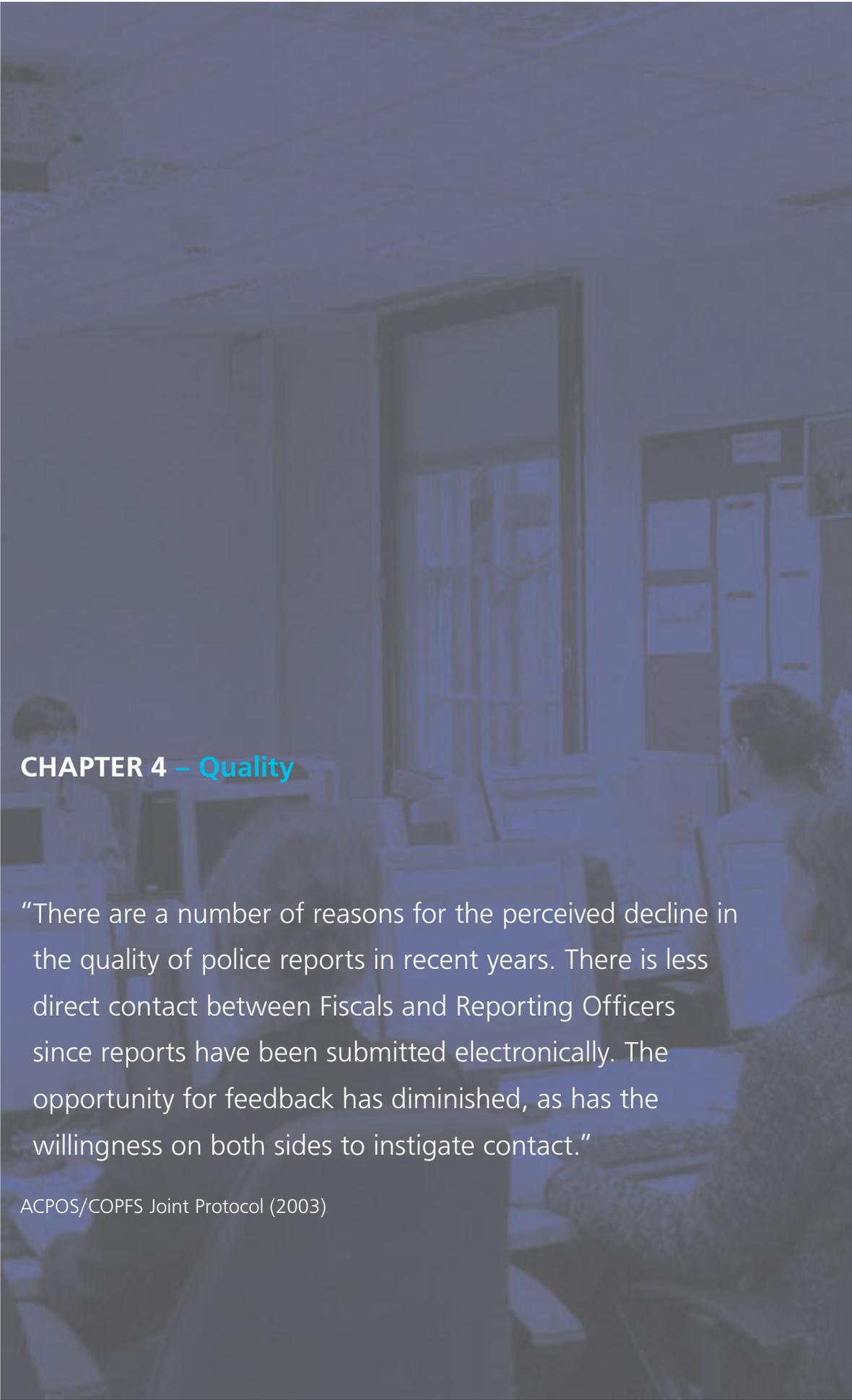
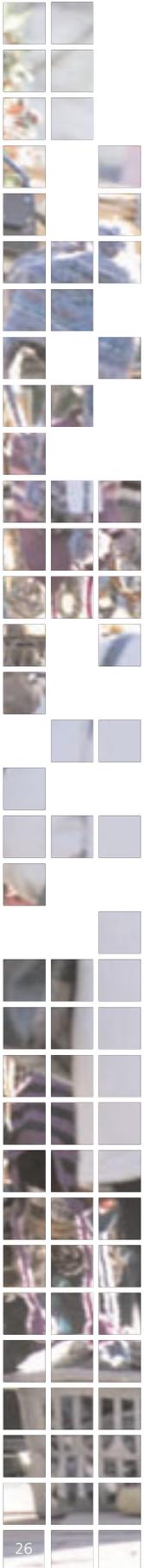
The inspection team is aware of local initiatives between forces and Area Procurators Fiscal. These include routine sharing of joint management information within Highlands & Islands Criminal Justice Board. Good practice also exists in Central Scotland and Tayside, where management information is routinely shared between partner agencies to assist in monitoring agreed targets. The inspection team acknowledges that a great deal of useful information is being provided through the COPFS Future Office System (FOS), which is the national database that processes all prosecution reports received by Procurators Fiscal. This highlights the significant benefits that accrue from a single national system and is in stark contrast to the variation in police information systems.

HMIC previously reported that meaningful data capture across the Scottish police service is the least well developed aspect of local performance management systems. And it has recommended<sup>11</sup> that ACPOS, in liaison with the Scottish Executive, consider procuring a suitable common IT solution to support performance management across all Scottish forces, as a top priority. The inspection team is aware that the ACPOS Performance Management Business Area is currently developing an Efficient Government Fund bid in respect of such a system. HMIC and IPS recognise that a common IT solution provides significant opportunities for sharing management information on police performance. They recommend, therefore, that ACPOS incorporate the current and proposed data requirements for criminal justice as part of the user specification for any common IT solution to support police performance management.

**RECOMMENDATION 4 – that ACPOS incorporate the current and proposed data requirements for criminal justice as part of the user specification for any common IT solution to support police performance management.**

---

<sup>11</sup> *Managing Improvement – A Thematic Inspection of Performance Management in the Scottish Police service – HMIC (2005)*



## CHAPTER 4 – Quality

“There are a number of reasons for the perceived decline in the quality of police reports in recent years. There is less direct contact between Fiscals and Reporting Officers since reports have been submitted electronically. The opportunity for feedback has diminished, as has the willingness on both sides to instigate contact.”

ACPOS/COPFS Joint Protocol (2003)

## 4.1 GUIDANCE ON POLICE REPORTS

In 2000 an ACPOS/COPFS working group prepared implementation guidance entitled *“Guidance on Police Reports, Statements and the Presentation of Evidence in Court”*. In 2002 an ACPOS/COPFS Working Group revisited this issue and found that the previous guidance, which had not been fully implemented, required updating and dissemination amongst forces. This, and other issues, was addressed within a report entitled *“For timing, quality and volume of police reports and written communications”* and was included within the ACPOS/COPFS Joint Protocol through the following:

- *The principles set out in the Guidance issued by the last ACPOS/COPFS Working Group on Quality of Police Reports and Statements, and now updated, should be disseminated throughout both organisations and put into practice as soon as possible – [ACPOS/COPFS – Rec. 5].*

The inspection team is aware that this *“Guidance on Police Reports, Statements and the Presentation of Evidence in Court”* was revised in autumn 2004, in response to the introduction of the New Style Statement (NSS). The guidance appears to have been endorsed at senior level in both ACPOS and COPFS. However, it would benefit from review in light of current developments and should be disseminated throughout both organisations to ensure that the quality of reports is maintained and applied consistently across all forces.

**RECOMMENDATION 5 – that ACPOS and COPFS review and update the *“Guidance on Police Reports, Statements and the Presentation of Evidence in Court”*, previously revised in 2004, and disseminate this updated guidance across police forces and Area Procurators Fiscal.**

## 4.2 GETTING IT RIGHT FIRST TIME

The inspection team reinforces the comments made within the initial guidance report, *“Guidance on police reports, statements and the presentation of evidence in court”*. This requires forces to provide a product of suitable quality to Procurators Fiscal, with an onus on providing information which is complete, accurate and reliable throughout the spectrum of police reports, statement submission and evidence in court. Forces need to “get it right first time” and officers should receive sufficient support to carry out appropriate enquiry, note relevant statements and submit reliable and accurate information to Procurators Fiscal. HMIC

and IPS consider that the role of supervisors is critical to this process and accept the real challenges in balancing operational demands against time required for enquiries and preparing reports.

During the fieldwork, the inspection team was encouraged by the feedback from Area Procurators Fiscal, which indicated that the standard of police reports was generally acceptable and that quality was not in itself a significant issue. Whilst it is acknowledged that there continues to be room for improvement, all police forces have shown a commitment to providing a quality product to Procurators Fiscal.

The inspection team consulted with The Sheriff’s Association and was interested in its views as consumers of police reports. The experience of sheriffs questions the Standard Prosecution Report’s (SPR) fitness for purpose in relation to providing information to the court in the high proportion of summary cases in which a plea of guilty is tendered. There is an impression, from the way in which offence circumstances are narrated to sheriffs, that the SPR does not provide a convenient basis for a depute fiscal to provide the court with a succinct summary of the salient features of the crime – including any aspects of gravity or mitigation. It is a common experience for sheriffs to have to listen to depute fiscals reading out large amounts of irrelevant information from a report. This seems to suggest that the standard report lacks a convenient section simply summarising the relevant offences. The feedback from The Sheriff’s Association highlights the value in forces and Procurators Fiscal consulting more widely on aspects of quality and service delivery. The inspection team believes that local criminal justice boards will provide a useful forum for such discussion.

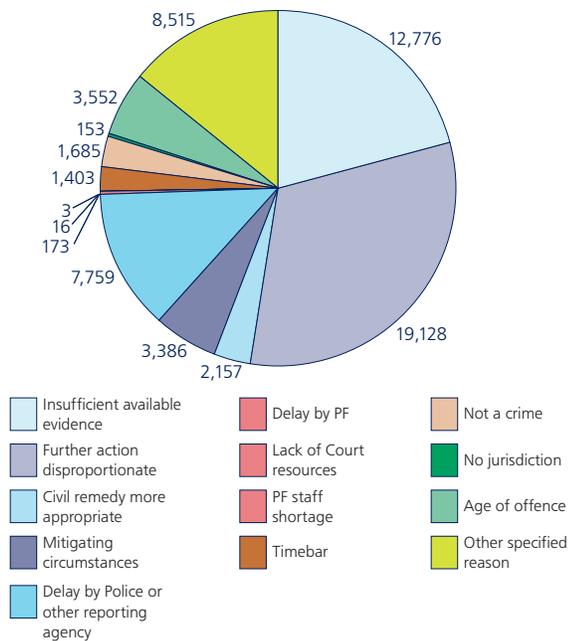
## 4.3 NO PROCEEDINGS AS AN INDICATOR OF QUALITY

The ACPOS/COPFS Joint Protocol recognised that instigating electronic communication had diminished opportunities for feedback, and questioned the willingness of both sides to initiate direct contact. The inspection team was encouraged to note that these concerns have been addressed through effective bi-lateral relations between Procurators Fiscal and police forces, and there is ample evidence of feedback on issues of quality.

The initial ACPOS/COPFS Joint Protocol highlighted the need to establish good practice to improve the quality of police reports. The inspection team recognises that there are opportunities to establish good practice through Area Procurators’ Fiscal feedback in relation to cases marked “no proceedings”. Procurators Fiscal, having regard to the circumstances of the offence and the offender, decide whether the matter should proceed to prosecution, be dealt with by way of a non-court disposal or be marked “no further proceedings”. Where cases are marked “no further proceedings”, Fiscals must record the reasons for their decision against one of thirteen specified categories.

COPFS produces routine management information in relation to cases marked “no proceedings”. This is scrutinised on a national basis and is available to the COPFS management board who can take appropriate action if specific trends or issues are identified. The information is also fed back on a monthly basis to Area Procurators Fiscal, who can take early action within their areas.

**Figure 5 – Chart Showing Breakdown of Reasons for No Proceedings – 2004/05**



Data Provided by COPFS

A number of the 13 specified reasons in this chart are useful in highlighting issues of quality and timeliness of submission, as well as identifying resource shortfalls within COPFS or the courts. In terms of timeliness, the chart shows that 7,759 cases were marked “no proceedings” due to delays by police or other reporting agencies in 2004/05. Perhaps the most relevant indicator for quality is “insufficient evidence available”, which accounted for 12,776 cases over the period. Cases marked as having insufficient evidence may indicate that a reporting officer requires further training in sufficiency of evidence. Although, in some cases the evidence may be marginal and a reporting officer correct in submitting the report for consideration.

HMIC and IPS believe the management information provided by COPFS in relation to cases marked “further action disproportionate” (NPFAD) to be a useful measure of how effectively forces and Procurators Fiscal are applying non-reporting and non-court options. In 2004/05, 19,128 cases fell into this category. When viewed in conjunction with information for non-reporting options, a reduction in the cases marked NPFAD would tend to indicate a more positive outcome. The significance of those cases marked NPFAD is discussed in more detail in relation to Alternatives to Prosecution (Section 8.2).

The inspection team noted that it is now common practice for Area Procurators Fiscal to share “no proceedings” information with forces and local commanders, enabling further monitoring of police performance. The team was impressed by the approach taken within Central Scotland, where the Area Procurator Fiscal supplements this information with a detailed listing of each individual case number, along with a note of the reason for no proceedings being taken. This allows local commanders to review the information on a case by case basis and provides opportunities to identify quality issues at a force, team or individual level. The Procurator Fiscal at Stirling monitors all cases marked “no proceedings” and communicates directly with the local area commander to highlight any cases which are of particular concern as regards to quality.

**RECOMMENDATION 6 – that Area Procurators Fiscal routinely share information in respect of “no proceedings” with police forces and jointly develop these as an indicator for the quality of police reports submitted. Information in respect of cases marked “No Proceedings Further Action Disproportionate” should be jointly developed as an indicator for the effectiveness of non-reporting and non-court options.**

Given the value of sharing information on no proceedings with police forces as a means of monitoring quality, it is important that COPFS ensures consistency in Procurators Fiscal decision-making and has some mechanism of quality assurance. The inspection team was impressed by the auditing facility that has been built into the Future Office System (FOS). This enables a supervisor, normally a Principal Depute, to audit a percentage of a Depute Fiscal’s marking or any cases marked in a specific way. These cases are automatically sent to the auditor, who must approve them before the marking stage is complete. If it is not approved, the case will be returned to the marking Depute for reconsideration.

#### 4.4 APPROACHES TO QUALITY ASSURANCE

The inspection team recognises that there is no single system for quality assuring police reports; different approaches are suited to different forces, depending on size, geography and operational demands. While approaches may vary, all forces have a responsibility to implement systems which effectively support case management and reduce unnecessary bureaucracy. There are currently three distinct approaches to supporting case management within forces, namely:

1. **Case Management Approach** – Reporting Officer submission with support from a case management unit which oversees timeliness and quality.
2. **Supervisory Approach** – Reporting Officer submission with support from a supervisor to ensure timeliness and quality, with centralised support for ISCJIS compliance and electronic transfer.
3. **Direct Submission Approach** – Reporting Officer submission directly to Procurator Fiscal who provides direct feedback re requirement and quality, with centralised support for ISCJIS compliance and electronic transfer.

HMIC and IPS have provided comment on each of these approaches and have identified specific benefits and examples of good practice. The inspection team has intentionally refrained from identifying any singular approach as being better than others, believing that forces should have the flexibility to adopt whatever approach is best for them.

#### 4.5 CASE MANAGEMENT APPROACH

The case management approach places responsibility for checking the quality of police reports on dedicated case management units. It provides for an element of central co-ordination in terms of checking for ISCJIS compliance and electronic transfer to the Procurators Fiscal. Some of the benefits of this approach are:

- reduces Reporting Officer time on administration duties
- reduces supervisor time spent on administration duties
- consistency of approach to quality and standards issues
- centralised priorities can be set to meet target times
- central point of contact for Procurator Fiscal Office
- strategic focus and overview of criminal justice process
- corporate management of criminal justice requirements.

Whilst there are many benefits from centralised case management, the inspection team found significant variance in the approaches taken across Scotland. In some cases the central units simply co-ordinate the electronic transfer of reports, with no quality assurance or monitoring role.

The ACPOS and COPFS Working Group, formed to develop the Joint Protocol, felt that the system operating in some forces applying the case management approach had not been wholly successful. There was evidence that the emphasis on case management units had led to a “de-skilling” of supervisors. This issue was addressed within the ACPOS/COPFS Joint Protocol through the following:

- *The central role of supervisors in ensuring quality of reporting should be re-emphasised – [ACPOS/COPFS – Rec. 5].*

The inspection team re-examined the concern that case management units were not fulfilling any significant quality assurance or supervisory role. It confirmed that, in general terms, the respective roles and interface between the supervisor and some case management units require a greater degree of clarity, to ensure ownership and consistency over police reports. The key is to ensure a continuum of management through the life of the case prior to it being delivered to the Procurator Fiscal, and to maintain a focus on “getting it right first time”.

Where forces elect for case management units, these units should have clearly defined roles in providing quality assurance. This should focus on the accuracy and competency of information submitted to Procurators Fiscal and support officers in meeting and maintaining the standards expected. Case management units should have a clearly defined role in supporting and monitoring the range of internal sub-processes to ensure that timeliness issues are addressed. This should complement the role and responsibilities of officers and their supervisors.

**RECOMMENDATION 7 – that where forces elect for case management units, these units should have clearly defined roles which support officers in providing reports of an appropriate standard, and should monitor the internal sub-processes to ensure that reports are submitted within appropriate timescales and are ISCJIS compliant.**

Fife Constabulary provides comprehensive support to operational officers through a centralised case management unit. In adopting this process the force has acknowledged the competing demands placed on first line managers (mainly sergeants) and has reduced their involvement in processing police reports and statements. Responsibility for the quality of reports lies with case “report checkers”, all of whom are retired police officers based within the case management unit. They provide appropriate support to reporting officers and monitor performance targets. The force also operates a dedicated statement unit, which monitors and audits all statement requests and ensures that all requests are serviced timeously.

The inspection team recognises the move from “case processing” to genuine “case management” within Fife Constabulary, and endorses the approach to deliver measurable benefits by introducing a case management unit. In reducing the administrative burden on operational officers, the force has freed up time for officers to deal with enquiries and other operational matters. HMIC and IPS were encouraged by the force’s approach in applying a grading process to all reports prior to submission to the Procurator Fiscal or the Children’s Reporter. This has been developed in liaison with the Area Procurator Fiscal and is supported by the force “*Report Writing Guide*”. The grading is applied in relation to both quality and timeliness.

### Fife Constabulary Grading Process

- Information on “Quality” and “Timeliness” is recorded electronically against each Standard Police Report at the time of first submission.
- Report Checkers grade the reports based on (i) quality of report in regard to content and competency and (ii) timeliness.
- All supervisors can access information regarding the performance of individual officers.
- Full reports are generated by the Case Management Unit and supplied to divisional management teams.

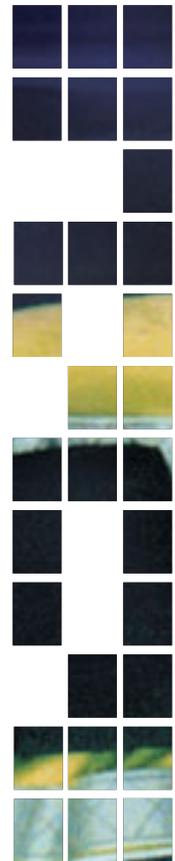
The Gradings applied are:

1. Very Good
2. Satisfactory
3. Returned for Minor Amendments
4. Unsatisfactory

**Grade 1:** Notes in support of the grading must be entered. These are used as an indicator for officer performance in regard to communications and report writing skills and will inform the selection of Tutor Constables.

**Grade 4:** Notes in support of the grading must be entered. These will initiate suitable remedial action/training for officers in liaison with divisional managers.

**Grade 2/3:** Notes can be added to support this grading but they are not a requirement.



The inspection team found the management information provided by the case management system to be useful in monitoring individuals’ performance in relation to both timeliness and quality. It also identifies individual, team and force training needs and is key to supporting continuous improvement within the force. HMIC and IPS considers the grading system for reports used by Fife Constabulary, worthy of consideration by other forces.

#### 4.6 SUPERVISORY APPROACH

This approach places responsibility for checking the quality of police reports on supervisory officers. It still provides for an element of central co-ordination, in terms of checking for ISCJIS compliance and electronic transfer to the Procurators Fiscal. Some of the benefits of this approach are:

- direct line management supervision and support to Reporting Officer
- direct interface between Reporting Officer and Supervisor on issues of quality
- direct management of caseloads by Reporting Officer and Supervisor.

Dumfries and Galloway Constabulary employ this approach, where it has proved particularly effective. Targets for submitting police reports are consistently achieved (Section 3.2) and the Area Procurator Fiscal has expressed satisfaction at the standard of reports submitted. However, it is acknowledged that this approach is resource intensive for supervisors, and can account for up to 50% of an operational sergeant’s time in overseeing and checking reports prior to submission.

The inspection team examined the scheme operating within Dumfries & Galloway Constabulary, which offers accreditation to officers on reaching a required standard in regard to SPR submission. The scheme is co-ordinated by a police officer co-located in the Procurator Fiscal’s office. Accredited officers can submit reports directly to the Procurator Fiscal without the need for checking by the supervisor or reports bureau. Approximately 25% of officers within the force are accredited, allowing supervisors to be released to undertake other duties. The force sees the scheme as contributing greatly to their ability to meet the statutory 28 day reporting target.



## Dumfries & Galloway Constabulary Accreditation Scheme

Criteria for Selection of Officers for accreditation

| CRITERIA        | OFFICER MUST  | OFFICER MUST NOT   |
|-----------------|---|--|
| SERVICE         | <ul style="list-style-type: none"> <li>have minimum of 3 years service</li> <li>have minimum of 6 months in a new dept</li> </ul>   |  |
| ADMINISTRATION  | <ul style="list-style-type: none"> <li>manage submission of all types of reports consistently and within appropriate timescales</li> <li>effectively manage all case related documents and productions</li> </ul>   | <ul style="list-style-type: none"> <li>require supervisory reminder to submit reports within set timescales</li> </ul>   |
| WRITING ABILITY | <ul style="list-style-type: none"> <li>consistently submit high standard reports which require no amendments</li> </ul>   | <ul style="list-style-type: none"> <li>have had receipt of PF complaint regarding standard of report submitted</li> </ul>  |
| ENQUIRY ABILITY | <ul style="list-style-type: none"> <li>consistently and thoroughly investigate enquiries</li> <li>have a high level of local knowledge and knowledge in regard to evidence</li> <li>demonstrate and apply sound knowledge of human rights requirements</li> </ul> | <ul style="list-style-type: none"> <li>submit reports for supervisory checking where it is found that all aspects of the matter have not been investigated</li> </ul>                |
| WORKLOAD        | <ul style="list-style-type: none"> <li>self generate a significant part of workload</li> <li>demonstrate ability to produce reports on a full range of incidents (specific to role)</li> </ul>  | <ul style="list-style-type: none"> <li>require supervisory reminder to increase workload</li> </ul>  |
| APPRAISAL       | <ul style="list-style-type: none"> <li>be highly self-motivated and enthusiastic</li> </ul>   | <ul style="list-style-type: none"> <li>have had supervisor reminder to submit reports</li> <li>have attained an overall grading of less than 5 at last performance review</li> </ul> |

Irrespective of the arguments for supervisory officers checking reports, the inspection team recognises the critical role of supervisors in providing support at initial enquiry stage. The initial responsibilities of the supervisor include:

- supporting officers in carrying out appropriate enquiry
- supporting officers in noting accurate statements
- making time available to officers for report writing
- monitoring officer workloads in relation to reports.

The inspection team considers that, with appropriate commitment, guidance and support from supervisors, reporting times and quality can be improved. This was evident within Grampian Police, where increased focus by supervisors in Peterhead resulted in 91% of all police reports being submitted to the Procurator Fiscal within the 28-day target.

#### 4.7 DIRECT SUBMISSION APPROACH

The direct submission approach allows officers to submit reports directly to the Procurator Fiscal, without them being quality checked by a supervisor or case management unit. There is still an element of central co-ordination, in terms of checking for ISCJIS compliance and facilitating electronic transfer to Procurators Fiscal. This approach has featured within the “Cleanstream” projects operated by Grampian Police and Lothian and Borders Police, and has the following benefits:

- direct contact between the Reporting Officer and Procurator Fiscal in relation to what has to be reported
- direct feedback from Procurator Fiscals to Reporting Officer regarding quality
- greater use of abbreviated reports, saving officer time on administration
- quicker end-to-end management of cases.

The inspection team was aware of favourable feedback from officers directly submitting police reports. In general terms, they found it less bureaucratic, less time consuming and more operationally effective when dealing with their day to day business. In relation to direct submission, the inspection team believes that further consideration should be given to the role of supervisors to ensure they provide support to officers. HMIC and IPS are aware that this approach will be included in the wider evaluation of “Cleanstream”, the results of which will inform ACPOS and COPFS on the benefits and the potential for wider application across Scotland.

## CHAPTER 5 – Case Management Processes

“We recognise that the cost of moving to a unified system may be substantial for those forces, particularly the larger ones, but we feel that the long term benefits would be substantial and would facilitate more accurate reflection of input.”

ACPOS/COPFS Joint protocols report to Steering Group

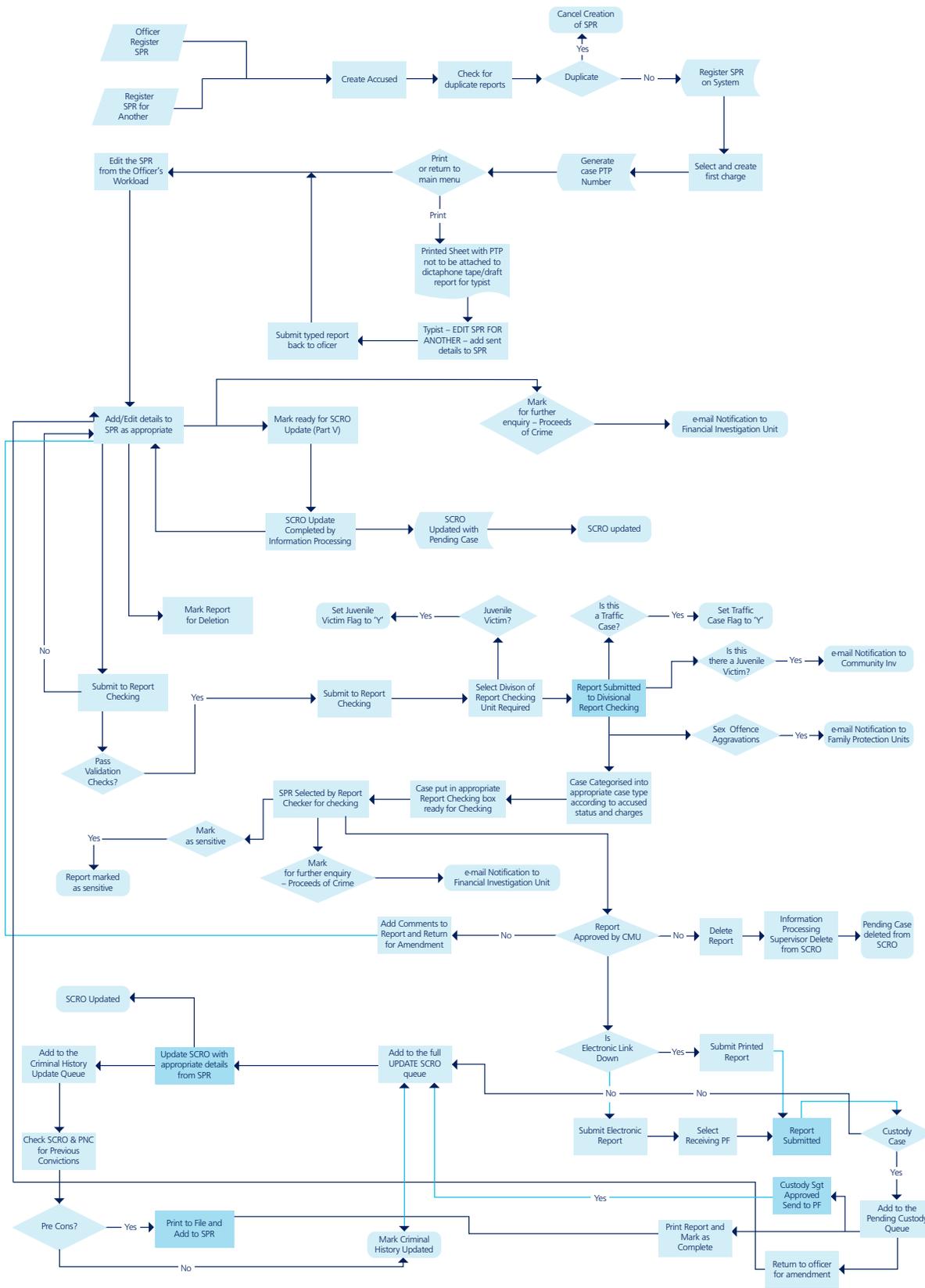
## 5.1 POLICE CASE MANAGEMENT

It is widely recognised that case marking units within Procurator Fiscal offices work most efficiently with a constant throughput of reports. Furthermore, the COPFS system of case marking benefits from situations where case reporting of cases is consistent and predictable, in so far as natural variation in offending rates allow. This not only keeps workloads downstream from the case marking units more manageable, but also allows cases to be allocated to Court in a faster and more efficient way. It is reasonable to assume that information provided by the police, in regard to backlogs or potential increases in the volume of police reports, is invaluable in allowing Procurators Fiscal to allocate resources to case marking. Such information is available where there is a police case management system which allows backlogs to be identified. This was addressed in the ACPOS/COPFS Joint Protocol report through the following:

- *Forces that do not currently have an integrated case management and case reporting system should consider the introduction of that option, and in the short-term, should introduce alternative methods for the extraction of current data on the number of cases likely to be reported to the Fiscal [ACPOS/COPFS – Rec. 20]*
- *Area Fiscals should receive monthly information from local Senior Police Officers on the level of work in progress and the potential impact of any planned initiatives [ACPOS/COPFS – Rec. 21]*
- *Area Fiscals and Chief Constables should hold discussions, no less than annually, in order to analyse crime trends and reporting patterns with a view to assessing their implications [ACPOS/COPFS – Rec. 22]*

The inspection team acknowledges the diverse range of sub-processes in case management and the difficulties faced by forces that operate across a number of separate systems. HMIC and IPS firmly believe that significant improvements within case management will follow from integrated systems which cover all aspects of case preparation, case management, information processing and the electronic transfer of information to the Procurators Fiscal. The complexity of sub-processes involved in case management by police forces is shown graphically in the process map used by Tayside Police for the submission of an SPR.

Figure 6 – Tayside Police process map for SPR submission



The SMART system operating within Tayside Police is an integrated management system that facilitates the electronic creation and submission of reports to Procurators Fiscal. This system can create, collate and submit information to COPFS in a manner that is fully compliant with ISCJIS data. It requires a reporting officer to register an SPR, which is then given a unique reference number for tracking through case preparation and final submission to the Procurator Fiscal. A strength of the system is the ability to audit all documentation related to the SPR, including statement requests and correspondence from Procurators Fiscal. This provides an effective support mechanism to officers and supervisors in managing caseloads. It also provides information on any potential backlogs or delays in report submissions and assists Procurators Fiscal to manage their respective workflows.

HMIC<sup>12</sup> has previously commented that the efficiency of the overall process is significantly improved when a report is automatically generated from data collated from the moment the incident was made known to the police. In this regard, the inspection team recognises developments within Central Scotland Police, Grampian Police and Fife Constabulary in relation to the use of the CrimeFile application, which can automatically generate a report based on data input from the initial incident. This application also supports the management of officer workloads.

Case management systems should be able to update key operational databases with relevant information or intelligence. HMIC recently progressed a separate work stream in relation to the recommendations of Sir Michael Bichard<sup>13</sup> and worked with ACPOS in establishing targets for recording pending cases on the Scottish Criminal History System and Police National Computer. The timely recording of pending cases is a crucial sub-process and is essential if the disclosure process is to operate effectively. HMIC routinely monitors force performance in relation to recording pending cases, as part its primary and review inspection programme.

While some forces have made progress in relation to integrated case management systems, there is no universal system operating across all forces. The existing range of police case management systems creates a

level of complexity when integrating with COPFS systems, and a number of interfaces have to be developed to exchange data. This also limits opportunities to standardise case management processes and report on a range of key performance indicators. While the inspection team recognises the significant benefits that a single integrated case management system would bring forces, developing or procuring such a system would require significant investment. However, it is a matter which should be considered as part of ACPOS development of its IM Strategy.

The inspection team found clear evidence of forces and Procurators Fiscal working together to manage caseloads. Forces also routinely provide information to Procurators Fiscal with regard to initiatives and other operational matters. HMIC and IPS recognise the good practice operating within Central Scotland Police, where Procurators Fiscal attend local tasking and co-ordinating meetings to enhance their awareness of ongoing operational issues. The inspection team found examples of regular dialogue between senior police officers and Procurators Fiscal on both a formal and informal basis. HMIC and IPS recognise that recent developments with regard to the local criminal justice boards have enhanced communication. HMIC and IPS consider that these boards may be an appropriate focal point for discussion and formal agreement in terms of crime trends and reporting patterns.

## 5.2 PROCURATOR FISCAL CASE MANAGEMENT

One of the most significant developments in COPFS in recent years has been the introduction of the Future Office System (FOS), an electronic system of case marking and administration. The system is being introduced in stages, with Phase One now completed. It enables electronic receipt of cases from police forces and allows these to be marked on screen by legal staff. It is estimated that approximately 40% of new cases are processed without any further intervention by legal or administrative staff. Warning letters, fixed penalties and conditional offers (fiscal fines) which are marked at this stage, are transmitted electronically to a central facility to be printed and sent to offenders.

<sup>12</sup> *Partners in Crime – Solving and Reassuring A Thematic Inspection of Crime Management in Scotland* – HMIC October 2003

<sup>13</sup> An independent inquiry arising from the Soham murders – December 2004

The roll out of Phase Two is scheduled throughout 2006. This will cover the processing of all summary cases until final disposal in Court. It will also allow all cases against an accused to be “rolled up” into a single case, much more efficiently than is possible under the present system. Since a new national database was introduced for FOS, offences committed anywhere in Scotland by an accused can be dealt with along with other outstanding charges. Additionally, where all charges against an accused are contained in the same complaint, they can be dealt with together. This can lead to fewer pleading and trial diets, resulting in cost savings and administrative benefits to forces, COPFS and the courts.

The Sheriffs’ Association expressed concerns over the extent to which current reporting arrangements allow outstanding charges to be gathered against individual accused. Doing so could enable these to be dealt with in single rather than multiple proceedings, or at least at the same time. It was suggested that courts are rarely presented with the full extent of an active offender’s outstanding charges or cases. Hopefully these concerns will begin to be addressed through the proposed functionality of Phase Two. This will also enable Procurators Fiscal to fulfil every piece of summary processing, from updating court records and generating documents, to citing witnesses and other administrative functions which are currently completed manually.

The inspection team received positive feedback from all Area Procurators Fiscal in relation to FOS. There was also evidence of how process improvements through FOS had translated into performance improvements. Although the primary driver for introducing FOS was efficiency savings at an administrative level, there have been other benefits. The inspection team recognises the ability to manage information better, especially in a joint working environment. The COPFS Management Information Division plays an important part in managing performance. The COPFS Management Board and Area Procurators Fiscal monitor the information collated by the unit. This allows trends to be identified and remedial

action taken where necessary. This is in sharp contrast to the situation in some police forces in relation to their ability to provide meaningful management information.

The inspection team found clear evidence that FOS is being used to advantage in developing joint working with other agencies, especially the police. Marking cases within FOS is now recorded in easily accessible form. And details, such as reasons for cases not being proceeded with, can easily be retrieved and shared as part of end-to-end performance management (Section 4.3).

### 5.3 SYSTEM IMPROVEMENT

The inspection team believes that forces and COPFS should expend more effort in identifying and streamlining the many sub processes involved within the criminal justice system. HMIC and IPS recognise the initiatives by Grampian and Lothian & Borders Criminal Justice Boards in developing “Cleanstream” projects. In reviewing current systems and acknowledging the need for a holistic approach to improvement, they have identified that the delivery of the criminal justice system as one entity can be fragmented, especially where there is:

- a confused mixture of conflicting operational priorities
- limited information sharing between criminal justice partners
- duplication of effort by all agencies
- failure to get process and work streams delivered “right first time”.

This fragmentation can result in poor end-to-end performance and indicates scope for improvement. It is essential that partner agencies begin to view the criminal justice system as one entity, where processes are linked and have a direct impact on each other. The “Cleanstream” projects have adopted a *Systems Thinking* approach, which begins to inform and improve operational process in managing caseloads.

## Systems Thinking Approach: “Check – Plan – Do”

### STEP 1: CHECK

- understand demand
- understand the purpose of the system from a customer’s point of view
- understand the work flow – identify value work and waste
- understand the capability of the system to respond to demand
- identify the conditions that help or hinder performance
- identify measures that relate to the purpose of the system.

### STEP 2: PLAN

- identify value steps from the customer’s point of view
- redesign process flows
- tackle the main system conditions to improve performance – new structure, new job roles, new measures
- predict outcomes and have measures which allow evaluation
- engage management in understanding system conditions and how to act to resolve them, making recommendations for improvement.

### STEP 3: DO

- experiment with demand using the redesigned process flows
- act on the system and re design based on analysis, planning requirements and impact analysis.
- evaluate and return to STEP 1 – “CHECK”.



The inspection team acknowledges the value of these initiatives in progressing the recommendations from Normand and McInnes. Whilst both projects are still in the early stages of development and will be subject to independent evaluation, they can be considered as useful examples of system improvement reviews. It is considered that any improvement within the criminal

justice system should be carried out on a joint basis, as any improvement within police processes will often require the same level of commitment by COPFS in supporting that improvement. HMIC and IPS support the efforts of forces and Procurators Fiscal in process improvement initiatives.

#### 5.4 DEVELOPMENT OF SPR2

The Integration of Scottish Criminal Justice Information Systems (ISCJIS) (Section 2.10) is responsible for data standards and electronic data transfer between criminal justice partners. The introduction of the Standard Prosecution Report (SPR) was a key initiative to standardise the format and type of information to be passed between the police and Procurators Fiscal, and has been operating for a number of years.

SPR 2 is the first major revision of the original SPR. It will be extended to capture a range of additional information, including the data requirements of the Vulnerable Witness (Scotland) Act 2004. Implementing SPR2 requires initial agreement on technical design from all criminal justice partners, and will be followed by technical changes to Crown Office systems and all reporting agency systems, including those of the eight police forces. While there is a desire within forces to move towards SPR2, there are technical difficulties in relation to how they will interface with SPR2 and concerns over costs, training and information processing. The technical issues have been exacerbated by the development of a national Crime Recording system for Scottish forces, which would offer the potential for a single interface with COPFS.

The inspection team is aware that ACPOS Council has recently made a commitment that all forces will adopt SPR2. A provisional timetable to finalise the content by July 2006 has been agreed, with initial testing and implementation within Strathclyde Police as the lead force in Spring 2007. This will be followed by a 12 month national roll-out. HMIC and IPS welcome the commitment shown by ACPOS and look forward to the successful implementation of SPR2 within this agreed timescale.

## CHAPTER 6 – Co-Location

“The closer working relationship to which both organisations appear committed can only be improved by a degree of co-location. In practical terms it should ensure a more direct and immediate means of quality assurance.”

ACPOS/COPFS Police Reports Group 2002

The ACPOS and COPFS Working Group formed in 2002 considered that one of the reasons for the decline in the standard of reports was introducing electronic transmission of reports to Procurators Fiscal. This reduced the amount of personal contact between police officers and Procurators Fiscal and diminished opportunities for feedback. This issue was addressed within the ACPOS/COPFS Joint Protocol report through the following:

- *Area Fiscals and Chief Constables should consider the feasibility of co-location of Police Officers in Fiscal Offices for the purpose of quality assurance and improvement of communications – [ACPOS/COPFS – Rec. 7].*

The inspection team found that the practice of co-locating police officers within Procurator Fiscal offices is now being embraced and is enhancing the relationship between the two agencies. Good practice examples of co-location were found in Dumfries & Galloway Constabulary, Fife Constabulary and Central Scotland Police. While the role of co-located officers has developed informally, there have been real benefits to both parties in developing local working practices. The inspection team recognises that the role has been largely successful in “troubleshooting” issues and responding to daily information requests between the police and Procurators Fiscal. The following positive benefits of co-location have been identified:

- enhanced communication process which encourages open and frank feedback
- reduced bureaucracy for police and Procurators Fiscal in managing enquiries
- reduced time taken for police to respond to Procurators Fiscal enquiries
- reduced administrative burden placed on front line operational officers.

The inspection team recognises that co-located officers should have relevant police experience and be provided with appropriate training for the role. Forces should ensure that co-located officers do not become isolated and are have appropriate support from police supervisors. Whilst strong informal relationships have successfully developed between co-located officers and local Procurators Fiscal, the inspection team considers that the role of co-location should be examined to define priorities and core responsibilities. The role should also

be subject to annual review by forces and Procurators Fiscal and should be evaluated to quantify business benefits to both services.

Tayside Police has recently relocated the entire Case Management Unit for Dundee within the Procurator Fiscal’s Office. This arrangement will be piloted for a six month period. This is considered to be a positive step towards joint working and improving understanding between the force and the Procurator Fiscal’s Office.

The “Cleanstream” projects have further extended the scope of co-location, with criminal justice partners committing to a multi-agency co-location exercise within a central unit, to progress end-to-end improvements. The inspection team believes that this is a logical progression from the existing bi-lateral co-location, although further work will be necessary to define roles and business benefits. The inspection team is aware that these initiatives will be independently evaluated, which should provide further useful indications for the way forward for co-location.

Based on the positive experience of the police co-located officers, the inspection team believes that there may be some scope for ACPOS and COPFS to pilot the co-location of a Fiscal Depute within a police Case Management Unit, acting as a single point of contact (SPOC) and developing an understanding of police processes and requirements.

During the inspection, it was apparent that there are some practical difficulties around co-located officers having access to COPFS information systems. While the review team recognises the importance of maintaining the integrity of information systems, it is vital to the success of co-location that forces and Area Procurators Fiscal assess the information requirements of the co-located officers and provide appropriate access to relevant systems.

**RECOMMENDATION 8 – that forces, in consultation with Area Procurators Fiscal, examine the role of the police co-located officer to define priorities and core responsibilities. The role should be subject to annual review and evaluated to quantify business benefits to both services. Forces and Area Procurators Fiscal should also assess the information requirements of co-located officers and provide appropriate access to relevant systems.**

## CHAPTER 7 – Serious Crime Protocol

“Reform of the criminal justice system is being taken forward in a strategic way and each stage will fit in with what has gone before. We believe it is a priority to act on the High Court Review because this covers the most serious cases in which the stakes are highest for all concerned and inadequacy of the system is always a matter of public concern.”

Modernising Justice in Scotland: The reform for the High Court of Justiciary<sup>14</sup>

<sup>14</sup>“Modernising Justice in Scotland: The reform for the High Court of Justiciary” – 2003 – Scottish Executive – ISBN – 0-7559-0838-4

The ACPOS and COPFS Working Group, formed in 2003 to develop the Joint Protocols, made the following recommendations in relation to investigating and reporting serious crime.

- *The Strathclyde Area Serious Crime Protocol should be adopted on a national basis – [ACPOS/COPFS – Rec. 11]*
- *Procurators Fiscal will identify the essential statements to be produced prior to full committal in petition cases where the accused has been committed for further examination in custody – [ACPOS/COPFS – Rec. 12]*
- *The creation of a short-term Working Group of COPFS and ACPOS nominees to process map the key stages of case processing with a view to developing templates based on the principles that we have identified and the styles used in the Serious Crime Protocol. – [ACPOS/COPFS – Rec. 13]*

HMIC and IPS were aware that most forces and Area Procurators Fiscals had either implemented, or agreed to implement, the Strathclyde Area Serious Crime Protocol. Some forces and Area Procurators Fiscal have adopted this in its entirety. Others, including Central Scotland and Highlands and Islands, have amended the document to reflect local variations and the introduction of both the Forensic Science Protocol and legislation in respect of vulnerable witnesses.

The inspection team acknowledges that changes to solemn procedure introduced following the Bonomy Report will continue to evolve with other criminal justice reforms and the work of the National Criminal Justice Board. This has led to agreement between ACPOS and COPFS to review the Serious Crime Protocol and turn it into more precise business rules. HMIC and IPS supports this initiative.

## CHAPTER 8 – Alternatives to Prosecution

“The use of non-reporting options can avoid the need for further, possibly disproportionate action and we see clear benefits from enabling the police to exercise a wider range of options appropriate for minor crimes and offences. Providing these options should limit the number of cases reported to Procurators Fiscal and hence the number of cases coming to court.”

The Summary Justice Review Committee “Report to Ministers 2004

The ACPOS and COPFS Working Group considered alternatives to prosecution. In relation to trivial offences, it was noted that police already have discretion not to report to Procurators Fiscal. It found that while there was widespread practice of not reporting Drunk and Incapable cases, there was little evidence of local agreements on non-reporting of cases between police forces and local Procurators Fiscals. The Working Group saw no reason why greater use could not be made of such agreements based on local circumstances. This was addressed within the ACPOS/COPFS Joint Protocol through the following:

- *Area Fiscals and Chief Constables (or in Strathclyde, Divisional Commanders) should identify categories of minor offences in respect of which they agree that reports should not be submitted. Any such agreement should be reviewed annually as should the capacity to extend it to other offences [ACPOS/COPFS – Rec. 15]*

The Working Group also considered the issue of police written warnings as an alternative to reporting cases. It made reference to a Joint Protocol that was agreed between ACPOS and COPFS in 2000, relating to the use of police written warnings to supplement informal verbal street warnings. It considered an adult written warning system to be an appropriate way of dealing with many minor offences and to be consistent with a policy of encouraging greater use of police discretion. It was noted that written warnings allow decisions to be made quickly and avoid the need to complete and submit a report to the Procurator Fiscal, who in such cases would most likely opt for a non-court disposal. The group believed that the nature of the offences in respect of which written warnings should be given would best be agreed at local level, taking into account local needs. This was addressed within the ACPOS/COPFS Joint Protocol through the following:

- *Area Fiscals and Chief Constables (or in Strathclyde, Divisional Commanders) should identify categories of minor offences in respect of which they agree that the Police may issue written warnings to offenders in accordance with the Joint ACPOS/COPFS Protocol. Any such agreement should be reviewed annually as should the capacity to extend it to other offences. [ACPOS/COPFS – Rec. 16].*

The working group expressed concern that such warnings would not be recorded, so that in the event of future offending no record would exist of prior involvement with the police. It was felt that some system of recording such warnings, albeit not as convictions and for a limited time, was desirable. This was addressed within the ACPOS/COPFS Joint Protocol through the following:

- ACPOS should, with SCRO, consider the practicalities of maintaining a record of written warnings issued by Police Forces under the terms of the Joint ACPOS/COPFS Protocol [ACPOS/COPFS – Rec. 17].

## 8.1 CRIMINAL JUSTICE REFORM

HMIC considered non-reporting options in 2003 as part of the thematic inspection on crime management in Scotland – “Partners in Crime – Solving and Reassuring”. This report identified that by non-reporting quality of life offences and dealing with these by warnings or fixed penalty notices, significant benefits could be realised through reduced bureaucracy.

The *McInnes Report* identified the potential benefits to the police and Procurators Fiscal of increasing the range of options available to the police for minor cases which do not require to be reported for prosecution. Procurators Fiscal are currently entitled to direct police not to report certain categories of offence, where they consider that to be appropriate. This is in keeping with the proposition that decisions should be taken and implemented at the earliest stage in the system, especially with regard to minor crimes and offences committed by first offenders.

Increased use of alternatives to prosecution can have a major impact on improving summary justice delivery. A significant proportion of minor, antisocial crimes and offences are committed by persons who would otherwise not come into contact with the police. A fair and effective non-reporting disposal at the time of offence or soon afterwards can have a positive impact on offenders, as well as improving public confidence. This approach removes the need for the offender to enter the criminal justice system and saves time for the police and Procurator Fiscal in terms of case reporting and preparing the case for court.

Non-reporting options require effective consultation between the police and Procurator Fiscal over the types of crimes and offences to be included. This should be informed by effective community engagement, where public concerns are linked to local police and prosecution priorities. The Antisocial Behaviour etc (Scotland) Act 2004 requires Chief Constables and Local Authorities to prepare a joint strategy for dealing with antisocial behaviour in their areas. Antisocial behaviour is generally understood to include offences such as breach of the peace, urinating in a public place, assault, vandalism and littering. Whilst it is encouraging that legislation was passed to tackle antisocial behaviour, joint strategies must take cognisance of criminal justice agencies' capacity to cope adequately with the increased focus on minor crimes.

## 8.2 TACKLING TRIVIALITY

It is a fact that a high percentage of offences that can be classed as minor are currently reported to Procurators Fiscal. However, the inspection team accepts that the term "minor" is relative and that the impact of a minor crime can be significant to the victim and wider community. Strategies to deal effectively with minor crimes must take account of local concerns and be agreed by police and Procurators Fiscal. It should be possible to agree what cases should result in non-reporting options by the police and what cases should be reported to the Procurator Fiscal for a non-court disposal. The inspection team reviewed the "Quality of Life" protocol developed by Grampian Police and the Procurator Fiscal at Aberdeen. This established a consistent approach to investigating, reporting and prosecuting quality of life offences. The offences

featured were intelligence led and identified by Grampian Police through their problem solving policing approach within local communities. The offences listed are reviewed quarterly and new offences added according to current intelligence.

A significant proportion of the minor crimes reported to Procurators Fiscal will result in the case being marked "no proceedings". In such cases, fiscals are required to record the reasons for their decision against one of thirteen specified categories (Section 4.3). COPFS previously marked cases '*No Proceedings – Triviality*', where it was considered that further action by Procurators Fiscal would be disproportionate to the nature, circumstances and level of seriousness of the offence. However, COPFS acknowledges that offences at the lower end of the criminal scale may not be regarded as "trivial" by those affected by them. In order to reflect better the circumstances in which this marking should be used, it has now been re-termed "*No Proceedings – Further Action Disproportionate*" (NPFAD). Procurators Fiscal are instructed to take particular care when marking cases where the offence involves antisocial behaviour within local communities. They are aware of the importance which the Lord Advocate places on dealing appropriately with antisocial behaviour in a way that reflects and takes into account local sensitivities and concerns.

The inspection team considers that greater use can be made of the statistical information relating to cases marked "No Proceedings", and in particular those cases which are marked "NPFAD". The table below shows the number of cases by force area marked "NPFAD" by Procurators Fiscal during 2004/05.

**Figure 7 – Breakdown of cases marked NPFAD in 2004/05**

| FORCE             | No. of NPFAD cases | Percentage of all Cases Submitted |
|-------------------|--------------------|-----------------------------------|
| CENTRAL           | 790                | 4.2%                              |
| D & G             | 333                | 3.1%                              |
| FIFE              | 1,025              | 5.5%                              |
| GRAMPIAN          | 516                | 2.5%                              |
| L & B             | 2,228              | 5.1%                              |
| NORTHERN          | 494                | 3.1%                              |
| STRATHCLYDE       | 11,026             | 6.5%                              |
| TAYSIDE           | 2,716              | 9.1%                              |
| <b>ALL FORCES</b> | <b>19,128</b>      | <b>5.8%</b>                       |

Source – COPFS Business Improvement and Innovation Unit

During the year 2004/2005, some 19,128 cases reported to Procurators Fiscal were marked “no proceedings”, on grounds that further action by the Procurator Fiscal was disproportionate. The inspection team believes that this is an area where an effective strategy for alternatives to prosecution could make a significant impact.

It seems obvious to the inspection team that forces should not waste valuable resources reporting cases to Procurators Fiscal that will result in no proceedings on the grounds of “NPFAD”. While there will always be cases where reporting in such circumstances is appropriate, many of the cases currently marked “NPFAD” would most likely have been worthy of some form of non-reporting option. HMIC and IPS consider the management information provided by COPFS in relation to “NPFAD” to be a useful measure of how effectively forces and Procurators Fiscals are applying non-reporting and non-court options. When viewed in conjunction with information for non-reporting options, a reduction in the percentage of cases marked “NPFAD” would tend to indicate a more positive outcome. HMIC and IPS highlight the importance of this information in the context of recommendation 6 (Section 4.3).

### 8.3 POLICE NON-REPORTING OPTIONS

Since the agreement of the Joint Protocol in 2004, there has been a number of different approaches to police non-reporting options across Scotland. The current non-reporting options for police forces are Discretionary Warnings, Formal Police Warnings and Penalty Notices for Disorder (PND). An effectively implemented warning system reduces the need for police to prepare and submit a full Standard Prosecution Report and for the Procurator Fiscal to process this. Additionally, it provides a faster and more appropriate response to the offences covered.

#### Discretionary or notebook warning

It is a fundamental policing principle that officers have discretion to administer a verbal warning for minor offences. While discretionary warnings can be an effective response to minor street disorder, the development of a performance culture and the introduction of a new national crime recording standard<sup>15</sup> create pressures for officers that mitigate against using discretion. The inspection team considers that the introduction of formal police warnings and

Penalty Notices for Disorder (PND) should not in themselves discourage officers from issuing discretionary warnings and, if circumstances so dictate, these should continue as an effective response to deal with a situation.

#### Formal Police Warnings

All forces, with the exception of Tayside Police which was committed to developing the Fixed Penalty Notice pilot scheme, have introduced a formal adult warning scheme as an alternative to prosecution. Formal warnings administered by the police are not new. Some forces have had systems in existence for a number of years, to address issues such as prostitution. The range of offences referable for formal warnings is similar across Scotland and includes street drinking, drunk and incapable, urinating, minor theft by shoplifting, assault, breach of the peace and vandalism. Other offences specific to certain forces include dog-fouling, litter, possession of cannabis and various road traffic offences.

The main benefit of an adult warning scheme is that it avoids the need to submit reports to Procurators Fiscal. Although no report is submitted, the initial investigation should be the same as if the case were to be reported, with the same standard of evidence against an offender. There should also be a reasonable prospect of a warning having a deterrent effect. If an offender has been previously warned, it may be inappropriate to issue a further warning, unless there has been a substantial intervening period of good behaviour that indicates that the earlier warning had a positive impact. Similarly, a warning is unlikely to be appropriate if the offender has a recent previous conviction, particularly for a similar offence.

HMIC and IPS were encouraged that protocols for enforcing adult warning schemes had been drawn up by forces in consultation with the respective Procurator Fiscal, and that guidance had been issued to operational officers prior to introduction. However, as most systems are at an early stage of implementation, the full impact of police warnings has yet to be realised. Of the systems introduced, only Fife Constabulary and Strathclyde Police had conducted any initial impact assessment of benefits. Fife Constabulary introduced its scheme in May 2005 and estimates that operational officers will save two hours per case by not having to submit a report. In September 2005, this equated to a saving to the force of 610 hours.

<sup>15</sup> “Meeting the Standard: A Thematic Inspection of the Scottish Crime Recording Standard” – HMIC – October 2005

Strathclyde Police introduced a formal warning system for “drunk and incapable” cases in December 2005. It is expected that approximately 4000 cases per annum will be removed from divisional caseloads, as a result. Strathclyde Police has limited the use of formal police warnings solely to drunk and incapable cases. This was informed by research, which concluded that formal police warnings were “process and resource heavy, if fairness and the rights of accused were considered”. This view is shared by one other force, which saw the introduction of a formal warning scheme as “labour intensive” in terms of complying with the Scottish Crime Recording Standard. The inspection team accepts that the level of bureaucracy in administering and recording police warnings will be largely dictated by the sophistication of the force case management system. HMIC and COPFS acknowledge that the benefits to forces in applying formal warnings should not be outweighed by the effort in administering the process. Forces will be better placed to assess the benefits once the current warning systems can be formally evaluated.

In terms of the concerns expressed by ACPOS and COPFS in 2004 surrounding the practicalities of maintaining a record of written warnings, the inspection team confirmed that agreement has since been reached with the Scottish Criminal Record Office (SCRO). Formal police warnings are to be recorded on the Criminal History System for a period of two years. This agreement allows for information on formal police warnings to be shared across all forces and should prevent offenders being warned repeatedly for minor offences.

### Penalty Notices for Disorder

As part of the Scottish Executive commitment to tackle antisocial behaviour, the police were given new powers under the Antisocial Behaviour etc (Scotland) Act 2004 to issue Penalty Notices for Disorder (PND) for a range of minor crimes and offences committed by offenders aged 16 and over. This tackles offending behaviour where officers would previously have submitted a report to Procurators Fiscal, and covers cases which would have potentially been marked “no proceedings” on grounds of disproportionality. The Lord Advocate has set clear guidelines in regard to these powers, and a £40 penalty was agreed in consultation with COPFS

and representatives of the District Courts. The offences subject to the new powers are broadly similar to those currently covered by formal police warnings and include drunkenness, urinating, street drinking, breach of the peace and vandalism.

Tayside Police is piloting this initiative, which began on 1 April 2004 and will continue until 31 March 2006. The force has completed an interim evaluation covering the first six months of the project and the inspection team is encouraged with the initial observations:

- a total of 1443 PND notices were issued during the six-month period, saving officer time and reducing the number of less serious cases submitted to Procurators Fiscal
- the reduction in less serious cases being submitted has coincided with a decrease in the number of cases marked for no proceedings on the grounds that further action was disproportionate
- overall, stakeholders views of the pilot have been positive
- media coverage has been widespread and positive.

The inspection team is aware of some technology issues in relation to administering PND notices, which forces will have to consider in advance of a national roll out. This depends on existing force systems and the extent to which they are ISCJIS compliant. There are also proposals to change the list of offences, including the addition of possession of personal amounts of controlled drugs, minor assault and minor theft.

While HMIC and IPS do not want to pre-empt the formal evaluation of the PND Pilot, there would appear to be real benefits for the police, Procurators Fiscal and local communities in tackling antisocial behaviour in a manner which does not place an unnecessary burden on the criminal justice system. However, there would appear to be significant overlap between the offences covered by PND legislation and those by formal police warnings, which may question the benefits to forces in adopting or sustaining both systems. It is important that forces and Procurators Fiscal take cognisance of the evaluation of warning schemes to determine the relative benefits from different non-reporting options.

## 8.4 PROCURATOR FISCAL NON-COURT OPTIONS

Procurators Fiscal have a range of options available to them on receipt of a Standard Prosecution Report from the police. As already discussed, they can, if circumstances dictate, mark a case “no proceedings” (Section 4.3). Alternatively, they can select a suitable non-prosecution means of disposal.

### Procurator Fiscal Warning

Where sufficient evidence exists to institute proceedings, Procurators Fiscal may issue a written warning to an accused. Such warnings are only issued in respect of minor offences where, having taken all the circumstances of the offence into account, including an offender’s lack of prior involvement with the police and likelihood of re-offending, it is felt that a warning would be appropriate. A record confidential to the Procurator Fiscal is kept when such a warning is issued and it is highly unlikely that the offender would ever be offered another. Whilst there is value in Procurators Fiscal retaining this option, it may be that some cases presently dealt with in this way would be more appropriately dealt with by police non-reporting options.

### Fiscal fine

Where a Procurator Fiscal decides that Prosecution is appropriate but that the likely outcome is a fine, a Conditional Offer of Fixed Penalty (Fiscal Fine) may be offered. Currently these can be for £25, £50, £75 or £100 and must be paid to the Clerk of the District Court within 28 days. Non payment leads to the start of Court proceedings for the original offence. Fiscal Fines cannot be issued where penalties in addition to fines are appropriate, such as Road Traffic Offences, where endorsement of a licence is imposed, or where compensation for a victim is sought. The take up rate for Fiscal Fines is high and provides an effective disposal of cases without resorting to a court hearing. Following recommendations from the McInnes Report, the Scottish Executive has announced its intention to increase the maximum Fiscal Fine to £500 and to introduce fiscal compensation orders (FCOs), up to a maximum of level 5 on the standard scale of summary fines (currently £5000). This will increase the range of offences which can be disposed of by Fiscal Fines and will potentially further reduce the volume of cases taken through the courts.

## Diversion

Various schemes exist throughout the country where offenders agree to take part in various diversion schemes as an alternative to prosecution. In the majority of cases Procurators Fiscal waive prosecution where offenders agree to take part in a diversion scheme. However, in some cases deferral of the decision whether to prosecute may be more appropriate. Diversion schemes lie outwith the scope of this inspection, although HMIC and IPS acknowledge the valuable role played by Social Work departments to which minor offenders with particular problems are diverted. Mention must also be made of the success of the Mediation and Reparation Schemes run by SACRO in Edinburgh and elsewhere, and of the usefulness of the various schemes throughout the country to divert offenders suffering from mental health problems to treatment centres without the need to appear in Court.

## 8.5 BENEFITS FROM NON-REPORTING AND NON-COURT OPTIONS

A number of benefits can be achieved from non-reporting and non-court options. In a business sense, time can be saved by police officers who no longer need to complete full reports for minor offences. In respect of issuing fixed penalty notices at the scene of the incident, officers are no longer required to make time-consuming journeys to custody centres after arrest. Business benefits potentially accrued by Procurators Fiscal include less time being spent marking minor reports received from the police. This has a knock-on effect in allowing both police and Procurators Fiscal to spend more time on more serious cases. Additionally, cases can be disposed of without recourse to a warrant and the full court process, leading to a lower number of trials held. This has obvious benefits in saving the amount of time spent at court by witnesses and in preparing cases.

A number of benefits can also be seen in respect of communities. It would be fair to assume that members of the public are generally unaware of that action is taken when a person is reported by the police to Procurators Fiscal. Many people will be unaware of the levels of bureaucracy and time involved in taking an offender through the criminal justice system. If there is a clear, consistent approach in tackling minor offences by issuing formal warnings or fixed penalty notices or by Procurators Fiscal alternatives to prosecution, then public visibility of summary justice would be increased.

HMIC and IPS are encouraged by recent advances in non-reporting and non-court options. However, the recent introduction of Public Notices for Disorder (PND) and proposals to increase Fiscal Fines would suggest the need for a joint national review by ACPOS and COPFS. This should also consider a national framework to inform forces and Procurators Fiscal of which offences are most suited to particular non-reporting and non-court options.

**RECOMMENDATION 9 – that ACPOS and COPFS review the current and proposed range of non-reporting and non-court options, with a view to establishing a national framework to inform forces and Procurators Fiscal of which offences are most suited to which disposal.**

## CHAPTER 9 – Abbreviated Reports

“We consider though that the preparation of full police reports in every case for submission to the Procurator Fiscal with an initial report is not a good use of police time.”

The Summary Justice Review Committee “Report to Ministers” 2004

The ACPOS/COPFS Working Group considered abbreviated reports. It recognised that introducing electronic transmission of police reports and adopting a Standard Prosecution Report across Scotland, limited the use of simplified reports that had previously been used by forces. At that time, Strathclyde Police had been working with the Procurator Fiscal in Glasgow and had created templates for a range of minor offences. It was considered that these could be used on a national basis and the following was included within the ACPOS/COPFS Joint Protocol:

- *Area Fiscals and Chief Constables should identify categories of offences in respect of which they agree that they may be reported in an abbreviated format. Any such agreement should be reviewed annually as should the capacity to extend it to other offences – [ACPOS/COPFS – Rec. 18]*
- *The styles for abbreviated reports developed in the Strathclyde Area should be regarded as suitable templates for local use – [ACPOS/COPFS – Rec. 19]*

The inspection team confirmed that all forces are developing approaches with Area Procurators Fiscal to streamline reporting. However, it is helpful to distinguish between “abbreviated reports” and “abbreviated reporting”, both of which can provide business benefits.

## 9.1 ABBREVIATED REPORTS

Abbreviated reports contain a shortened evidential section within the Standard Prosecution Report (SPR) and are intended to provide sufficient information to Procurators Fiscal in relation to minor cases. As there are a number of mandatory fields that must be completed before a report can be sent electronically, there is only minimal scope to abbreviate a report. However, the inspection team confirmed that all forces have developed, or are in the process of developing, a range of abbreviated templates in partnership with Procurators Fiscal. These consist of pro-forma summaries with evidential bullet points to simplify the process of creating reports by officers and assist marking by Procurators Fiscal. The inspection revealed that approximately 15-20 % of reports currently submitted to Procurators Fiscal are in an abbreviated format.

Consultation with the Sheriffs’ Association highlighted the importance of abbreviated reports containing all the information the court requires to determine sentence. If such information is not available, then the court either has to adjourn the case for the information to be obtained or has to rely on what is said by the defence. This creates an additional burden on the courts, Procurators Fiscal and police and reduces any benefits of the abbreviated report.

The inspection team is encouraged that all forces have made attempts to implement a system of abbreviated reports in conjunction with Procurators Fiscal. However, there appears to be a lack of consistency in the application and range of pro-forma summaries currently in use. There is also a link with options for non-reporting (Section 8.3), which may limit the value of abbreviated reports through any increase in the number of minor cases which no longer require to be reported. Of the forces that have implemented a full system of abbreviated reports, there has been no formal evaluation of the benefits, although some forces have started to collect management information regarding their submission. HMIC and IPS consider there would be value in ACPOS and COPFS evaluating the use of abbreviated reports across Scotland. This would complement the recommended review of the current and proposed range of non-reporting and non-court options. It would also provide guidance on suitable reporting formats as part of any national framework in relation to which offences are most suited to which disposal.

**RECOMMENDATION 10 – that ACPOS and COPFS evaluate the benefits of abbreviated reports against developments in non-reporting and non-court disposals, with a view to including reporting formats within any national framework to inform forces and Procurators Fiscal which offences are most suited to the use of abbreviated reports.**

## 9.2 ABBREVIATED REPORTING

The “Cleanstream” projects in West Lothian and Grampian provide a framework for officers to engage with the Procurator Fiscal to establish the evidential requirements for a particular case before submitting it. Upon the Procurator Fiscal deciding if a report is required, the officer is informed and the report is thereafter prepared. The “Cleanstream” method of abbreviated report is different from the abbreviated reports agreed in the ACPOS/COPFS protocol. The arrangement essentially involves feedback from the Procurator Fiscal in relation to matters that are irrelevant or which could be more clearly focused to reduce the length and complexity of reports. This is viewed positively by officers, who believe it substantially reduces the amount of time writing reports and gives Procurators Fiscal “what they need”. While officers made frequent contact with the Procurator Fiscal during the early stages of “Cleanstream”, the need for this diminished as officers become more familiar with what they required.

Early indications suggest that a significant proportion of cases are submitted in an “abbreviated” format on the instruction of the Procurator Fiscal. After the first 29 weeks of the Grampian project, 87% of reports were submitted in an abbreviated form, with 4% being slightly abbreviated. A further 9% were not abbreviated and only 1% could not be abbreviated. Officers involved in the project believe that this approach allows briefer reports to be submitted quickly to the Procurator Fiscal.

The inspection team is supportive of any initiative that reduces the need for officers to submit police reports and increases Procurators’ Fiscal capacity to mark cases. HMIC and IPS are aware that the “Cleanstream” projects will be formally evaluated. This should provide useful information for ACPOS and COPFS in relation to the potential benefits and wider application of abbreviated reporting.

The Ayrshire Procurator Fiscal Fixed Fine Initiative (PFFFI) is a further example of abbreviated reporting, involving joint working between police and Procurators Fiscal at Ayr and Kilmarnock. The initiative was introduced in August 2003 to reduce a backlog of police reports. It was agreed that the Procurator Fiscal would accept initial crime reports for specific minor offences and use the information to consider an appropriate disposal. Once crime reports are marked by the Procurator Fiscal, case management units generate a skeleton SPR, with the disposal indicated by the Procurator Fiscal. These reports are subsequently forwarded to the Procurator Fiscal and processed by administrative staff, without being re-examined by the Procurator Fiscal Depute.

HMIC and IPS were encouraged by the innovative approach in marking minor cases from a crime report, and acknowledge the resultant time savings for officers. This is seen as a particularly useful approach in clearing backlogs of police reports and may be worthy of replication in other forces. The approach lends itself to providing Procurators Fiscal with access to crime recording systems and could be supported through increased co-location of staff. However, the development of a national framework to inform police and Procurators Fiscal in relation to what offences are suited to what disposal, may reduce the need for this initiative.

## CHAPTER 10 – Requests for Information

“... the police need to be structured so that, when a Procurator Fiscal seeks further information about a report to inform the prosecution decision, it is clear how the police will handle the question and the time frame within which the Procurator Fiscal can expect an answer.”

The McInnes Report 2004

The inspection team found a diverse range of processes applied by forces and Procurators Fiscal in processing requests for information to inform prosecution decisions. There is also a complete lack of management information captured by police forces and COPFS to monitor such requests. A similar situation exists in relation to requests for statements (Chapter 11) In the absence of robust processes, it is commonplace for responses to Procurators Fiscal to be delayed, which in turn impacts adversely on the COPFS target to take and implement a decision to prosecute. Anecdotal evidence suggests that, in some instances, Procurators Fiscal have limited confidence in existing processes and are likely to mark a case “no proceedings” rather than request additional information from police officers.

Consultation with the Sheriffs’ Association revealed that information about matters relevant to sentence, such as the full nature and extent of losses, injury or damage, was frequently not immediately available. It was recognised that in some cases such information may take time to assess and that the Procurator Fiscal may need to make further enquiry of the police. There is therefore a need to make proper follow-up enquiries and to provide satisfactory supplementary reports. The experience of Sheriffs suggests there is still room for improvement in this area.

Requests for information were addressed within the ACPOS/COPFS Joint Protocol through the following:

- *Requests for information between Scottish Police Forces and COPFS should be dealt with within 14 days unless otherwise agreed – [ACPOS/COPFS – Rec. 10]*
- *Every Police Force should have a disclosed back-up system in place to enable timely response to communications from the Procurator Fiscal notwithstanding the absence from the duty of the Reporting Officer, for whatever reason [ACPOS/COPFS – Rec. 14]*

The inspection team was aware of concerns expressed by some forces that the 14 day target for all requests for information from Procurators Fiscal would be detrimental to operational policing and that, in many cases, Procurators Fiscal may not always require the information within that period. Forces indicated that the priority given to formal requests for information regarding summary cases and the time frames set is wholly dependent on the urgency expressed by the Procurator Fiscal at time of request. The 14 day target is not a statutory performance indicator and is largely ignored by forces. The service delivery to Procurators Fiscal is dictated by the urgency of the request.

Taking into account local arrangements, the existence of co-located officers within Procurator Fiscal offices and the management information available through the FOS system, there is significant scope for improvement by both services in monitoring information requests through current management systems. The inspection team suggests that all information requests from Procurators Fiscal should be managed using the following information:

- date information requested
- date the response is required by PF
- date the response is received by PF.

HMIC and IPS suggest that all requests by Procurators Fiscal are routed through a single point of contact within forces or divisions, possibly the case management unit or co-located officers. On receipt of such a request, the force should seek to deliver the relevant information by the date requested by the Procurator Fiscal. Timescales for response should be set on a case by case basis and informed by local discussion and agreement between both services. The existing target of 14 days for all correspondence should be abandoned in favour of a new target, with performance measured against the date by which the response is required. Forces and Area Procurators Fiscal should routinely monitor performance against this target, to identify unacceptable delays by police or unrealistic dates being set by Procurators Fiscal.

Given that Procurators Fiscal both initiate and receive all requests for information, it would appear logical that FOS is adopted as the primary system to record the three key dates and provide performance information. The inspection team accepts that this may require some additional development to the FOS system and may include new functionality to automate receipt responses to information requests from forces. HMIC and IPS recommend that COPFS explore the feasibility of using FOS to record and monitor performance in relation to requests for information.

**RECOMMENDATION 11 – that ACPOS and COPFS review the current target to respond to all requests for information within 14 days, and establish a new target set against the date by which the response is required. COPFS should also explore the feasibility of using the Future Office System (FOS) to record and monitor performance relating to requests for information.**

While FOS would seem a suitable system to record and monitor performance in relation to information requests, there will still be a requirement for police case management systems to receive, allocate and fulfil such requests. The integrated case management system within Tayside Police has this functionality. It also provides a back up arrangement for requests, should reporting officers be unavailable, by re-routing these to alternative officers. Central Scotland Police, Fife Constabulary and Grampian Police have functionality within the CrimeFile system to log and manage requests for information as tasks in individual officer workloads, with supervisory oversight.

HMIC and IPS consider that introducing police co-located officers will assist in providing “system back up” in terms of prompting timely responses from officers to requests from Procurators Fiscal. This is already evident within Dumfries & Galloway Constabulary, Fife Constabulary and the relatively new post created in Central Scotland Police.

## CHAPTER 11 – Statements

“In all cases in which a not guilty plea has been tendered and a summary trial has been fixed, full witness statements should be prepared by the police, if they have not been prepared earlier.”

The Summary Justice Review Committee “Report to Ministers” 2004

Recommendation 2A of the Bonomy Report focused on the issue of witness statements and recommended the setting up of a working party to review how witness statements are taken and in what circumstances they might be disclosed to the defence. The ACPOS and COPFS Working Group formed to develop the Joint Protocols considered this area, and thereafter recommended that the issue of statements be addressed through the following:

- *Statements submitted to the Procurator Fiscal (in electronic format) must, on the face of such statements, record the source of the statement and describe the method of authentication – [ACPOS/COPFS – Rec. 23]*
- *There should be common practice across Scotland for the layout and completion of transmitted statements – [ACPOS/COPFS – Rec. 24]*
- *A set of data standards for statements should be developed through ISCJIS – [ACPOS/COPFS – Rec. 25]*
- *Suitable templates for pro forma statements for a range of witnesses should be developed jointly by a short-term ACPOS/COPFS Working Group – [ACPOS/COPFS – Rec. 26]*
- *ACPOS should agree to adopt the principle that it is the responsibility of the statement taker or author to ensure that any statement is both accurately recorded and appropriately sourced and authenticated – [ACPOS/COPFS – Rec. 27]*
- *ACPOS should endorse the key role of the Supervisory Officer in ensuring the reliability of statements – [ACPOS/COPFS – Rec. 28]*
- *ACPOS and COPFS should commit to a process of full disclosure in all solemn cases – [ACPOS/COPFS – Rec. 29]*
- *COPFS should consider a pilot for routine disclosure of a summary of the Crown case in summary cases – [ACPOS/COPFS – Rec. 30]*
- *Police statements in solemn cases should be routinely prepared on the understanding that sensitive material will be excluded from the disclosure process and such material should be contained in an addendum to, rather than in the body of, the statement – [ACPOS/COPFS – Rec. 31]*

The timely provision of good quality witness statements to the Procurator Fiscal can have a significant bearing on the progress of a case, especially where there is a possibility of a guilty plea at an early stage. It is imperative that the police give sufficient importance to taking and submitting to Procurators Fiscal properly authenticated witness statements, in accordance with appropriately recognised timescales.

## 11.1 SUBMISSION OF STATEMENTS

It was clear to HMIC and IPS that improvement in relation to timeliness and quality for Standard Prosecution Reports has not been mirrored in the case of submission of statements.

Consultation with the Sheriffs' Association reveals that new disclosure requirements have created additional pressures for the police and the prosecution service in relation to preparing and providing witness statements. Sheriffs in many courts have been aware of difficulties with the timeliness, and quality, of statements since well before the recent developments in the law. Sheriffs are not generally in a position to know if late statements are the result of delay by Procurators Fiscal, the police or both, but are aware of the impact on efficient planning and timely disposal of court business. Sheriffs have expressed disappointment over continuing problems of discomfiture of police witnesses giving evidence in trials, when discrepancies are discovered between their evidence in court and the statement that they purportedly prepared themselves. More serious is a perception amongst Sheriffs of persisting problems of poorly prepared civilian witness statements, unnecessarily giving rise to stress for witnesses and opportunities to attempt to undermine their evidence.

Submitting statements was included in the overarching ACPOS/COPFS target of 14 days for forces to respond to requests for information from Procurators Fiscal. Despite this, the inspection team found that the target was largely ignored by both services. In respect of solemn and summary custody cases, Procurators Fiscal request that statements are submitted "immediately" or within seven days. In respect of solemn and summary bail cases, the return dates varied between 21 and 28 days. Return dates also varied considerably in respect of non-custody summary cases. Forces were critical of Procurators Fiscal apparent lack of acknowledgement of operational policing requirements, shift patterns and rest days, when requesting full statements.

The inspection team noted that the lack of consistency and potential confusion posed by different dates appearing on statement requests, led to forces deciding when to submit the statements. This invariably means that statements are submitted against the latest date. HMIC and IPS recognise the similarity between statement requests by Procurators Fiscal and requests for information (Chapter 10). All statement requests should be managed using the following information:

- date the statements are requested
- date the statements are required by PF
- date the statements are received by PF.

HMIC and IPS suggest that all Procurators Fiscal requests for statements are routed through a single point of contact within forces or divisions, possibly the case management unit or co-located officers. On receipt of such a request, the force should seek to deliver the statements by the date requested by the Procurator Fiscal. As with requests for information, forces and Area Procurators Fiscal should routinely monitor performance, to identify unacceptable delays by officers or unrealistic dates being set by Procurators Fiscal.

While standard prosecution reports are transmitted electronically between forces and Procurators Fiscal, it is common for Procurators Fiscal to request statements by letter or fax. This paper-based approach has the potential to cause problems in relation to receipt, recording and allocating requests. Although some forces use effective electronic systems for fulfilling statement requests, the inspection team established that, in many cases, processing requests was inconsistent and, at times, haphazard. The inspection team also discovered some confusion within forces in relation to the ability of COPFS computer systems to record requests and receipt of statements. HMIC and IPS found that no meaningful management information was available in respect of statement requests.

On the basis that Procurators Fiscal initiate and receive all statement requests, it would appear logical here too that FOS is adopted as the primary system to record the three key dates and provide performance information. As with requests for information, this may require some additional development to the FOS system and include

new functionality that automatically receipts responses to statement requests. HMIC and IPS recommend that COPFS explore the feasibility of using FOS to record and monitor performance in relation to statement requests.

**RECOMMENDATION 12 – that ACPOS and COPFS establish a new target for submitting statements, set against the date by which the response is required. COPFS should also explore the feasibility of using the Future Office System (FOS) to record and monitor performance in relation to submitting statements.**

Whilst HMIC and IPS recognise that all forces and Area Procurators Fiscal are making efforts to enhance the submission of witness statements, developments in two force areas were seen as good practice.

Fife Constabulary recently introduced a Statement Section, where one of the report checkers assumes the role of liaison officer for all statement requests. This officer provides a single point of contact between the Procurator Fiscal, supervisory officers and reporting officers. This ensures that all requests are properly managed and submitted timeously. The CrimeFile system is used to prompt supervisory and reporting officers where statement requests are nearing their submission dates. The role also ensures that procedures are in place to fast track urgent and petition statements. The Statement Section processes in the region of 9,600 statement requests per year and provides significant time savings for reporting officers.

Strathclyde Police has introduced an Intranet Case Reporting System (ICRS), which coincided with a force training programme on the launch of the National Standard Statement. Individual officers are responsible for evidential quality; however the system has control mechanisms in place to ensure that non-evidential aspects of the statement are addressed. A statement can be tracked from the time it is typed up to submission to the Procurator Fiscal. This allows for contingency options in an officer's absence. Statements can also be forwarded directly to the Procurator Fiscal when ready, avoiding the need to wait until the entire set has been completed. Furthermore the system will provide meaningful management information.

## 11.2 HOLLAND AND SINCLAIR

The decision of the Judicial Committee of the Privy Council in the cases of Holland and Sinclair<sup>16</sup> came into effect on 1 September 2005. The Crown now has a duty to obtain and disclose witnesses' statements as well as Previous Convictions and Outstanding Cases (PCOCs) for some witnesses whom the Crown intends to call to give evidence in summary court proceedings. This has implications for all agencies involved within the criminal justice process. In September 2005 a joint ACPOS/COPFS Conference addressing this complex issue was held at the Scottish Police College. Delegates agreed that there was also an opportunity for "faster, fairer and effective justice" within the context of the wider criminal justice reform programme.

Although it is appreciated that work is needed to maximise the efficiency and effectiveness of processing statement requests, the inspection team has confirmed that the Holland and Sinclair developments have drawn the timescales for the submission of statements into sharper focus. The inspection team found that, in general current processes for processing disclosure requests are loose and disjointed. The majority of forces and Area Procurators Fiscal believe that the implications of PCOCs will place a significant burden on both organisations. The inspection team endorses this view, in the knowledge that only a few forces are presently comfortable with their level of performance on submission times. The Holland and Sinclair provisions will increase pressure on forces to provide statements within tighter timescales. And any failure to comply with timescales will reduce the time available for Procurators Fiscal to address disclosure applications from defence agents.

Forces have yet to realise the full impact of the Holland and Sinclair provisions, introduced in September 2005, although their case management workloads have already significantly increased. Forces currently process disclosure requests according to local arrangements, and the inspection team found no common approach as to how disclosure requests are managed. Some forces separate the statement request from the PCOC enquiry, while others deal with the request as one package. Likewise, some requests are sent directly to reporting officers while others are managed centrally. Problems are occurring where case management staff

are attempting to cope with the increased volume of requests. There are also issues around the resultant lack of suitably qualified staff to access the SCRO Criminal History System (CHS) in respect of PCOC enquiries. The inspection revealed a consensus amongst forces that some targets concerning requests for statements and PCOCs were "unrealistic".

Recent developments have included allowing Procurators Fiscal limited access to the CHS. This enables them to undertake checks on previous convictions and outstanding cases for both witnesses and accused. It still requires forces to confirm the identity of the witnesses or accused on CHS and to provide the unique reference for these persons, prior to submitting cases to the Procurator Fiscal. This burden on forces should, nevertheless, be eased by a proposed legislative change to require witnesses to provide their date of birth to police officers when providing statements.

In general, the most common concern from Area Procurators Fiscal relative to the Holland and Sinclair provisions relates to staffing issues. One Procurator Fiscal intimated that although significant benefits had been accrued from the Bonomy reforms in solemn cases, these were effectively eroded by Deputes having additional work in respect of summary disclosure issues. Another stated that greater redaction than should be necessary was required, due to officers failing to apply confidential witness information in the appropriate field of the National Statement Standard. It was also believed that police failure to meet timescales for statement requests would increase pressure on Procurator Fiscal staff by reducing the time available for disclosure related tasks.

The inspection team recognises that the Holland and Sinclair provisions are at an early stage, although both police and Procurators Fiscal have concerns regarding the current and future management of disclosure requests. HMIC and IPS are aware that the ACPOS Criminal Justice Business Area and COPFS are jointly considering the issue of disclosure, and recommend that ACPOS and COPFS develop this work into a joint protocol on disclosure requests.

**RECOMMENDATION 13 – that ACPOS and COPFS develop a joint protocol for disclosure requests.**

<sup>16</sup> Holland v HMA 2005 SCCR 417 and Sinclair v HMA 2005 SCCR 446

## CHAPTER 12 – Training

“There is a clear need to address problems of lack of mutual awareness and understanding of others’ work and of ‘organisational empathy’ on the part of staff within the Criminal Justice system agencies.”

Proposals for the Integration of Aims, Objectives and Targets in the Criminal Justice System – Andrew Normand 2002

The Normand Report recognised the criminal justice system as being the sum of the constituent parts of the different organisations. It is understood that greater mutual understanding of each other's aims and objectives could increase the overall effectiveness of the Criminal Justice System. As co-operation is a key principle in terms of shared understanding, joint working between the criminal justice agencies was seen as the way ahead. Joint training was viewed as an essential element in support of this aim and the ACPOS/COPFS Working Group recommended that:

- *ACPOS and COPFS should consider the formation of a Joint Standing Group to identify training needs in respect of issues of joint relevance to both organisations and to develop an appropriate implementation strategy – [ACPOS/COPFS – Rec. 32]*
- *Area Fiscals and Chief Constables should constitute local Working Groups to ensure delivery of joint training needs at local level and to provide input into the national strategy – [ACPOS/COPFS – Rec. 33]*

## 12.1 JOINT TRAINING

The inspection team found that no ACPOS/COPFS Joint Standing Group to identify training needs around issues of joint relevance had been implemented. The inspection team acknowledges that some progress has been made in relation to joint training between police and COPFS. However this has proceeded on an "ad hoc" basis, with little consistency and no national co-ordination.

The inspection team also acknowledges the secondment of a Procurator Fiscal Depute to the Scottish Police College. Beginning in March 2005 as a one year secondment, there is scope for this to be formalised into a permanent post. Over the course of the year, the role has developed significantly and the inspection team acknowledges the valuable contribution that has been made across many areas of national police training. In addition to core training for probationary constables, a range of inputs have been delivered in terms of crime management, detective training, roads policing, leadership and management, and civil emergency and major incident training. The Procurator Fiscal Depute facilitates inputs from COPFS staff in specialist areas of investigation, and arrangements have been made for COPFS staff to observe training courses run at the college. Additionally, Scottish Police College staff have recently attended a training course run by COPFS, on vulnerable witnesses.

A range of training has taken place between police and Procurators Fiscal at a local level. But this largely consists of either police or COPFS providing an input to each other, as opposed to a joint training delivery. Much of the training has been in relation to non-case management issues, and there is little evidence of evaluation having taken place. The majority of joint training in case management has been facilitated through co-located officers. Although this is commendable and offers scope for future development, a more structured co-ordinated approach could produce greater benefits.

The inspection team has established that local joint training initiatives between the police and Procurators Fiscal do exist, though at varying stages of progress. There appears to be genuine commitment from both agencies to develop this further, and anecdotal evidence from the inspection suggests an appreciation that much can be achieved from greater understanding of partner needs. The infrastructure for greater co-ordination appears to be in place by virtue of the National and local criminal justice boards. This should develop a greater awareness of training needs, through information sharing amongst the criminal justice agencies, and ensure that joint training becomes more focused and co-ordinated.

## 12.2 TRAINING IN REPORTS AND STATEMENTS

All probationary constables receive training in report writing and statements during initial training at the Scottish Police College. And, as earlier intimated, this includes inputs from the seconded Procurator Fiscal Depute. This training provides the foundation for a courtroom practical exercise led by the Procurator Fiscal Depute, involving defence agents and retired Procurators Fiscal. During the second year of their probationary training, students return to the Scottish Police College. At this stage, tutorials are provided on the practical aspects of report writing, to ensure that students are aware of issues surrounding accuracy, sufficiency of evidence, mitigating circumstances and the grounds on which a report may be marked "no proceedings".

The training provided at the Scottish Police College is complemented to varying degrees at force level. A number of forces have central and/or local training departments, which develop the skills of probationary constables. Prior to commencing operational patrol, probationary constables attend local training courses to learn local procedures. A proportion of this training aims to provide a local slant on producing and transmitting police reports, with a range of support documentation and guidance notes to supplement the training. At street level, probationary constables are supported by tutors and supervisors on the practical aspects of completing reports.

Central Scotland Police currently operates a Tutor Unit, where probationary constables spend the first ten weeks after completing their initial training at the Scottish Police College. Each student spends eight weeks within the unit and two weeks with a Community Police Officer. This ensures that every probationer gets a consistent cross-section of experience and dedicated Tutors can ensure that core competencies needed for completing Standard Prosecution Reports and statements are addressed. HMIC and IPS recognise that this provides a useful focus on the practical needs of the probationer; although the unit uses abbreviated reports for some offences, probationers complete full Standard Prosecution Reports for training purposes in every case.

Whilst the inspection was able to confirm the adequacy of training for police reports, the same cannot be said in respect of training for statements. This is an important issue, particularly in light of the Holland and Sinclair provisions. Some Procurators Fiscal raised concerns regarding statement quality, with specific references being made to the new National Statement Standard format and information being included in the wrong field. Only two forces were able to demonstrate local training for operational officers in relation to statements. While a review of probationer training by another force had recently highlighted a training need around statement quality. In Central Scotland Police, an experienced Detective Sergeant provides local training in taking statements to both probationary constables and other officers where a training need has been identified. The absence of training in statement taking in the majority of forces suggests that this is an area that ACPOS and COPFS need to revisit.

**RECOMMENDATION 14 – that ACPOS and COPFS, as part of the review of the Joint Protocols, establish a joint working group to develop a strategy for training on criminal justice issues, including Standard Police Reports and statement taking.**

© Crown copyright 2006

This document is also available on the Scottish Executive website:  
[www.scotland.gov.uk](http://www.scotland.gov.uk)

Astron B46885 07/06

Further copies are available from  
Blackwell's Bookshop  
53 South Bridge  
Edinburgh  
EH1 1YS

Telephone orders and enquiries  
0131 622 8283 or 0131 622 8258

Fax orders  
0131 557 8149

Email orders  
[business.edinburgh@blackwell.co.uk](mailto:business.edinburgh@blackwell.co.uk)

ISBN 0-7559-5094-1



9 780755 950942