



# THE JOINT INSPECTION OF THE WEST MIDLANDS CRIMINAL JUSTICE AREA

MAY 2007



Her Majesty's  
Inspectorate  
of Probation



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OF THE  
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## CHIEF INSPECTORS' FOREWORD

The Chief Inspectors of the criminal justice inspectorates are pleased to publish their joint report on the West Midlands criminal justice area. This inspection builds on previous joint inspection work and is part of a programme of area joint inspections planned for 2006-07. This emphasises the continuing commitment of the criminal justice inspectorates to joint inspection working to help the delivery of improved case management and increase public confidence in the criminal justice system.

The criminal justice inspectorates have for some time been increasing their scrutiny of the effectiveness of the relationships between the organisations which they are responsible for inspecting, and in particular how effective those agencies have been in working together to improve performance within a framework which recognises the inter-dependencies of a criminal justice system, (CJS) whilst respecting the separate and independent role of the agencies themselves.

Local Criminal Justice Boards operate on a non-statutory basis and formally came into existence on 1 April 2003. They represent a new way of doing business within the criminal justice system, through better co-ordinated and more cohesive working arrangements. This national infrastructure also offers a more substantial focal point for integrated inspection. We, as leaders of the criminal justice inspectorates, are determined to continue to build on this through the planned programme for this year.

Strategic planning and managing delivery on a cross-agency basis at a local level is a developing concept. The scope of the work of the Local Criminal Justice Boards is kept under constant review by the National Criminal Justice Board, and the Office of Criminal Justice Reform regularly issues guidance and practitioner toolkits, both on new initiatives and best practice, toward improving performance against existing measures. Although the potential benefits of integrated inspection based on criminal justice areas are substantial the inspection processes will likewise need careful and ongoing development. Each joint inspection will be subject to a rigorous evaluation to ensure that there is continuous improvement in our processes.

Each criminal justice area is assessed against a common framework which for this business year focuses on four objectives:

- Increasing public confidence in the criminal justice system;
- Increasing the number of offences brought to justice;
- Reducing ineffective trials; and
- The enforcement of community sentences.

Within the framework we address issues of corporate governance arrangements and the strategies and policies of the West Midlands Criminal Justice Board, together with the effectiveness of inter agency co-operation on those matters which affected overall performance from the point of charge through to passing of sentence, including any proceedings brought for breach of a community sentence. The framework draws on standards and guidance produced by the National Criminal Justice Board, the Office of Criminal Justice Reform, the Youth Justice Board, or the individual agencies themselves.

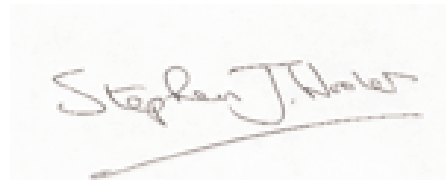
This inspection was carried out in accordance with the principles of inspection set out by the Office of Public Service Reform and examined issues so far as practicable from a user perspective – particularly that of victims and witnesses. The inspection team worked closely with the Quality and Standards Department of Victim Support and their assessments have been incorporated into the overall report.

Our intention is that this report will inform the people of the West Midlands about how effectively the local CJS works by highlighting the strengths of inter agency working and identifying where further improvement can be made. It will also inform the policies, strategies and delivery of the wider criminal justice community.

Finally, the Chief Inspectors take this opportunity to thank the Chief Officers and staff of the criminal justice agencies in the West Midlands for the considerable assistance given during the course of this inspection. We also thank those from the wider West Midlands community who come into contact with the criminal justice system for giving up their time to inform us of their experiences.



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HM Chief Inspector of Prisons



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## CONTENTS

|          |  |           |
|----------|--|-----------|
| <b>1</b> | <b>INTRODUCTION</b>  | <b>1</b>  |
|          | West Midlands Area   | 1         |
|          | West Midlands Criminal Justice Board                                 | 2         |
|          | Scope of inspection  | 2         |
|          | Methodology  | 3         |
|          | Structure of report  | 3         |
| <b>2</b> | <b>EXECUTIVE SUMMARY</b>   | <b>5</b>  |
|          | Overview   | 5         |
|          | West Midlands Criminal Justice Board                                 | 6         |
|          | Public confidence and community engagement                           | 7         |
|          | Bringing offenders to justice  | 8         |
|          | Reducing the level of ineffective trials                             | 8         |
|          | Enforcing community penalties  | 9         |
|          | Key performance results  | 9         |
|          | Good practice  | 10        |
|          | Strengths  | 10        |
|          | Aspects for improvement  | 11        |
|          | Recommendations  | 11        |
| <b>3</b> | <b>IMPROVING PUBLIC CONFIDENCE AND COMMUNITY ENGAGEMENT</b>          | <b>15</b> |
|          | Overview   | 15        |
|          | Governance and structure of the West Midlands Criminal Justice Board | 15        |
|          | Policy and planning  | 18        |
|          | Performance and performance management                               | 19        |
|          | Building public confidence in the criminal justice system            | 21        |
|          | Equality and diversity   | 24        |
| <b>4</b> | <b>BRINGING OFFENDERS TO JUSTICE</b>                                 | <b>27</b> |
|          | Overview   | 27        |
|          | Bringing offenders to justice  | 27        |
|          | Pre-charge advice  | 28        |
|          | Discharged committals  | 30        |
|          | Sensitive and specialist casework                                    | 33        |
|          | Priority offending   | 35        |
| <b>5</b> | <b>REDUCING THE LEVEL OF INEFFECTIVE TRIALS</b>                      | <b>37</b> |
|          | Overview   | 37        |
|          | Reducing the level of ineffective trials                             | 37        |
|          | Case management and timeliness                                       | 40        |
|          | Simple, speedy, summary justice                                      | 42        |
|          | Persistent young offenders   | 43        |
|          | Victim and witness care  | 44        |
|          | The rights of defendants   | 46        |

|          |  |           |
|----------|--|-----------|
| <b>6</b> | <b>ENFORCING COMMUNITY PENALTIES</b> .....                         | <b>49</b> |
|          | Overview .....   | 49        |
|          | Background information .....                                       | 49        |
|          | End-to-end enforcement performance .....                           | 50        |
|          | The West Midlands enforcement process .....                        | 54        |
| <b>7</b> | <b>ANNEXES</b>   |           |
|          | Annex 1: Key performance results .....                             | 61        |
|          | Annex 2: Those who assisted our inspection .....                   | 68        |
|          | Annex 3: West Midlands CJB structure and reporting framework ..... | 69        |



## 1 INTRODUCTION

### **West Midlands Area**

- 1.1 The West Midlands Area covers 905 sq km and has a population of almost 2.6 million people, the majority living within the three major cities of Birmingham, Coventry and Wolverhampton. The area forms one of the largest conurbations outside London. The population density is high at 2,833 people per sq km in the Area (compared with 405 per sq km in the wider West Midlands Region) with Birmingham the most densely populated at 3,647 people per sq km, and Solihull the least at 1,119 per sq km. The Area is well served by rail and road links and an international airport, and is at the heart of the country's road and rail network, with several motorways and major rail lines passing through the conurbation and surrounding area.
- 1.2 While manufacturing is still important to parts of the West Midlands, the local economy is changing, particularly in Birmingham, which has diversified into professional and financial services and tourism. The region's economy, once heavily dependent on traditional manufacturing, is now diverse, with a wide range of industries and business services. Areas of economic prosperity contrast with areas of local economic decline. In recent years, the area has seen the development of commercial and shopping areas, complemented by a wide range of leisure amenities, such as the National Exhibition Centre, National Indoor Arena, theatres, art galleries, many large conference facilities and thriving social facilities.
- 1.3 The Area has a diverse population drawn from a wide range of ethnic and cultural groups. Some 20% of residents are from minority ethnic groups, including 13.37% Asian or Asian British, and 3.37% black or black British. 10% of the population was born outside the UK.
- 1.4 The total number of offences per 1,000 of the population in the West Midlands Area dropped by 2% from 2004/05 to 2005/06, from 114 to 112, a similar reduction to that for England and Wales as a whole. Burglary in the Area fell by 4% in 2005/06, theft and handling of stolen goods by 5%, theft from vehicles by 8%, and fraud and forgery by 21%. However, total violent crime in the Area increased by 2%, in line with the national average, and drug and other offences by 25% (compared with a national increase of 21%).
- 1.5 The criminal justice agencies have their Area headquarters in Birmingham in addition to police stations, courthouses, and offices throughout the Area. Her Majesty's Courts Service has Crown Court centres in Birmingham, Coventry and Wolverhampton, in addition to eleven magistrates' courts at Aldridge, Birmingham, Coventry, Dudley, Solihull, Stourbridge and Halesowen, Sutton Coldfield, Walsall, Warley, West Bromwich, and Wolverhampton, and a Youth Court in Birmingham. The West Midlands Police (WMP) has 21 operational command units (OCUs), each headed by a chief superintendent who is responsible for the overall policing and management of the area. Each OCU is split into a number of sectors, each headed by an inspector. These sectors are responsible for local policing in the community. The Crown Prosecution Service (CPS) is co-located with the police in all locations except Warley, where co-location was due to be implemented shortly after the inspection. There are seven Youth Offending Teams (YOTs), based in Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton. The West

Midlands Probation Area comprises four divisions covering Birmingham, Coventry & Solihull, Dudley & Sandwell and Walsall & Wolverhampton. Each has several area offices. The Area runs seven Approved Probation Hostels. HM Prison Service has one local prison in the Area, at Birmingham.

- 1.6 The local authorities which make up the West Midlands conurbation are Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton. The West Midlands CJB works with the Crime and Disorder Reduction Partnerships (CDRPs) in these communities. The structures of the Criminal Justice Agencies within the Area are substantially, but not fully, coterminous with the local authority boundaries.

### **West Midlands Criminal Justice Board**

- 1.7 The Government has established 42 criminal justice areas. Each has a Local Criminal Justice Board (LCJB). The West Midlands CJB (WMCJB) formally assumed its responsibilities on 1 April 2003. All LCJBs are charged with establishing and delivering, at local level, targets to support the achievement of national objectives for the criminal justice system that are designed to improve the overall efficiency and effectiveness of the CJS. The national targets for 2006/07, which are drawn from the Ministerial Public Service Agreements (PSAs), (with the corresponding, local targets set for the West Midlands Area, where different) include the following:

- Increasing public confidence in the criminal justice system: increasing the level of public confidence in the CJS in bringing offenders to justice to more than 40%. The West Midlands CJB has adopted an aspirational target to increase the level of public confidence in the CJS in the Area to 47.2% by March 2008;
- Bringing offenders to justice: improving the delivery of justice by increasing the number of crimes for which an offender is brought to justice to 1,253,050 in England and Wales (70,000 in the West Midlands Area) by the end of 2006/07;
- Reducing ineffective trials: reducing the proportion of ineffective trials by the final quarter of 2006/07 to no more than 19.4% in England & Wales (20% in the West Midlands Area) in 2006/07 in magistrates' courts, and 12% in England & Wales (12.0% in the West Midlands Area also) in the Crown Court;
- Effective enforcement of community sentences: for offenders who are subject to breach proceedings for non-compliance with a community order, to achieve an average of 35 working days from the relevant unacceptable absence to the resolution of the case; and 50% of breaches of community penalties to be resolved within 25 working days of the relevant unacceptable absence.

### **Scope of inspection**

- 1.8 The inspection was a joint inspection by HM Inspectorate of Constabulary (HMIC), HM Crown Prosecution Service Inspectorate (HMCPPI), HM Inspectorate of Court Administration (HMICA), HM Inspectorate of Probation, and HM Inspectorate of Prisons. The Quality and Standards Department of Victim Support also assisted the joint inspectorate team.

- 1.9 The joint inspection looked at how effectively the criminal justice agencies and partners including Victim Support and the Witness Service were working together in the West Midlands Area to deliver the outcomes necessary to achieve the targets set by the WMCJB. We considered the governance and strategy of the WMCJB, and the joint response of criminal justice agencies and partners to crime from the point at which a crime is reported to the point of sentence and enforcement of community sentences. This included an examination not just of the work of the WMCJB, but also of the interaction between criminal justice agencies and partners outside the WMCJB framework.

### **Methodology**

- 1.10 Our methodology included a self-assessment by the West Midlands CJB against the inspection framework. We examined management information, plans and documentation from the WMCJB. We visited the area for two weeks from 6 to 17 November 2006 and held interviews with criminal justice agency staff at all levels, criminal law practitioners and representatives of local community based organisations. Focus groups of victims and witnesses, police officers, agency case progression officers and magistrates' bench chairs were also held. The inspection team carried out observations on the quality of service delivery by the criminal justice agencies and partners at both the magistrates' courts and the Crown Court.
- 1.11 We examined a selection of CPS files in which there had been an unsuccessful outcome, and looked at the level of witness care and the timeliness of the exchange of information between the prosecution team and other agencies. We examined a selection of Probation Area and Youth Offending Team files for concluded cases of breach of community sentence.
- 1.12 The Chief Inspectors are grateful to all those who gave their time to the inspection, whether in preparation of documentation or by making themselves available for interview. A list of organisations from which we received comment, is set out at Annex 1.

### **Structure of report**

- 1.13 An executive summary of the main findings of the joint inspection will be found at the start of the report. The main body of the report sets out the detailed findings of the inspection in relation to the topics inspected. These findings are based on an inspection framework which focuses on four aspects of performance for which there are Government targets, namely increasing public confidence in the criminal justice system, increasing the number of offences brought to justice, reducing the rate of ineffective trials, and enforcing community sentences.
- 1.14 We identify strengths and aspects for improvement, draw attention to good practice and make recommendations. The recommendations identify the steps necessary to address significant weaknesses relevant to important aspects of performance, which we consider merit the highest priority by the WMCJB and its criminal justice partners.



## 2 EXECUTIVE SUMMARY

### Overview

- 2.1 The West Midlands Area, including the three major cities of Birmingham, Coventry and Wolverhampton, forms one of the largest conurbations outside London. The Area's population of almost 2.6 million people is drawn from a wide range of ethnic and cultural groups. Some 20% of residents are from minority ethnic groups. The population density is high at 2,833 people per sq km in the area (compared with 405 per sq km in the wider West Midlands Region). The area has busy commercial and shopping areas, complemented by a wide range of leisure amenities, is at the heart of the country's road and rail network, and has an international airport.
- 2.2 Overall crime in the West Midlands Area dropped by 2% from 2004/05 to 2005/06, from 114 to 112 offences per 1,000 of the population, a similar reduction to that for England and Wales as a whole. Burglary in the Area fell by 4% in 2005/06, theft and handling of stolen goods by 5%, theft from vehicles by 8%, and fraud and forgery by 21%. However, total violent crime in the Area increased by 2%, in line with the national average, and drug and other offences by 25% (compared with a national increase of 21%).

**Fig 1 Recorded offences by offence group, numbers by 1,000 population for 2005/06**

|                                 | West Midlands | England and Wales |
|---------------------------------|---------------|-------------------|
| Violence against the person     | 22            | 20                |
| Sexual offences                 | 1             | 1                 |
| Robbery                         | 3             | 2                 |
| Total violent crime             | 27            | 23                |
| Burglary                        | 15            | 12                |
| Theft and handling stolen goods | 36            | 37                |
| Fraud and forgery               | 5             | 4                 |
| Criminal damage                 | 22            | 22                |
| Drugs and other offences        | 6             | 5                 |
| Theft of and from vehicles      | 15            | 14                |
| Total                           | 112           | 103               |

Numbers will be affected by the size of the resident population relative to the transient or visiting populations and may therefore over represent the number of crimes relative to the real population of potential victims

Number of crimes will be affected by changes in reporting and recording.

Source: British Crime Survey 2005/06

Data correct as at: 12 April 2007

### **West Midlands Criminal Justice Board**

2.3 The WM CJB came into being in April 2003. Inter-agency co-operation in the area draws on a tradition of partnership working, pre-dating the Board. The Board has a wide-ranging membership, with core criminal justice agencies generally well-engaged and several associate and visiting members.

The full members of the Board are:

- Chief Officer, West Midlands Probation Area (Chair)
- Chief Crown Prosecutor, West Midlands
- Assistant Chief Constable, West Midlands Police
- Area Director, HM Courts Service, West Midlands
- Head of Regional Development, HM Prisons Service
- Regional Manager, Youth Justice Board (joined the Board in December 2006)

The associate members are:

- Criminal Defence Services Manager, Legal Services Commission
- Director, Birmingham Community Safety Partnership
- Performance Adviser, Office for Criminal Justice Reform

The visiting members are:

- Recorder of Birmingham
- Chairman, Birmingham Law Society Criminal Justice Committee
- Chief Executive Officer, Victim Support West Midlands
- Community Cohesion Officer, Home Office Immigration and Nationality Directorate

During the past year, the Board has experienced changes in representation by some agencies, including West Midlands Police, Her Majesty's Courts Service and the Youth Offending Teams. The Board has experienced difficulties in achieving effective participation, centrally and locally, by the seven Youth Offending Teams (YOTs), which are not coterminous with other agencies in the Area. The Board hoped that its invitation to the Youth Justice Board Regional Manager to join the Board would lead to improved YOT engagement at all levels. The Board's partnership with Victim Support (VS) has strengthened in the past year, but VS is not yet fully engaged in the Board and its sub-groups.

2.4 The Board has shown commitment and drive to achieve good performance on high-level, Area targets. In 2005/06 the Board achieved most key national and Area-level targets. The Area has faced challenges on a number of performance indicators in 2006/07, notably the national target for the timely completion of cases involving Persistent Young Offenders, but still forecasts achieving most of its headline targets. The Board has engaged enthusiastically with many national pilots, including the Effective Trial Management Programme (ETMP), "No Witness, No Justice" (NWNJ), "Simple, Speedy Summary Justice" (SSSJ), the Improving Prisoner Availability Project (IPAP), and Special Domestic Violence Courts (SDVC), and has shown clear commitment to taking these forward. The Area prides itself on having anticipated some current developments.

- 2.5 Though committed to high-level performance, the Board has been slower to give strategic leadership on some policy and quality of service matters, notably on the linked issues of public confidence, equality and diversity, and community engagement, and on the Victims' Code. The Board's annual delivery plan reflects Board structures and work-streams, but conveys a limited sense of overarching strategic direction or context. A range of stakeholders and agencies expressed a desire for more visible Board leadership on public confidence and other matters.
- 2.6 The CJ agencies work together effectively on very many activities and initiatives, but they do not always systematically consult or inform each other when undertaking single agency initiatives, for example in community engagement, or engage in joint training where this could be beneficial. We suggest that the Board should give a stronger lead towards greater CJS cohesion.
- 2.7 The Board's sub-structures and processes for reporting and accountability reflect the Board's keen implementation of a review in early 2005 by the OCJR. The Board's structures are basically sound in concept, and there have been some positive outcomes. Within the Action Delivery Boards, the agencies have shown commitment in the achievement of key targets including Offences Brought To Justice and reducing ineffective trials, and in taking forward key developments, including No Witness No Justice and Simple, Speedy, Summary Justice.
- 2.8 However, the Board's structures vary in effectiveness and in accountability to the Board. The Equality & Diversity and Communications Enabling Groups are rather disconnected from core activities of the Board, and Local Criminal Justice Group membership and effectiveness are somewhat variable. The Board's management team is still bedding down.
- 2.9 The Board's performance monitoring and reporting arrangements are sound, continuously developing and progressively utilised. The Action Delivery Boards are beginning to consider their role in promoting good practice. However, the Board does not sufficiently look beneath Area-level headline performance to identify, analyse and address variations in the implementation of policies and local performance, or provide sufficient lead towards consistent good practice.

### **Public Confidence and Community Engagement**

- 2.10 There has been a marked increase in public confidence in the West Midlands Criminal Justice System in recent years from a baseline of 32% in March 2003. In the year to March 2006, the Area achieved a new local high of 43% in public confidence in the CJS in bringing offences to justice (compared with the national average, which was 44% in that year). In the year to September 2006, public confidence in the CJS in the West Midlands Area was 42%, compared with the national average of 43%. The reasons for the increase in confidence in the West Midlands Area are not fully understood, as the Board recognises. The Board's 2006/07 delivery plan identified public confidence as a priority, and the Board appointed a Confidence Strategy Group which identified six work-streams through gap analysis. But the group's work is still at an early stage. The Board's public confidence strategy needs to demonstrate the Board's awareness of linked priorities around community justice and public confidence, and reinforce its

commitment to equality and diversity, community engagement and communications, building on Board and agencies' activities, and give a lead to agencies and partners. Some internal and external stakeholders expressed their wish to see the Board provide such leadership.

### **Bringing Offenders to Justice**

- 2.11 The Board's performance on Offences Brought to Justice (OBTJ) was ahead of target in 2005/06 and is forecast to meet or exceed target in 2006/07. The sanction detection rate (SDR) has improved, and measures are in hand, through the Board's Investigation Action Delivery Board, to support further improvement in West Midlands Police (WMP) Operational Command Unit performance. The statutory charging scheme has been implemented throughout the Area and substantially embedded, assisted by co-location and joint training. However, there is variable and sometimes poor bail management practice and flagging of priority cases, and inconsistent quality, timeliness and supervision of file building. The local Prosecution Team Performance Management (PTPM) model was implemented in March 2006 and has been enhanced to include review of priority crime categories. But inconsistent PTPM practice weakens its value as a local performance and improvement tool. The WMP and Crown Prosecution Service (CPS) are reviewing local PTPM practice with a view to improvement action. Concerted action by CPS to improve the quality and consistency of Pre Charge Decision is showing results. The Area has significantly improved its rate of Discharged Committals since 2001, but this remains unacceptably high and further improvement is needed. The Prolific and Priority Offender premium service scheme has been implemented Area-wide, and compliance is monitored, though the Youth Offending Service is not yet fully engaged. The agencies show commendable commitment to Domestic Violence and hate crime issues, and recognise their importance to public confidence, but some varied practice remains.

### **Reducing the level of ineffective trials**

- 2.12 The Area has reduced the ineffective trial rate at magistrates' courts and Crown Court, achieving targets for 2005/06 and 2006/07 to date. The effective trial rate improved steadily but has levelled and wavered since mid 2005/06. Arrangements for ensuring effective case preparation and progression vary between agencies and local areas. The Coventry Magistrates' Court test of Simple Speedy Summary Justice has been implemented with commitment and good co-operation. The defence community was helpfully engaged from an early stage. On early data, the test has been close to achieving most of its specific targets, though, at the time of the inspection, some dips in performance and significant challenges had arisen on ineffective trials and witness non-attendance. The Board needs to assure itself that the necessary conditions for effective roll out of the initiative can be established Area-wide and to manage the risks involved.
- 2.13 The Area made a proactive contribution to the national No Witness No Justice initiative and has been commended centrally for its work. Prosecution witnesses have benefited from the work of ten Witness Care Units (WCU) across the Area. To ensure compliance with the Victims' Code, the Board needs to make the training of WCU staff and the monitoring and reporting of performance more systematic. Despite improvement action by the Board, the Area's performance against the national target for the timely completion of cases involving Persistent Young Offenders has been poor for a year; recent analysis of local variations by West Midlands Police needs to be followed up.



### **Enforcing Community Penalties**

- 2.14 Though the national COMET system shows West Midlands as the highest performing area, the good performance recorded by COMET is misleading because it reflects the prompt withdrawal of many summonses. There is shared ownership of targets and processes through the Board's Court Processes & Enforcement Action Delivery Board. Inter-agency protocols and a training plan are in place. The Area believes that its approach to the prompt issue of summons speeds up the handling of breaches and improves compliance with community sentences.
- 2.15 Though many withdrawals follow offenders' provision of an acceptable reason for absence, around a third of withdrawals, in which there is a prima facie case to proceed, are withdrawn because no breach pack is ready for the hearing. These cases are not reinstated or prosecuted, with implications for public confidence locally and for the accuracy of Public Sector Agreement data nationally.
- 2.16 The Inspectors' analysis of a selection of files for concluded breach cases (excluding those in which summonses were withdrawn) showed that the West Midlands youth cases met both national targets, whilst adult breach cases met the target percentage of cases concluded within 25 days, but performed poorly against the average end-to-end target of 35 working days.

### **Key Performance Results**

- 2.17 The Board has shown commitment and drive to achieve good performance on high-level, Area targets. In 2005/06 the Board achieved its key national and Area-level targets. The Area has faced challenges on a number of performance indicators in 2006/07, notably the timely completion of cases involving Persistent Young Offenders, but still forecasts achieving most of its headline targets. Selected performance headlines reported by the Board in September 2006 were as follows:
- Increasing public confidence in the effectiveness of the criminal justice system in bringing offenders to justice: stood at 42% for the 12 months to September 2006, compared with the England and Wales average of 42%, and the Board's target of 47% by March 2008;
  - Offences brought to justice: were 75, 338 in the 12 months to July 2006, ahead of the Board's 2006/07 target of 70,000;
  - The sanction detection rate was 26.9% in the year to September 2006, compared with the Board's target of 26.5% for 2006/07;
  - Ineffective trial rate: in the magistrates' court this averaged 19.3% in the three months to September 2006, better than the Board's 2006/07 target of 20%; in the Crown Court, the ineffective trial rate averaged 7.4% in the three months to September 2006, better than the Board's target to reduce the rate to 12% in the final quarter of 2006/07;
  - Persistent Young Offenders: in August-October 2006 (3 month rolling figure), arrest to sentence in the West Midlands Area took 84 days on average, compared with the national target of 71 days;

- Fine enforcement: performance was good, at 103.4% in the year to September 2006, compared with the Area's target of 80%;
- Enforcement of community penalties: the Area reported the average number of working days from breach to resolution of case as 29 days (average for three months to September 2006) compared with the target of 35 days; the percentage of breaches resolved within 25 working days was reported as 74%, compared with the target of 50%. However, the good performance recorded by COMET is misleading because it reflects the prompt withdrawal of many summonses. The Board will need to review its projections of performance on the enforcement of community penalties in the light of the inspection findings.

Further information about Area performance is given in the body of the report and in Appendix 1.

#### 2.18 We found the following **good practice**:

- 
- 1 The Board has produced a very useful and informative induction pack which is provided to all new Local Criminal Justice Group chairs. This induction pack has wider potential value as an introduction to the Board and its activities, and should be made available more systematically to members of the Board and its sub-groups;
- 
- 2 There has been effective bilateral collaboration between West Midlands Police and Her Majesty's Courts Service to improve performance on court register updates to the Police National Computer, with commendable analysis and problem-solving, and a clearly improved performance, to the benefit of all agencies.
- 

#### 2.19 We found the following **strengths**:

- 
- 1 The Board shows commitment and drive to achieve good performance on high-level, Area targets. In 2005/06 the Board achieved all its national targets. Most targets are forecast to be achieved in 2006/07;
- 
- 2 The Area is commendably quick to embrace national pilots, including the Effective Trial Management Programme, No Witness No Justice, Special Domestic Violence Courts, Simple Speedy Summary Justice, Improving Prisoner Availability Project. The Area prides itself on anticipating some current developments. Criminal Justice Agencies work together effectively on these and other activities;
- 
- 3 Inter-agency co-operation within the West Midlands Area draws on a strong tradition of partnership working;
-

- 4 Wide-ranging Board membership, with core Criminal Justice Agencies well-engaged and many associate members including the defence community, Birmingham Community Safety Partnership, Office for Criminal Justice Reform, and Home Office Immigration and Nationality Directorate. The Board's partnership is progressively strengthening with the Youth Offending Service, Victim Support and Crime and Disorder Reduction Partnerships.
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2.20 We found the following **aspects for improvement**:

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- 1 To develop the Board's Delivery Plan to provide more information about the Board's vision, partnerships, and operating environment, and information on performance trends (paragraph 3.13)
  - 2 To promote enhanced inter-agency consultation, information sharing and joint training, building on existing inter-agency collaboration (paragraph 3.15)
  - 3 To promote the collection, sharing, analysis and use of equality and diversity-related information by Board member organisations (paragraph 3.33)
  - 4 To analyse variations in practice in the handling of domestic violence cases at all stages, and give a strategic steer towards a comprehensive inter-agency approach and good practice (paragraph 4.26).
- 

2.21 We made the following **recommendations**:

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Recommendation 1 (paragraph 3.28)

That the WM CJB, building on the Board's high level commitment to achieve Area-wide targets:

- Develop a strategy and delivery plan to increase public confidence which reinforce the Board's commitment to equality and diversity, communications and community engagement, build on the valuable work of the Board and agencies, and give strategic leadership to agencies and wider partners
  - Identify, analyse and address variations in the local implementation of policies and effectiveness of key processes, and spreads good practice
  - Evaluate the membership and effectiveness of its structures since the 2005 changes, and strengthens accountability arrangements between the Board and its delivery structures at all levels.
-

Recommendation 2 (paragraph 4.8)

That the WM CJB: ensure that agencies, individually and jointly, address:

- Inconsistencies of practice in West Midlands Police evidence review role;
- The quality and timeliness of file building, and variations in the effectiveness of bail management and Prosecution Team Performance Management processes;

And ensure there is a clear understanding of the role of police and Crown Prosecution Service in cases requiring Pre Charge Decision.

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Recommendation 3 (paragraph 4.18)

That CPS and WMP make sustained, concerted efforts to reduce the rate of discharged committals through:

- The CPS improving the quality of pre charge decisions and action plans, implementing a system to log and track cases that are to be committed; and
- The WMP taking effective action to build evidential files pre and post charge.

And the Board reviews progress in mid 2007.

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Recommendation 4 (paragraph 5.7)

That the WM CJB, drawing on interim evaluation of the Coventry and other Simple Speedy Summary Justice tests, assure itself that the conditions for effective implementation of the initiative Area wide can be established prior to roll out, and take steps to identify and manage the key risks involved, including those concerning victim and witness care.

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Recommendation 5 (paragraph 5.8)

That the WM CJB further analyse Area and local factors affecting performance on cases involving Persistent Young Offenders, and take steps to meet national targets.

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Recommendation 6 (paragraph 5.13)

That the WM CJB build on its clear commitment to victim and witness care, by:

- Taking steps to ensure and monitor Victims' Code compliance (including referral of victims to Victim Support; keeping victims informed of case developments; informing victims of changes in plea or bail conditions; avoiding adjournments in sensitive cases; reducing waiting times for witnesses on the day of trial; and effective support to vulnerable and intimidated witnesses).
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Recommendation 7 (paragraph 6.50)

That the WM CJB:

- End the policy and practice of withdrawing cases for breach of community penalty, without reinstatement, because the file is not ready;
  - Evaluate the appropriateness and efficiency of the policy to commence proceedings by way of summons prior to giving the offender an opportunity, within due time, to provide an acceptable reason for absence;
  - Subject COMET data to increased quality assurance; and
  - Review the resourcing and training of staff responsible for breach proceedings, to ensure the correct preparation of papers for use in the court.
-



### 3 IMPROVING PUBLIC CONFIDENCE AND COMMUNITY ENGAGEMENT

#### **Overview**

The West Midlands Criminal Justice Board has a strong and clear focus on Area-level performance. The Board achieved or exceeded most key targets in 2005/06 and expects to achieve most in 2006/07. The Board has been slower to give a strategic lead on some policy and quality of service matters, including public confidence. Members of the Board see public confidence as important, but work towards a joint strategy is at an early stage. The Board has a wide ranging membership, and builds on the Area's tradition of inter-agency co-operation. Relations are strengthening with the Youth Offending Service, Victim Support and Crime and Disorder Reduction Partnerships but are not yet systematic at all levels. The Board has developed its structures since an early 2005 review, and has achieved much on this basis, but structures vary in effectiveness and accountability to the Board. The Area is commendably quick to embrace national pilots, and Criminal Justice Agencies work together effectively on these and other activities, but do not always consult or inform each other or the Board. Performance monitoring is sound and continuously developing. The Action Delivery Boards show concern for promoting good practice. But the Board does not sufficiently analyse local variations in policy implementation or performance behind the headlines, or lead on good practice.

#### **Governance and Structure of the West Midlands CJB**

- 3.1 The West Midlands Criminal Justice Board (WMCJB) came into being in April 2003. Inter-agency co-operation in the area draws on a tradition of partnership working. The Board has a wide-ranging membership, with core criminal justice agencies generally well-engaged and several associate and visiting members.

The full members of the Board are:

- Chief Officer, West Midlands Probation Area (Chair)
- Chief Crown Prosecutor, West Midlands
- Assistant Chief Constable, West Midlands Police
- Area Director, HM Courts Service, West Midlands
- Head of Regional Development , HM Prisons Service
- Regional Manager, Youth Justice Board (joined the Board in December 2006)

The associate members are:

- Criminal Defence Services Manager, Legal Services Commission
- Director, Birmingham Community Safety Partnership
- Performance Adviser, Office for Criminal Justice Reform

The visiting members are:

- Recorder of Birmingham
- Chairman, Birmingham Law Society Criminal Justice Committee
- Chief Executive Officer, Victim Support West Midlands
- Community Cohesion Officer, Home Office Immigration and Nationality Directorate

- 3.2 The Board engages well with the Office for Criminal Justice Reform, and with other Local Criminal Justice Boards in the West Midlands Region. The Government Office for the West Midlands (GOWM) makes a good strategic contribution to the Offender Management Action Delivery Board, and the Board's staff are in contact with the GOWM on particular initiatives.
- 3.3 At the time of inspection, the WMCJB had already established effective links with Regional Offender Management to inform the commissioning of relevant services. The WMP and HMPS members of the WMCJB sit on the ROM Board as CJB as well as agency representatives. The WMCJB Performance Officer has contributed to the West Midlands Regional Reducing Re-offending Plan. The WMCJB recognises that there is more to be done in this area through an ongoing programme of Board and inter-agency work on offender management.
- 3.4 During 2006/07, the Board has experienced changes in representation by some agencies, including WMP, HMCS and the Youth Offending Teams (YOTs). The Board has had difficulties in achieving effective participation, centrally and locally, by the seven YOTs, which are not coterminous with other agencies in the Area. At the time of the inspection, the Board hoped that its invitation to the Youth Justice Board Regional Manager to join the Board would lead to improved YOT engagement at all levels. Detailed work was still needed to achieve an effective flow of information between the Board and its groups, and the YOTs. The Board's partnership with Victim Support (VS) and the Witness Service (WS) has strengthened in the past year, assisted by new leadership in the Area VS, but the VS/WS is not yet fully engaged with the Board at all levels, including the Local Criminal Justice Groups (LCJGs).
- 3.5 The Board's governance and structure are clearly set out in a helpful paper which explains the membership and roles of the Board, the Management Team, the Confidence Strategy Group, the Board's four Action Delivery Boards (Investigation, Court Processes & Enforcement, Offender Management, and Victims & Witnesses) the two enabling sub-groups (Communications, and Equality & Diversity) the Progress Group (which monitors performance and progress against the Delivery Plan), and the eight Local Criminal Justice Groups. It identifies the Board member responsible for sponsoring each Area-wide and local sub-group, and provides clear organisation charts. This paper, together with the Board's annual Delivery Plan, Board and CJA fact-sheets, a performance overview, and information about the Board's equality and diversity commitment and initiatives, comprise a very useful induction pack which is provided to all new LCJG chairs. This induction pack has wider potential value as an introduction to the Board and its activities. We suggest that the pack should be made available more systematically to members of the Board and its sub-groups.



**GOOD PRACTICE:**

The Board has produced a very useful and informative induction pack which is provided to all new LCJG chairs and which has wider potential value as an introduction to the Board and its activities.

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- 3.6 The sub-structures and processes for reporting and accountability reflect the Board's concerted action to strengthen and develop its supporting structures, and improve performance reporting and monitoring, following a review in early 2005 by the OCJR. The structures are basically sound in concept, and the Area has achieved some positive outcomes on this basis. Within the Action Delivery Boards (ADBs), the agencies have shown their commitment in the achievement of key targets including Offences Brought To Justice (OBTJ) and reducing ineffective trials, and in taking forward key developments, including No Witness No Justice (NWNJ) and Simple, Speedy, Summary Justice (SSSJ).
- 3.7 However, the effectiveness and accountability to the Board of its delivery structures are variable – including the ADBs, enabling groups, Progress Group, and LCJGs. The Board's management team is still bedding down. The effectiveness of the sponsor role in promoting two way communications, and accountability, varies considerably; the role should be made more consistent and systematic. The Progress Group (formerly the Performance Group) conducts a quarterly review with all sub-group chairs, and, as a standing procedure, each of the Sub-Group chairs is scheduled to attend the monthly Board meeting in turn (therefore up to 3 times per year) to update the CJB members on progress, risks and changes. Additionally, the core CJA chief officers should consider whether accountability of the subgroups to the Board might be strengthened by their holding a periodic meeting with sub-group chairs to review performance and progress against the delivery plan, on the lines of the "Checkpoint meeting" held by some CJBs.
- 3.8 The enabling groups are somewhat disconnected from core activities of the Board. Not all agencies are as yet fully effective or systematic participants in these groups. The Board's work on a strategy for increasing public confidence should help these groups to become better integrated, as part of corporate "glue." We recommend that it is timely for the Board to evaluate the membership, effectiveness and accountability of all its post-2005 review structures, at all levels.
- 3.9 At local level, the Board's eight LCJGs (one for each local authority and CDRP area) meet monthly. Inspectors attended a meeting of one LCJG which has increasingly effective and productive links both with the Board centrally, including effective sponsorship, and with agencies and wider stakeholders at local level. Accountability between the LCJGs and the Board is being progressively strengthened with the development of regular two-way reporting and the circulation of minutes. However, the membership of LCJGs around the Area, and the effective engagement of agencies and wider partners, including the YOS, VS and CDRPs, are varied. Some LCJG representatives would welcome more guidance from the Board on key policy issues and priorities, including a public confidence strategy.

- 3.10 The Board's relations with the Area's CDRPs/CSPs are developing usefully at Area level. The Board chairs the quarterly Heads of Service meeting with CDRP, introduced in 2006 and seen as holding promising potential by the partnerships involved. At local level, relations between the CDRPs and LCJGs, and between CDRPs and individual CJAs, are varied, and need more strategic input. Inspectors understand the diverse and complex context in which the WM CJS works, including the lack of full co-terminosity between agencies, within and beyond the CJS. These challenges are amplified by HMCS's recent splitting and recombining of its Areas, with potential impact on partners throughout the West Midlands Area and Region.
- 3.11 The CDRPs and CSPs see many shared objectives with the Board. While some CSPs already benefit from and appreciate close and productive partnership working arrangements with the LCJG in their local area, there are other CSPs which do not yet enjoy fully effective local working relations or linked membership of relevant groups. CDRPs in both categories indicated that they would welcome greater strategic engagement by the Board with the community cohesion agenda, as well as more systematic partnership locally with LCJGs.
- 3.12 The Board's intention to invite CDRPs and LCJG Chairs to its February 2007 Awayday is a significant and encouraging development in further strengthening communications and relations with both groups.

#### **Policy and Planning**

- 3.13 The Board's annual delivery plan comprehensively reflects Board structures and work-streams, and is updated quarterly following discussion by the Progress Group which is chaired by the Board's Business Manager and includes all sub-group chairs. However, there is no strategic plan, and the delivery plan conveys limited sense of strategic direction or context to inform staff and partners in the Area. There is little about the Board's vision, partnerships, or operating environment, or information about performance trends.

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#### **ASPECT FOR IMPROVEMENT:**

To develop the Board's Delivery Plan to provide more information about the Board's vision, partnerships, and operating environment, and information on performance trends.

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- 3.14 The Board has engaged enthusiastically with many national pilots, including ETMP, NWNJ, SSSJ, IPAP, and SDVC, and has shown clear commitment to taking these forward. The Area prides itself on having anticipated some current developments. Many inter-agency protocols relevant to the Board's work are in operation in the WM Area, a considerable number of these having been developed and agreed through the auspices of the Board's sub-groups. The Board's management team maintains a register of all such protocols, noting the date of agreement, signatories, and date of planned review.

- 3.15 The CJ agencies work together effectively on many activities and initiatives, but they do not always systematically consult or inform each other when undertaking single agency initiatives, or engage in joint training where this could be beneficial. We suggest that the Board should give a stronger lead towards greater CJS cohesion.

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**ASPECT FOR IMPROVEMENT:**

To promote enhanced inter-agency consultation, information sharing and joint training, building on existing inter-agency collaboration.

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- 3.16 The Board has identified that a range of IT-related issues, affecting all CJA, inhibits effective joint working at various stages of the CJS and the transfer of information between agencies. A Task Group, chaired by the Board's Business Manager, was set up to deal with the specific requirements of Secure eMail, driving change within agencies and embedding the processes required for each stage of the roll-out of this national project. The Board has decided, sensibly, to ask this Task Group, on which all the agencies are represented, to comprehensively review and address cross-cutting IT issues.
- 3.17 Though clearly committed to high-level performance, the Board has been slower to give strategic leadership on some policy and quality of service matters, notably on linked issues of public confidence, equality & diversity, community engagement, and on the consistent implementation of the national Victims' Code. A number of representatives of the Board's LCJG, CJA staff, Area CDRP and voluntary stakeholders expressed a desire for more visible Board leadership on public confidence and other matters.
- 3.18 The Delivery Plan and other corporate documents include many encouraging references to inter-agency training, including in the specific plans of the Investigation ADB and the Communications and Equality & Diversity Enabling Groups. During 2005 and 2006, a series of familiarisation days for CJS staff has been held at Birmingham Crown Court centre, HMP Birmingham, and HMYOI Brinsford, with positive feedback. Examples of joint training included that undertaken during the implementation of statutory charging and of Witness Care Units. Ongoing joint training is undertaken in the context of the Proactive Prosecutor scheme. However, there were also examples of initial training not being comprehensively followed up, and of joint training on a local, bilateral basis which could beneficially be adopted on a wider basis, for example in relation to victim and witness care.

**Performance and Performance Management**

- 3.19 The Board has shown commitment and drive to achieve good performance on high-level, Area targets. In 2005/06 the Board achieved most of its key, national and Area-level targets. The Area has faced challenges on some performance indicators in 2006/07, notably the timely completion of cases involving Persistent Young Offenders (PYO), but still forecasts achieving most of its headline targets. Further information about Area performance is given throughout the body of the report and in Appendix 1.

- 3.20 The Board's performance monitoring and reporting arrangements for national and local performance indicators are sound, continuously developing and progressively utilised. Performance against Public Service Agreement (PSA) and other targets is regularly monitored and reported to the OCJR and the Board. The Board's Performance Officer has developed a clear and comprehensive reporting framework which shows performance on key indicators at national, Area and local level, as appropriate. A monthly area performance bulletin is published containing up to date performance information. The introduction of a performance micro-site (within WMP's website) acts as a central repository for performance data and makes large files more accessible. The OCJR's recommended exception reporting approach is used to highlight performance issues to the centre and the Board. The Board's Performance Officer increasingly attends and assists the ADBs and LCJGs. There are useful examples of ADBs showing concern for promoting good practice: a recent example is the Investigation ADB agreeing inter-agency arrangements to support OCU performance improvement, learning and good practice on sanction detections.
- 3.21 However, the Board does not yet sufficiently systematically look beneath Area-level headline performance to identify, analyse and follow up variations in the implementation of policies and in local performance, or provide sufficient leadership and guidance towards consistent good practice. Inspectors considered that the Board might have given more attention to the impact of individual agencies' devolved local structures and arrangements, such as WMP's highly devolved management of OCUs. However, the Board pointed out that, whilst the Board and individual ADBs have discussed and expressed concerns about such issues, it is debateable how much pressure the Board can apply to individual agencies on such matters. WMP has indicated its recognition of the need to develop and implement an effective performance framework for OCUs which takes account of criminal justice system-wide effectiveness. Significant local variations in practice, which have an impact on performance and quality of service, include bail management, Prosecution Team Performance Management (PTPM) arrangements, and the timely progression of PYO cases. These are considered in later sections of the report.
- 3.22 The enforcement of court orders is overseen by the Court Process and Enforcement Action Delivery Board. Protocols and action plans are in place for the enforcement of fines, breach of community penalties, Fail to Attend (FTA) warrants, and of confiscation and Proceeds of Crime Act (POCA) orders. A dedicated Asset Recovery Task Group was set up in April 2006 to promote continuous improvement in performance in this area. There is close collaboration between the Board and both HMCS Regional asset recovery team and CPS Asset Recovery lead officer. Seminars and joint training have been held on aspects of enforcement. In 2005/06 the Board achieved all enforcement elements of its national targets. In 2006/07, in the year to September the Area was ahead of or close to target on fine enforcement, FTA warrant notification and enforcement, and the target to reduce the number of outstanding pre-POCA orders. However, the Area was "amber" on the target number and value of confiscation orders secured, and "red" on the asset recovery target monthly outstanding balance rate. Questions were raised by OCJR about risks to projected performance on confiscation order enforcement and FTA warrants. The Area considered its projected 2006/07 annual performance on the number and value of confiscation orders secured, and on outstanding FTA warrants,

to be on target. Regarding outstanding POCA orders, the Area used detailed information provided by HMCS to identify and target priority outstanding orders, and took action to increase from monthly to fortnightly the scheduling of a court to deal with outstanding POCA orders. The Board's approach to the enforcement of community penalties raises issues which are discussed in chapter 6.

**Fig 2 West Midlands Area: Performance on aspects of enforcement (other than the enforcement of community penalties which is considered in chapter 6).**

|  | Target<br>2006/07    | Performance to<br>Sept 2006 |
|--|----------------------|-----------------------------|
| Fine enforcement                               | 80%                  | 103.4%                      |
| FTA warrant notification from courts to police | 90% in 1 working day | 99.6%                       |
| Reduce number of outstanding FTA warrants      | 1600                 | 1794                        |
| Secure absolute number of confiscation orders  | 185                  | 85                          |
| Secure absolute value of confiscation orders   | £2,557,041           | £1, 259,301                 |
| Monthly outstanding balance rate               | 25% at month end     | 49%                         |
| Number of outstanding pre-POCA orders          | reduce by 35%        | 26%                         |

### **Building Public Confidence in the Criminal Justice System**

3.23 There has been a marked increase in public confidence in the WM CJS in recent years. From a disappointingly low baseline of 32% in March 2003, public confidence in the CJS has steadily increased and the Area achieved a new local high of 43% in March 2006 (compared with the national average of 44% in that period). In the year to September 2006, public confidence in the CJS in the West Midlands Area was 42% compared with the national average of 43%. In March 2006 the Board agreed with OCJR to aim for an aspirational confidence target of 47% by March 2008. The Area's performance on all secondary confidence measures, with the exception of witness care, has exceeded local targets. The reasons for the increase in confidence in the WM Area are not fully understood, however, as the Board recognises, thus making it harder to build on success. The following table shows the progression in the Area's public confidence rating.

**Fig 3 (a) Public Confidence in the effectiveness of the CJS in bringing offenders to justice**

|                   | PSA Baseline             | CJS Baseline                          | Year ending | Year ending    |
|-------------------|--------------------------|---------------------------------------|-------------|----------------|
| CJS Areas         | (Year ending March 2003) | (Year ending March 2005) <sup>a</sup> | March 2006  | September 2006 |
| England and Wales | 39%                      | 43%                                   | 44%*        | 43%*           |
| West Midlands     | 32%                      | 40%                                   | 43%*        | 42%*           |

<sup>a</sup> Baseline against which each CJS area will be monitored

\* denotes a statistically significant change at the 95% level since the CJS baseline

Data are provisional and subject to change

Data shown as at 27 January 2007

Source: www.cjsonline.gov.uk

**Fig 3 (b) Public Confidence in the effectiveness of the CJS in bringing offences to justice – secondary measures**

|   | West Midlands Target 2006/2007  | Performance to Date | Performance to Date |
|---|---------------------------------|---------------------|---------------------|
| <i>Confidence - Description of Target</i>   |                                 |                     |                     |
| Increase Public Confidence in Bringing Offenders to Justice – Key Confidence Figure | Increase to 47.2% by March 2008 | 42%                 | Year ending Sept 06 |
| Meet the Needs of Witnesses   | Increase to 65%                 | 64%                 | Year ending Sept 06 |
| Respect Rights of Defendants and Treats them Fairly                                 | Increase from 73% to 74%        | 77%                 | Year ending Sept 06 |
| Effective in Reducing Crime   | Increase from 26% to 32%        | 39%*                | Year ending Sept 06 |
| Deal with Cases Promptly and Efficiently  | Increase from 30% to 35%        | 44%*                | Year ending Sept 06 |
| Meet the Needs of Victims   | Increase from 25% to 31%        | 34%*                | Year ending Sept 06 |
| Effective in Dealing with Young People Accused of Crime                             | Increase from 18% to 23%        | 28%*                | Year ending Sept 06 |

Source: West Midlands Criminal Justice Board

\* denotes a statistically significant change at the 95% level from year ending March 03 figures

- 3.24 The Board identified increasing public confidence as a priority in the 2006/07 Delivery Plan, and decided to set up the Confidence Strategy Group. A gap analysis identified six work-streams for the Group, including improving the experience of victims and witnesses within the CJS, improving public understanding of sentencing, addressing public concerns about anti-social behaviour, and improved action on all aspects of hate crime. All delivery groups are tasked with increasing public confidence, but not all have plans for this. In its review of how structures are working, the Board needs to consider the potential for gaps and overlaps between the Confidence Strategy Group and the ADBs.
- 3.25 Although the Board identified increasing public confidence as a priority for 2006/07, the development of the Board's public confidence strategy is still at an early stage. The strategy needs to:
- demonstrate the Board's awareness of the Government's linked priorities of public confidence in the Criminal Justice System, community justice, and Simple Speedy Summary Justice;
  - reinforce the Board's commitment to equality and diversity, communications, and community engagement (including links with Crime and Disorder Reduction Partnerships);
  - provide a framework for Board and agencies' activities, over-arching but not overlapping other sub-groups' work; and
  - give strategic leadership to agencies and wider partners. Internal and external partners, at Area and local level, look to the Board to provide such leadership.
- 3.26 Much good and relevant work on equality and diversity and public confidence is done by the Board and in particular by certain CJA. The Board is actively scoping the community justice concept and options as one of ten new pilot areas, the HMCS having made available to the Board some resource to initiate research in this subject, working to a Board steering group on which all CJA are represented. Among the CJA, WMP in particular has had an effective and well-regarded programme of community engagement and E&D measures in the past two years. The Board's external partners referred favourably to WMP's initiatives, including the community facilitators scheme, the "contact counts" campaign, and the ongoing "feeling the difference" public confidence surveys. The Board and agencies recognise, however, that individual agencies have been insufficiently pro-active in communicating their initiatives and sharing relevant information with one another through the Board. Some good building blocks for the Board's public confidence strategy exist within the work of the Board and agencies. The Confidence Strategy Group has the potential to provide a coherent framework for such activity.
- 3.27 The Board has developed, reviewed and updated a comprehensive Communications Strategy. The Board has a Communications Officer with relevant professional experience, who chairs the Board's Communications Enabling Group. The group's relevant and wide-ranging programme, including plans for community and stakeholder engagement, is incorporated into the Board's 2006/07 delivery Plan. While some agencies are productively involved in the Board's communications work, not all agencies are sufficiently engaged in the work of the sub-group, or consistently corporate or accountable, as CJS partners, in their individual communications initiatives. There remains scope for improved

communications, consultation, and collaboration between the agencies in this area. Key stakeholders welcome the Board's communications strategy and various initiatives, including the Board's attractive and widely circulated quarterly newsletter, its useful and accessible website, and the Communications Group's work on Inside Justice week and the MELA. However, Inspectors' wide ranging interviews, and questionnaire responses, suggest that the Board's profile with all stakeholders, internal and external, still varies widely from very good to poor. The Board will want to reflect and harness this work in its strategy for increasing public confidence.

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### **RECOMMENDATION 1**

We recommend:

That the WM CJB, building on the Board's high level commitment to achieve Area-wide targets:

- Develop a strategy and delivery plan to increase public confidence which reinforce the Board's commitment to equality and diversity, communications and community engagement, build on the valuable work of the Board and agencies, and give strategic leadership to agencies and wider partners;
- Identify, analyse and addresses variations in the local implementation of policies and effectiveness of key processes, and spreads good practice; and
- Evaluate the membership and effectiveness of its structures since the 2005 changes, and strengthens accountability arrangements between the Board and its delivery structures at all levels.

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### **Equality and Diversity**

3.28 As the Board's 2006/07 Delivery Plan indicates, "The West Midlands has one of the most concentrated and diverse populations within England and Wales." The Board's website displays the Board's Mission Statement on Equality and Diversity. Within its Management Team, the Board has a full time Equality and Diversity Officer who supports the Equality and Diversity Enabling Group. The remit of the Group is to ensure that the needs of all members of the public and the workforce from black and minority ethnic (BME) and hard to reach groups are fully considered in all aspects of the Board's work. The Enabling Group's work programme, incorporated into the Board's 2006/07 Delivery Plan, is wide-ranging. Good progress has been made on some aspects of the Equality & Diversity plan, for example the implementation of equality and diversity impact assessment to monitor the diversity implications of the ADBs' workplans. However, progress has been slower on other aspects, including plans to develop and coordinate effective monitoring of the ethnicity of service users. Inspectors recognise that the Board initiated local activity in the earlier absence of central guidance on a range of E&D matters. It will be important for the Board to reinforce its commitment to E&D, and to build on the relevant work of the Board and the agencies, in its strategy for increasing public confidence.



- 3.29 The Group has recognised the importance of developing close working relationships with the Equality Commissions and with the Equality and Human Rights Commission with its future wide-ranging diversity remit. Promising links have been established with the Commission for Racial Equality (CRE) and with other organisations and groups concerned with diversity within the Area. The Enabling Group also plans to work with a range of staff networks within the CJA, including those concerning BME, Lesbian, Gay, Bisexual and Transgender (LGBT) and disability issues.
- 3.30 Some good and relevant work is done by the Board and CJA. The agencies participate, increasingly on a collaborative basis, in the annual MELA event which attracts wide interest, and in Inside Justice week. The agencies actively encourage the recruitment of BME staff, and HMCS promotes the recruitment of BME magistrates. In 2005, the Board held two hate crime conferences, and in 2004, a Domestic Violence seminar for the Asian community. WMP has shown strong commitment and enthusiasm in its development of an effective programme of community engagement and E&D measures, including its community facilitators scheme. Stakeholder groups commented positively on the CPS's initiative in holding a seminar in Birmingham for the muslim community. In accordance with the Race Relations (Amendment) Act 2000, the Board has begun implementing an Equality and Diversity Impact Assessment process which will be applied to all Board work programmes and activities.
- 3.31 The Board and agencies have taken some useful initiatives to monitor and collect information about the views of its diverse local population, and about the crimes which affect them. As part of its 2005/06 delivery plan, the Board commissioned Ipsos MORI to undertake a survey of attitudes towards the CJS in the Area, focusing on three strands: public attitudes towards the CJS, victims' perceptions and experiences, and the role of community facilitators. The survey sought the views of asian, black and white people on a wide-range of questions which concerned confidence in the CJS and in individual agencies. The findings of this survey were shared in mid 2006 with an invited audience of the Board's external and agency stakeholders, and the discussion and feedback were used to inform the Board about the priority concerns of stakeholders on a wide range of topics, including consultation and engagement processes, and the availability of training for staff on equality and diversity issues. However, some commentators considered that the Board had so far made limited use of the survey to inform its work.
- 3.32 In 2006, the Board commendably decided to pilot a survey of the views of BME users of the Area's Witness Care Units (WCU), with a view to ensuring equality of delivery of service. Unfortunately the number of responses obtained by WCU varied widely, so that the results of the survey were not statistically significant. This outcome reflected a number of factors, including problems with the briefing and training of staff who would undertake the survey. However, the Board remains committed in principle to researching the experiences of BME victims and witnesses, and is considering how to improve the effectiveness of a follow up survey.

- 3.33 The Board recognises, however, that there is room for improvement in collating, analysing and using data concerning race and other hate crime, stop and search, and other diversity-related monitoring data. Limited data are available on a local basis. The diversity-related information which is collected by Victim Support is not yet systematically shared with the agencies.

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**ASPECT FOR IMPROVEMENT:**

To promote the collection, sharing, analysis and use of equality and diversity-related information by Board member organisations.

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## 4 BRINGING OFFENDERS TO JUSTICE

### Overview

The Board's performance on Offences Brought To Justice was ahead of target in 2005/06 and is forecast to meet or exceed target in 2006/07. The sanction detection rate has improved, and measures are in hand, through the Board's Investigation Action Delivery Board, to support further improvement in West Midlands Police Operational Command Unit performance.

The statutory charging scheme has been implemented throughout the Area and substantially embedded, assisted by co-location and joint training. However, there is variable and sometimes poor bail management practice and flagging of priority cases, and inconsistent quality, timeliness and supervision of file building. The local Prosecution Team Performance Management model was implemented in March 2006 and has been enhanced to include review of priority crime categories. But inconsistent PTPM practice weakens its value as a local learning tool.

The West Midlands Police and Crown Prosecution Service are sensibly reviewing local PTPM practice with a view to improvement action. Concerted action by CPS to improve the quality and consistency of pre charge decisions is showing promising results. The Area has significantly improved its rate of discharged committals since 2001, but there is room for further improvement. The Prolific and Priority Offender premium service scheme has been implemented Area-wide, and compliance is monitored, though the Youth Offender Teams are not yet fully engaged. The agencies show commendable commitment to domestic violence and hate crime issues, and recognise their importance to public confidence, but some varied practice remains.

### Bringing Offenders to Justice

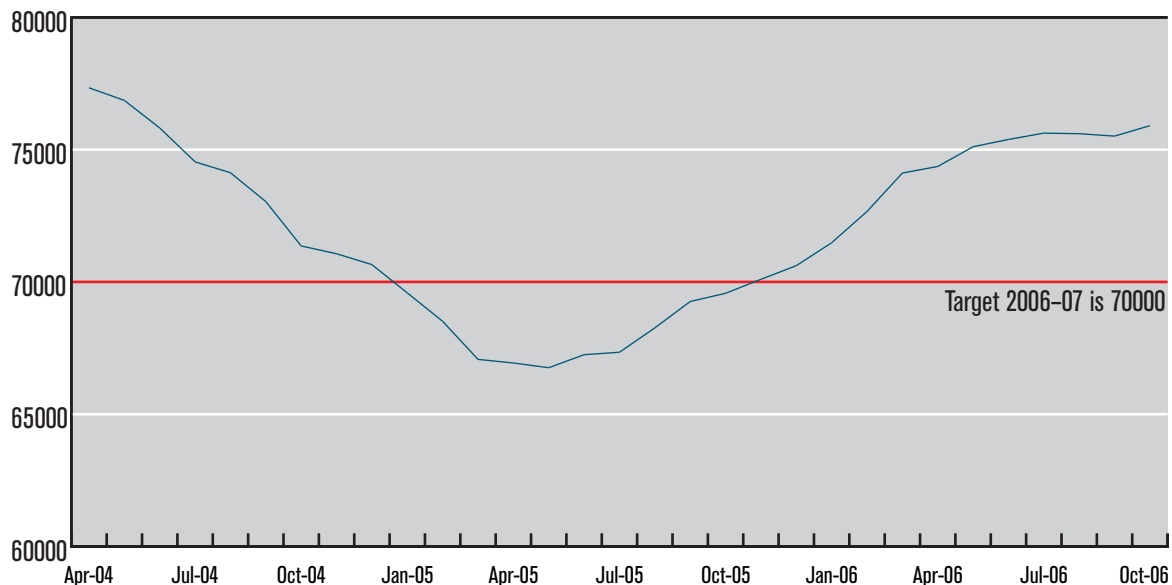
- 4.1 The Board's performance on Offences Brought to Justice (OBTJ)<sup>1</sup> was ahead of target in 2005/06 and is forecast to meet or exceed target in 2006/07. The Area's outturn for 2005/06 was 73,934 OBTJ compared with a target of 69,670. For 2006/07, the Area forecast OBTJ to meet or exceed the target of 70,000. The sanction detection rate (SDR)<sup>2</sup> has improved steadily since April 2005, has been consistently ahead of the national average, and is close to the Area's local target of 26.5%. Measures are in hand, through the Board's Investigation ADB, to support further improvement in West Midlands Police (WMP) Operational Command Unit (OCU) performance. The Investigation ADB has identified critical factors for effective sanction detection, and developed a performance improvement programme, including joint WMP and Crown Prosecution Service (CPS) training of sergeants, and joint visits and guidance to OCU. Data collection for detailed performance monitoring of OCU is under development.

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1 An offence brought to justice is a successful outcome to the investigation of an offence and is comprised of five categories: convictions, cautions, fixed penalty notices (FPNs), offences taken into consideration (TICs), and formal warnings. Offences brought to justice targets are calculated by using a formula based on: expected crime level, expected sanction detection rate and expected conversion rate.

2 Sanction detections are recorded offences that were detected where an offender has: been charged; been reported for summons; been cautioned; been given a formal warning for possession of cannabis; been issued with a fixed penalty notice for certain offences; and asked for an offence to be taken into consideration at court. The sanction detection rate is the number of sanction detections expressed as a percentage of the number of recorded crimes occurring over a twelve month period.

Fig 4 Offences Brought to Justice



Figures are rolling annual

Source: West Midlands Criminal Justice Board, performance bulletin December 2006

Data correct as at December 2006

4.2 WMP's "Taking charge of custody" programme has contributed to the improvement of the SDR. However, bail management practice varies, and is sometimes good but sometimes unsatisfactory, including examples of the granting of bail for longer than the 14 days nationally approved maximum for Persistent Young Offenders (PYO), and multiple re-bails reflecting, in particular, delays in file-building and mis-estimation of the time required for evidence-gathering and file building. Bail management systems are inconsistent, involving the use of IT systems in many OCU but paper-based in some. Problems in achieving the consistent flagging of priority cases, including Proceeds Of Crime Act cases, were being addressed by WMP through changes to their IT systems and by reminders to staff about the importance of flagging priority and sensitive cases.

### Pre-charge advice

4.3 Historically, the police have had responsibility for instituting criminal proceedings by charge or summons. However, following a review in 2002, the CPS has gradually taken responsibility nationally for charging the more serious cases and those which are likely to be contested, under a scheme known as "statutory charging" or "pre-charge advice"<sup>3</sup>. Following a pilot scheme, the statutory charging programme was rolled out and fully implemented in the West Midlands Area in November 2004, and is embedded as normal business. Joint training by WMP and CPS has been undertaken both initially and through the ongoing CPS-led Proactive Prosecutor training scheme. Communication between WMP and CPS staff over file building has much improved as a result. Inspectors found, however, some reluctance among custody staff to consult CPS Direct by telephone

<sup>3</sup> The Criminal Justice Act 2003 amended Section 37 of the Police and Criminal Evidence Act 1984 to make provision for crown prosecutors to take over from the police the responsibility for charging decisions. Under the Director of Public Prosecutions' guidance this applies in more serious cases and those likely to be contested.

“out of hours” when local lawyers are not available, including on priority cases such as PYO, reflecting a lower level of confidence by some custody staff in the advice provided by CPS Direct. The inspection team analysed a limited number of discontinued cases which had been the subject of pre-charge advice and found an apparent link in concluded, older cases between pre-charge advice by CPS Direct, often using the threshold test, and subsequent discontinuance (see also paragraph 4.8 below).

- 4.4 Front-line police officers are accountable for file building, assisting personal ownership and accountability. However, the timeliness and quality of file building, and the effectiveness of supervision of this work, vary between operational areas. The role of Evidence Review Officer (ERO) or “gatekeeper” in supervising the work of file building by front-line staff, and managing their access to CPS lawyers for PCA and action plan purposes, is, in principle and practice, a good concept. However, the role is not accorded a high priority in all local areas, and so the quality of supervision of police staff regarding file building varies. Joint training by WMP and CPS needs to focus more on the supervision and training of file builders with a view to improving pre-charge joint working and OBTJ. Inspectors found some lack of clarity about the respective roles of the CPS and the police in cases requiring pre-charge decisions (PCD) with CPS lawyers providing significant elements of supervision, training and mentoring to inexperienced officers which should be provided within the police rank structure, with face-to-face charging advice building on this. In some areas, IT systems issues affected the efficiency of pre-charge processes, with CPS lawyers in some OCU commenting on paper copies of WMP files without the benefit, then or at subsequent stages, of a comprehensive, common, electronic file, or definitive “trail” of evidence reviewed, advice given, and follow up action.
- 4.5 The WMP and CPS show commitment in principle to the Prosecution Team Performance Management (PTPM) process, which is used for joint monitoring and analysis of the quality and timeliness of file submissions. A locally designed PTPM model was implemented (in preference to the national model) in March 2006, following joint training to police crime managers and CPS team leaders. The model was subsequently modified and improved to include the review of priority crime categories, including Persistent Young Offenders, Prolific and Priority Offenders, Domestic Violence and Proceeds Of Crime Act cases. This is supported by the supply of detailed performance data from WMP headquarters Criminal Justice Department (CJD) which is posted on the force intra net for the use of OCUs’ PTPM. However there is no mechanism at the centre to monitor whether and how the OCUs are utilising this data to improve performance and feedback the benefits to HQ. This inconsistent PTPM practice weakens the value of the process as a local and wider performance and improvement tool. The Board’s monitoring of the framework through the Investigation ADB usefully identified that in some local areas, the PTPM process was not working satisfactorily. At the time of the inspection, WMP and CPS were nearing completion of a joint review of the effectiveness of PTPM in OCU, to identify issues to be addressed and good and poor practice. The analysis of variations in PTPM practice being undertaken by WMP HQ CJD needs to be followed up with feedback to OCU and quality assurance action to ensure consistent good practice is followed. The Board needs to assure itself that this activity is undertaken.

- 4.6 In the quarter to July 2006, the Area's discontinuance rate (for PCD cases only) of 15.3% in the Crown Court was better than the Area's disappointingly high local target of 20.5%, though worse than both the national average (13.2%) and the national target (11%). In the Magistrates' Court, the Area's discontinuance rate of 17.3% was worse than the national average (16%), and both the local (13.6%) and national (11%) targets. Poor quality file preparation and pre charge decisions are factors contributing to the below par discontinuance rates in both the Magistrates' and Crown Court.
- 4.7 The CPS has taken concerted action since mid 2006 to improve the quality and consistency of Pre Charge Decisions (PCD), and ensure advice is only given in cases which have been properly prepared and meet correct evidential standards. In HM CPSI's reading of a selection of concluded, older case files for discontinued cases, three out of 24 discontinued cases were based on "unreasonable" decisions (on the Wednesbury test of reasonableness) suggesting unsound PCD. One of these three cases had been the subject of PCD by CPS Direct. Spot checks on the standard of a selection of more recent advice and action plans suggested that the CPS's improvement action is proving effective.

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#### **RECOMMENDATION 2:**

We recommend

That the WM CJB: ensure that agencies, individually and jointly, address:

- Inconsistencies of practice in West Midlands Police evidence review role;
- The quality and timeliness of file building, and variations in the effectiveness of bail management and Prosecution Team Performance Management processes;

And ensure there is a clear understanding of the role of police and Crown Prosecution Service in cases requiring Pre Charge Decision.

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#### **Discharged Committals**

- 4.8 The rate of discharged committals in West Midlands has been a matter of concern since 1999. It was highlighted in a 2002 joint inspection report on this topic by HMIC, HMCPSI and Her Majesty's Magistrates' Courts Service Inspectorate (as it then was) published in 2002. Although the rate has reduced from 7.7% (of the total cases adjourned for committal) in the year to May 2000, to 3.14% in the year to September 2006, this last figure still represents 216 discharged cases. Some of them include serious allegations involving the use of firearms, supplying class A drugs, robbery, and witness intimidation. This has the potential for a negative effect on public confidence in the CJS.

- 4.9 A discharged committal is loosely defined as a case<sup>4</sup> which is not ready for committal on the date fixed, and where the magistrate(s) declines to grant further time, and so the CPS offers no evidence (not having determined to discontinue the case on its merits), and the court discharges the defendant without having considered the evidence. (This should be distinguished from the other, rarer, type of discharge where the court finds no prima facie case upon which a jury could convict the defendant, having actually considered the evidence at the committal hearing<sup>5</sup>). Under certain circumstances the prosecution can seek to have a case re-instated following a discharged committal (see below).
- 4.10 The West Midlands Area and the London Area are the two worst performing areas of the country for discharged committals. The significance of the poor performance in these two areas is shown by the following figures. In the year to September 2006, the national average rate of discharged committals including those in London and West Midlands Areas was 2.61%; however, the national average rate, excluding these two Areas, would have been around 0.4%.

**Fig 5**

|                 | West Midlands<br>Cases Discharged<br>as % of Total Committals | National Average<br>of Discharged Cases<br>as % of Total Committals |
|-----------------|---|---|
| <i>Year To:</i> |   |   |
| May 2000        | 7.69%   | Not Available   |
| December 2003   | 4.50%   | Not Available   |
| March 2005      | 5.47%   | 3.54%   |
| March 2006      | 3.11%   | 2.55%   |
| September 2006  | 3.14%   | 2.61%   |

- 4.11 The 2002 report raised issues about variable quality and timeliness of police file-building, as well as inadequate CPS systems. Essentially the same findings had been made in the HMCSI inspection reports of 1999 and 2001 and a later report in 2004 found the same problems. The issue of reinstatement was also raised in these reports. In this joint inspection, Inspectors examined a selection of discharged case files.
- 4.12 Inspectors selected 8.5% of the committals that were discharged in the year to September 2006 and examined them to ascertain whether improvements had been made in these specific areas. These files included adult and youth court cases from across the area. Broadly speaking, the main causes of these discharged committals were found to be pre-charge advice problems and post-charge administrative weaknesses.

4 Only "either-way" cases (such as theft, deception, assault occasioning actual bodily harm and drug supply) can be committed by the adult magistrates' court to the Crown Court. The most serious adult cases are sent to the Crown court under a separate procedure set out in s.51 Crime and Disorder Act 1998 (see below). S.51 does not apply in the youth court yet and the most serious youth court cases (including murder) are still committed to the Crown Court in the usual way.

5 S.6(2) Magistrates' Courts Act 1980

***Pre-charge advice***

- 4.13 Most of these cases fall within the charging scheme (see paragraph 4.4 above). In relation to cases likely to be committed for trial, CPS area policy requires that charging decisions must be made on a full evidential file when a suspect is likely to receive police bail. This means that the essential evidence necessary to commit the case to the Crown Court should be available at the time of charge in this type of case. Of the cases we analysed, 15% were discharged for want of a critical piece of evidence where the defendant had received police bail, which means that no charge should have been brought until the missing evidence was in place.
- 4.14 When a suspect is not to be bailed, a charging decision must be made on the evidence available at the time ('the threshold test'), and the police would not be expected to provide a full evidential file until after charge. The file examination showed that in 32% of cases, the charging lawyer did not give sufficiently specific advice on the nature of the forensic or identification evidence which was needed to commit the case to the Crown Court. Police not subsequently obtaining the necessary evidence within the timescales set by the courts led to the cases being discharged.
- 4.15 It follows that a substantial reduction in the rate of discharged committals (47% in the sample examined) might be obtained by improved pre-charge advice with a clear and realistic action plan agreed for obtaining evidence. Firstly, this requires improved file building by WMP, so that the necessary basic forensic and identification evidence is available to the CPS at the time of the initial advice in bail cases, and in time for the committal where the defendant is in custody. Secondly, this requires more robust and specific pre-charge advice being given by the duty prosecutor, particularly in custody cases where the time available for post-charge file building is limited by the court. In the months leading up to the inspection, the CPS gradually set in place extensive management checks to assess the quality of pre-charge advice and improve the process, following a recognition that the system was not working properly. This quality assurance process should ensure that the cases which are being discharged due to poor CPS advice, or lack of evidence gathered during police file building, are identified and rectified in time to avoid discharge.

***Post-Charge Systems***

- 4.16 Another main cause of discharged committals was post-charge administrative systems failures within both the police and the CPS. The same issue was highlighted in the 2002 joint inspection report. In 21% of the discharged cases examined the full file was never built for committal because it did not progress effectively through the post-charge system. Representative examples include a special casework file that was left in a different CPS office and was never passed to or requested by the special casework lawyer; a file not being provided by police despite timely request and follow up by the CPS; and a file which was never prepared for committal even though it was supplied to the reviewing lawyer in good time. Closer joint working between CPS and the police would therefore serve to reduce the number of cases where this happens. At the Outer Birmingham combined unit a diary log system is used to monitor the preparation of cases sent to the Crown Court under the s.51 provisions<sup>6</sup> where files are chased as they become overdue in order to avoid dismissal. This system was effective and could be used to manage cases which are to be committed.



### **Reinstatement**

- 4.17 Cases that are discharged can be reinstated as long as there is no unreasonable delay between discharge and reinstatement, and the defendant was warned that this might happen. Should either of these conditions be missing, the court might not allow reinstatement.
- 4.18 WM CPS has an Area-wide system for considering re-instatement of discharged committals. Although Inspectors were told that the system was being universally adhered to it is of concern that some CPS lawyers are unaware of the system, and that in nearly half of the cases examined the system had not been followed. This suggests an urgent training need in the CPS to ensure that in all relevant cases reinstatement is considered and managed effectively. It is critical that, in any event, reinstatement should not be viewed as an alternative to improved file-building and pre-charge advice. The gravity of some of the cases, and the number involved which remains unacceptable, may have a significant adverse impact on the public's confidence in the criminal justice agencies to bring offenders to justice. There is a need for the agencies to make sustained, concerted efforts to reduce the rate of discharged committals, and for the WMCJB to review progress in mid 2007.

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### **RECOMMENDATION 3:**

We recommend that:

CPS and WMP make sustained, concerted efforts to reduce the rate of discharged committals through:

- the CPS improving the quality of pre charge decisions and action plans, implementing a system to log and track cases that are to be committed; and
- the WMP taking effective action to build evidential files pre and post charge

and the Board review progress in mid 2007.

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### **Sensitive and specialist casework**

- 4.19 The Area shows commitment to, and recognises the importance of, sensitive and specialist cases, including hate and race crime and domestic violence. The WMP and CPS each deal with such cases within a public protection framework which covers all aspects of hate crime. Both agencies have officers who specialise in the handling of different aspects of hate crime. Since 2003, a protocol has been in place between WMP and CPS concerning the provision of specialist casework lawyer services. With a view to evaluating and improving the effectiveness of current arrangements, WMP was, at the time of the inspection, scoping a Best Value review of processes relating to all aspects of hate crime.
- 4.20 Within WMP, active ACPO leadership on public protection policy has led to a series of measures to achieve progressively strengthened arrangements regarding the investigation of child abuse and domestic violence. The force has undertaken annual audits since 2004, examining every Child Abuse Investigation Unit for compliance with Lord Laming's recommendations following the Climbié inquiry, and taking action accordingly. A protocol

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6 S.51 Crime and Disorder Act 1998 provides that the most serious type of case (where at least one of the defendants is an adult) must be sent direct to the Crown Court after a only a single hearing in the magistrates' court without having to go through the committal procedure. However, an "application to dismiss" can be made in the Crown Court in the same way that the defence can apply for discharge at committal in the magistrates' court.

on the exchange of information between local authorities, WMP and CPS in child abuse investigations and prosecutions came into effect in March 2006. The force continues to fund a full-time superintendent post within Birmingham City Council's social care and health department, providing a key strategic link between the agencies.

- 4.21 The force has begun a phased and structured roll out of the Violent and Sex Offenders Register system. The implementation and use of the system is monitored by the joint public protection unit (JPPU). Consistent force-wide training is available with input from the JPPU.
- 4.22 The Agencies have taken a range of helpful measures to support and improve the experience of victims of domestic violence (DV) or domestic abuse. In 2005/06, WMP set a target of 70% for the percentage of arrests made at the scene of domestic abuse, but achieved 85.3%, above the "most similar force" (MSF) average of 71.2%. The domestic abuse repeat victimisation rate was reduced by 8.7%. The introduction of the domestic abuse risk assessment indicator process has increased liaison with partner agencies through multi-agency risk assessment conferences (MARAC). This system is a welcome and commendable tool for inter-agency co-operation. However, some practitioners expressed concern that its effect could be to focus attention on a small number of high risk offenders to the potential detriment of crime prevention analysis and initiative regarding lower risk offenders. The force and agencies clearly intend the MARAC system to deliver a joint agency response to risk assessment and crime reduction, and it will be important that its effectiveness is monitored and communicated to staff.
- 4.23 WMP has specialist DV officers for each OCU. However, in some local areas such units appear stretched. The training of front line officers to identify and flag cases of domestic violence was identified as showing further room for improvement by some specialist staff. The experience of victims of domestic violence, and the experience of staff and volunteers of Victim Support, suggested that the handling of cases by WMP can vary a good deal locally, with both good and disappointing practice being reported.
- 4.24 There is an agreement between criminal justice agencies to fast track domestic violence cases. The Victim and Witness Action Delivery Board (ADB) monitors the trends in cracked and ineffective trials in domestic violence cases, and aims to improve the success rate of domestic violence prosecutions. Data available in October 2006 showed that around 40% of such trials crack; the ADB has expressed an intention to ensure that good decisions are taken concerning support for victims and case discontinuance. It is important that this intention is followed through and that the Board monitors the outcome of domestic violence prosecutions and evaluates agencies' contributions to their effectiveness.

- 4.25 The Area made an early commitment to the development of Special Domestic Violence Courts (SDVC), and has 11 in operation, one at each magistrates' court centre. The scale of SDVC activity depends on the size of the court centre: at Birmingham Magistrates' Court, three SDVC sit each day of the week, but at a smaller court the SDVC may sit one or two days a week. Victims attending the Birmingham SDVC benefit from co-operative working between WMP specialist officers and the Birmingham Women's Aid voluntary organisation. The Board expressed some frustration over delays in the central recognition of its SDVC as meeting the 11 standards required by central guidance. Not all of the Area's SDVC yet have an independent DV adviser, as the standards require. The Area has secured central funding for such appointments at some of its SDVC but was awaiting decisions on further applications. Most applications to the courts for special measures<sup>7</sup> in sensitive cases were indicated to be timely; however, some instances of late applications were also reported. Practitioners identified local variations regarding the training of Witness Care Unit (WCU) staff to support DV victims, the consistency of WCUs' liaison with specialist units, and the use of SDVC capacity.
- 4.26 The agencies and Board need to ensure that variations in local practice do not put at risk the effectiveness of the support provided to or the confidence of victims. The national standards require that DV cases should be given priority in court schedules. Notwithstanding pressures on court time, the Board needs to assure itself that DV trials are given effective priority. It would be beneficial for the Board to give a strategic steer towards a comprehensive inter-agency approach and good practice in the handling of domestic violence cases at all stages, perhaps in the context of the development of Area hate crime and public protection policies.

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**ASPECT FOR IMPROVEMENT:**

To analyse variations in practice in the handling of domestic violence cases at all stages, and give a strategic steer towards a comprehensive inter-agency approach and good practice.

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**Priority offending**

- 4.27 The Prolific and Priority Offender (PPO) premium service scheme was implemented Area-wide during 2006 and compliance is monitored by the CJB's Offender Management Action Delivery Board (OM ADB). However, the ADB recognises that the Youth Offender Teams (YOTs) are not yet fully engaged in this process, or in the work of the ADB. A premium service review in September 2006 showed good progress with the scheme by the agencies involved except the YOTs. A range of relevant protocols is in place regarding priority offending, including the PPO premium service specification which the OM ADB has provided to all Crime and Disorder Reduction Partnerships (CDRP). In some local areas, the Board's Local Criminal Justice Groups (LCJG) and the criminal justice agencies engage strongly with community safety partners. Coventry Community Safety Partnership (CSP) has a useful Working Framework which sets out PPO strategy, its implementation, and contacts in relevant agencies including WMP, YOTs, the Probation Area,

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<sup>7</sup> Special measures are measures which can be put in place to provide protection and/or anonymity to a witness, for example a screen separating the witness from the accused or the use of a video link facility.

GOWM, the Drug Action Team and Non-Governmental Organisations. The role of the Wolverhampton LCJG regarding PPO and other matters is specifically recognised in the recently agreed Wolverhampton Partnership Local Area Agreement (LAA) 2006-09. In some local areas, however, the engagement between the LCJG and CDRP/CSP is less developed or effective. The Board does not yet provide a clear or comprehensive framework for such local engagement. (See also paragraph 3.10 et seq).

- 4.28 A quarterly reporting format for PPO has been established by the ADB, including trends for each CDRP within the Area. The ADB intends that reports will be provided to LCJG and CDRP, and to each CJA. Effective working relationships between the CJA and CDRP are vital to achieving complementary and supportive activities on PPO. Information sharing on PPO between the Board and the CDRP is under welcome development. The GOWM makes a good strategic input to the OM ADB, including, for example, advice to ADB members on the mandatory target to reduce re-offending to be included in all Local Area Agreements (LAA).
- 4.29 At the time of the inspection, the Board indicated its intention to begin implementation in November 2006 of end-to-end offender management for PPO and high risk offenders (Multi Agency Public Protection Arrangement (MAPPA) level 3). The WM Probation Area and Prisons Service are to monitor the scheme and report to the Board on its effectiveness. There is sensible agreement on the importance of regular feedback between the OM ADB and the West Midlands MAPPA Strategic Management Board.
- 4.30 There has been effective bilateral collaboration between WMP and Her Majesty's Courts Service (HMCS) to improve performance on court register updates to the Police National Computer (PNC), with analysis and problem-solving, and clearly improved performance, to the benefit of all agencies.

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**GOOD PRACTICE:**

There has been effective bilateral collaboration between WMP and HMCS to improve performance on court register updates to PNC, with analysis and problem-solving, and clearly improved performance, to the benefit of all agencies.

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## 5 REDUCING THE LEVEL OF INEFFECTIVE TRIALS

### Overview

The Area has reduced the ineffective trial rate at magistrates' courts and the Crown Court, achieving targets for 2005/06 and 2006/07 to date. The effective trial rate improved steadily but has levelled and wavered since mid 2005/06. Arrangements for ensuring effective case preparation and progression vary between agencies and local areas. The Board decided to discontinue case readiness processes in anticipation of improved quality and consistency of pre-charge decisions and the roll out of Simple, Speedy, Summary Justice; Inspectors are concerned that the Board had not adequately risk assessed this approach.

The Coventry Magistrates Court test of Simple, Speedy, Summary Justice has been implemented with commitment and good co-operation. The defence community was helpfully engaged from an early stage. On early data, the test has been close to achieving most of its specific targets, though in October 2006 some substantial dips in outcomes were reported on ineffective trials and witness non-attendance. The Board needs to assure itself that the necessary conditions for effective roll out of the initiative can be established Area-wide and to manage the risks involved.

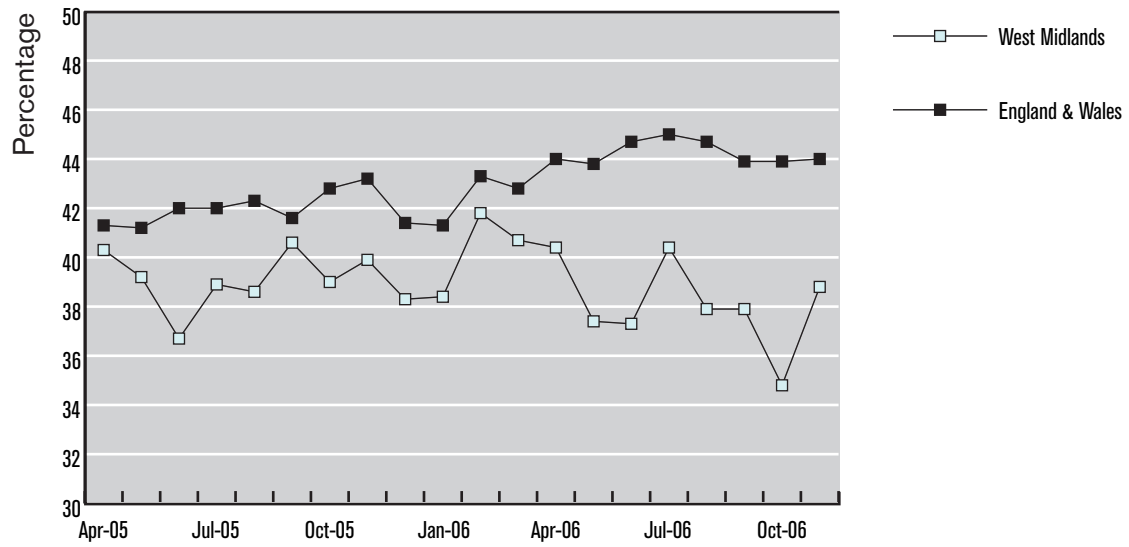
Despite some improvement action by the Board, performance against the national target for handling Persistent Young Offender cases has been poor for a year; recent analysis of local variations by West Midlands Police needs to be followed up.

The Area made a proactive contribution to the national No Witness No Justice initiative and has been commended centrally for its work. Prosecution witnesses have benefited from ten Witness Care Units across the Area. To ensure compliance with the Victims' Code, the Board needs to make the training of WCU staff and the monitoring and reporting of performance more systematic.

### Reducing the Level of Ineffective Trials

- 5.1 The Area has reduced the ineffective trial rate: in the magistrates' court (MC) from near 30% in April 2004 to around 20%, and in the Crown Court (CC) from near 30% to around 10% over a similar period. The effective trial rate improved steadily at both MC and CC from April 2004, but levelled in MC from June 2005 and (with some marked dips) in CC from Nov 2005. The Area's ineffective trial rate is close to the national average, somewhat better at the CC, but somewhat worse at the MC. (Quarter to July 2006, WM MC 19.6%, National average 18.8%; WM CC 10.7%, National average 12.6%).

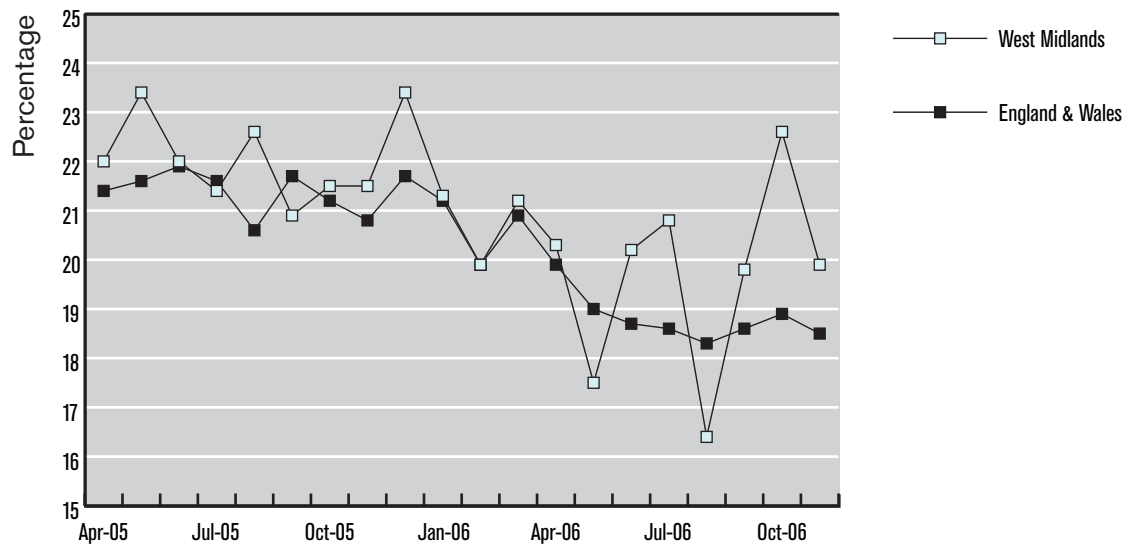
Fig 6 West Midlands Area Magistrates' Courts: Effective Trial Rates



Source: HMCS court statistics

Data correct as at 13 April 2007

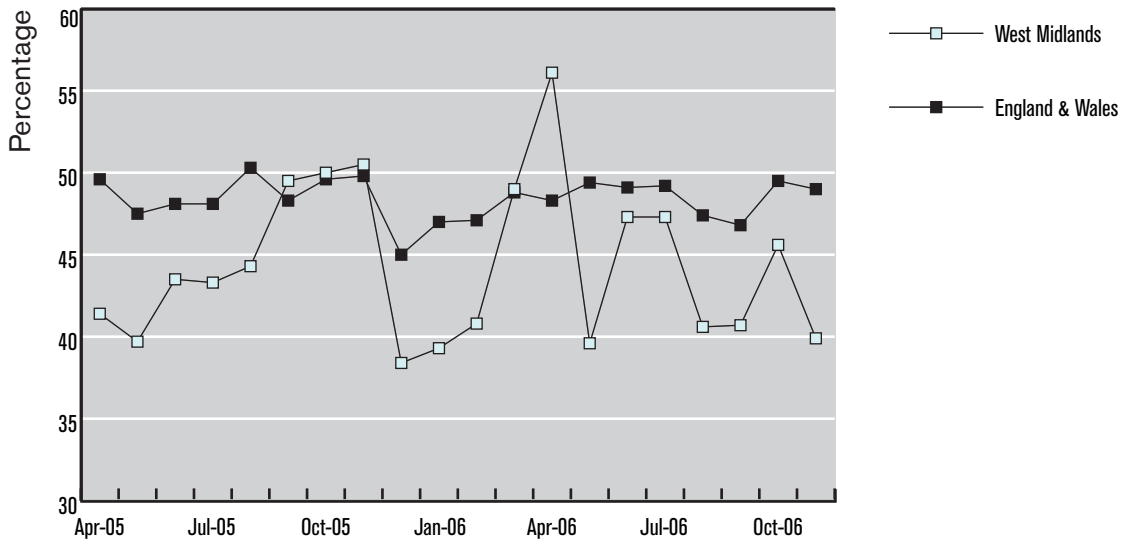
Fig 7 West Midlands Area Magistrates' Courts: Ineffective Trial Rates



Source: HMCS court statistics

Data correct as at 13 April 2007

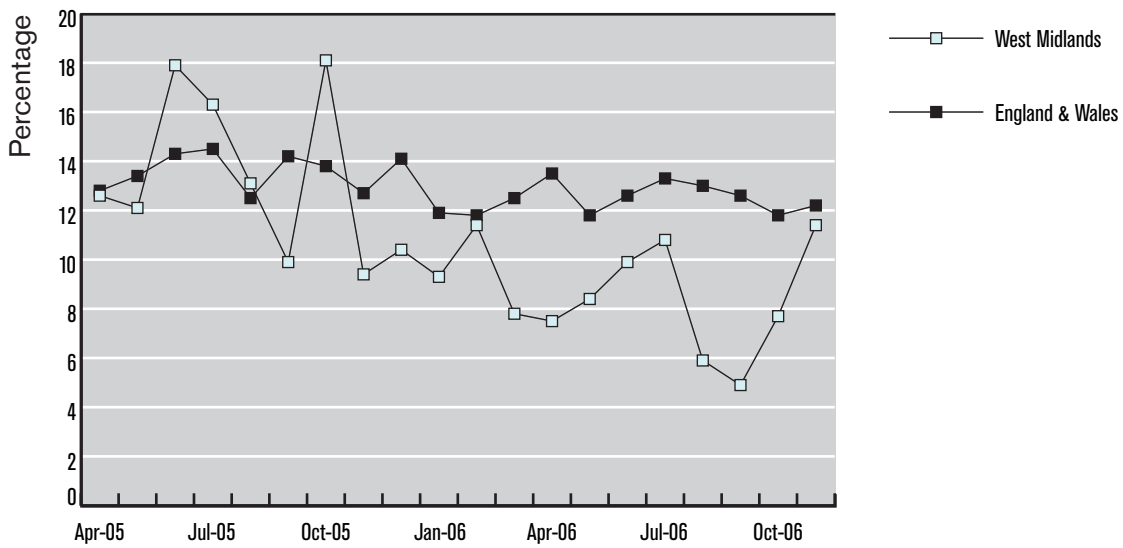
Fig 8 West Midlands Area Crown Courts: Effective Trial Rates



Source: HMCS court statistics

Data correct as at 13 April 2007

Fig 9 West Midlands Area Crown Courts: Ineffective Trial Rates



Source: HMCS court statistics

Data correct as at 13 April 2007

**Case Management and Timeliness**

- 5.2 Arrangements for ensuring effective case preparation and progression vary between agencies and local areas. The police, CPS and HMCS identified case progression officers as part of the Area's implementation of Effective Trial Management processes. However, the CPS case progression function, under which a Crown Court caseworker identified as case progression officer for a particular case is at times in court with other cases and not available to other agencies' CPOs, sometimes hampers other agencies' case progression work. The CPE ADB decided to discontinue case readiness processes in anticipation of improved quality and consistency of PCD and the roll out of SSSJ; Inspectors are concerned that the Board had not adequately risk assessed this approach.
- 5.3 Although there are no national targets in 2006/07 for the times within which cases should be heard by the courts, standards for this purpose are set by HMCS, and timeliness measures for the magistrates' and Crown court are monitored and reported on by the Board. HMCS requires 80% of cases at the magistrates' court and 78% of cases at the Crown court to be completed within specified times which depend on the nature of the case concerned. The WM Area has consistently achieved the overall timeliness standard for the magistrates' courts throughout 2005/06 and 2006/07 to September 2006, its performance during this period ranging from 86.7% to 90.8% (rolling quarterly data, available quarterly). The average number of days from first court listing to completion for defendants in all criminal cases was lower for magistrates' courts in the West Midlands than the average for England and Wales (as measured by HMCS quarterly surveys).

**Fig 10 Timeliness in Magistrates' Courts – Average number of days from first court listing to completion for defendants in all criminal cases**

|                   | March 2004 | September 2004 | March 2005 | September 2005 | March 2006 | September 2006 |
|-------------------|------------|----------------|------------|----------------|------------|----------------|
| England and Wales | 33         | 33             | 33         | 30             | 32         | 31             |
| West Midlands     | 36         | 35             | 30         | 27             | 27         | 25             |

The margin of error is a measure of the precision of a result based on a sample survey. Timeliness in magistrates' courts is measured using data from a sample of the total number of defendants. The sample provides one estimate of the average time taken. The margin of error for West Midlands performance in each survey from March 05 to March 06 is +/-3 and England & Wales for the same periods is +/-1. For September 2006 the margin of error for West Midlands is +/-2 and for England & Wales is +/-1

Source: HMCS

Data correct as at 30 January 2007



**Fig 11 Timeliness in Magistrates' Court – % Cases completed within standard – adult cases**

|                                       |                   | Mar 05 | Jun 05 | Sep 05 | Dec 05 | Mar 06 | Jun 06 | Sep 06 |
|---------------------------------------|-------------------|--------|--------|--------|--------|--------|--------|--------|
| <i>Initial Guilty Plea</i>            | England and Wales | 83     | 84     | 84     | 86     | 84     | 85     | 85     |
| <i>Standard = 59 days</i>             | West Midlands     | 91     | 90     | 88     | 90     | 88     | 88     | 90     |
| <i>Trials</i>                         | England and Wales | 66     | 69     | 69     | 67     | 63     | 64     | 66     |
| <i>Standard = 143 days</i>            | West Midlands     | 79     | 86     | 86     | 82     | 84     | 86     | 87     |
| <i>Committals Standard = 101 days</i> | England and Wales | 89     | 92     | 92     | 90     | 88     | 91     | 93     |
|                                       | West Midlands     | 97     | 98     | 97     | 98     | 97     | 98     | 97     |

Results are presented from quarterly Time Interval Surveys. As of August 2004, the locally agreed timeliness targets were replaced by new national standards. Source: DCA Statistical Bulletins – Time Intervals for Criminal Proceedings in Magistrates' Courts

Data correct as at: 01 February 2007

**Fig 12 Timeliness in Magistrates' Court – % Cases completed within standard – youth cases**

|                                       |                   | Mar 05 | Jun 05 | Sep 05 | Dec 05 | Mar 06 | Jun 06 | Sep 06 |
|---------------------------------------|-------------------|--------|--------|--------|--------|--------|--------|--------|
| <i>Initial Guilty Plea</i>            | England and Wales | 87     | 88     | 88     | 87     | 87     | 89     | 89     |
| <i>Standard = 59 days</i>             | West Midlands     | 89     | 90     | 91     | 87     | 93     | 90     | 91     |
| <i>Trials</i>                         | England and Wales | 87     | 89     | 90     | 89     | 87     | 87     | 87     |
| <i>Standard = 59 days</i>             | West Midlands     | 91     | 93     | 96     | 95     | 97     | 89     | 97     |
| <i>Committals Standard = 101 days</i> | England and Wales | 91     | 94     | 92     | 90     | 87     | 92     | 96     |
|                                       | West Midlands     | 100    | 100    | 100    | -      | -      | -      | -      |

Results are presented from quarterly Time Interval Surveys. As of August 2004, the locally agreed timeliness targets were replaced by new national standards. Extremely small sample sizes, i.e. 30 defendants or less, have been excluded from the table and appear as dashed lines.

Source: DCA Statistical Bulletins – Time Intervals for Criminal Proceedings in Magistrates' Courts

Data correct as at: 01 February 2007

5.4 At the Crown Court, however, while the Area achieved the 78% standard set by HMCS between May 2005 and May 2006, with the exception of November 2005 (rolling quarterly data available monthly) its timeliness deteriorated from May 2006, and was 75.2% in August 2006. The Area expressed concern to DCA about the impact on Crown Court timeliness of two developments: an increase in caseload due to the number of serious cases originating in other areas which were transferred to the West Midlands, coupled with a reduction in the number of sitting days due to financial pressures. In an effort to improve timeliness, the Area took action to move some work from Birmingham Crown Court centre to Coventry where some capacity was available. Inspectors noted, however, that the impact on victims and witnesses of such transfers of cases is not systematically monitored. At the time of the inspection, the WM HMCS indicated that it had secured funding to enable an increase in sitting days which the Area expected to contribute to reversing the deterioration in Crown Court timeliness. Data to November 2006

indicate that the timeliness of cases committed to trial and sent to trial in the Crown Court in the West Midlands has improved since the dip in mid 2006. While worse than HMCS's standard, the timeliness of cases in the Crown Court in the West Midlands Area has been generally better than the average for England and Wales, even during the performance dip in mid 2006.

**Fig 13 Timeliness in Crown Court (% within standard)**

| 2006                           |                   | Jan  | Feb  | Mar  | Apr  | May  | Jun  | Jul  | Aug  | Sep  | Oct  | Nov  |
|--------------------------------|-------------------|------|------|------|------|------|------|------|------|------|------|------|
| <i>Committals to Trial</i>     | England and Wales | 69.1 | 69.1 | 68.2 | 68.3 | 66.6 | 67.1 | 65.9 | 67.7 | 66.7 | 67.6 | 67.2 |
|                                | West Midlands     | 72.2 | 69.8 | 69.4 | 67.1 | 66.8 | 66.8 | 72.1 | 68.7 | 70.5 | 70.4 | 74.6 |
| <i>Sent to Trial</i>           | England and Wales | 75.4 | 75.9 | 73.9 | 72.6 | 74.2 | 69.8 | 70.1 | 74.4 | 75.5 | 72.2 | 71.6 |
|                                | West Midlands     | 77.4 | 82.9 | 78.0 | 78.6 | 79.8 | 69.4 | 70.4 | 74.5 | 74.7 | 69.9 | 74.0 |
| <i>Committals for Sentence</i> | England and Wales | 90.1 | 86.6 | 88.6 | 89.2 | 89.4 | 89.6 | 89.2 | 90.5 | 89.0 | 91.0 | 90.4 |
|                                | West Midlands     | 89.7 | 85.9 | 90.5 | 91.7 | 85.6 | 87.0 | 87.9 | 91.7 | 92.8 | 89.1 | 93.4 |
| Appeals                        | England and Wales | 84.1 | 86.2 | 85.9 | 90.4 | 89.2 | 87.9 | 87.5 | 85.6 | 86.0 | 85.9 | 85.5 |
|                                | West Midlands     | 93.6 | 75.6 | 89.5 | 97.7 | 88.9 | 89.1 | 88.7 | 86.8 | 87.3 | 85.2 | 82.3 |

Source: HMCS Crown Court Statistics

Data correct as at 12 April 2007

### **Simple, Speedy, Summary Justice**

- 5.5 The Coventry MC SSSJ test has been implemented with commitment and good co-operation. The Court Processes ADB used OCJR's detailed action plan to guide implementation. Agencies locally adapted working practices for mutual benefit and engaged constructively with the defence community from an early stage. Preliminary data suggest that the test has been close to achieving most of the specific targets set for it. Time to trial has been close to 6 weeks, and early guilty pleas close to 60%. However, the October 2006 data reported substantial dips in outcomes for that month on ineffective trials (38.5% at Coventry MC compared with the Area average of about 20%) and witness non-attendance (causing 20-25% of cracked trials compared with the Area MCs' long run average of around 5%).
- 5.6 HMCS locally has worked with partner agencies to monitor and analyse performance. The Coventry MC manager has monitored progress and analysed factors affecting the test on a weekly basis, assisted by HMCS and Board Performance Officers, and has disseminated information to and met monthly with partners. The Board has supported the test, the ADB available to discuss any rubbing points (though partner co-operation locally has been good). The Office for Criminal Justice Reform (OCJR) has worked with Coventry and other test sites to gather detailed information for the purposes of its interim evaluation of the four test sites. This was expected to be available shortly after the inspection.

- 5.7 The Board plans to roll out the scheme across WM in two stages in Spring 2007. Now that the OCJR has identified critical success factors for effective implementation, the Board will wish to assure itself that the necessary conditions can be established Area wide, and that key risks are identified and managed, including any implications for victims and witnesses. In addition to OCJR's interim evaluation of process factors, the Board will need to consider "softer" but important issues of leadership and capacity.

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**RECOMMENDATION 4:**

We recommend

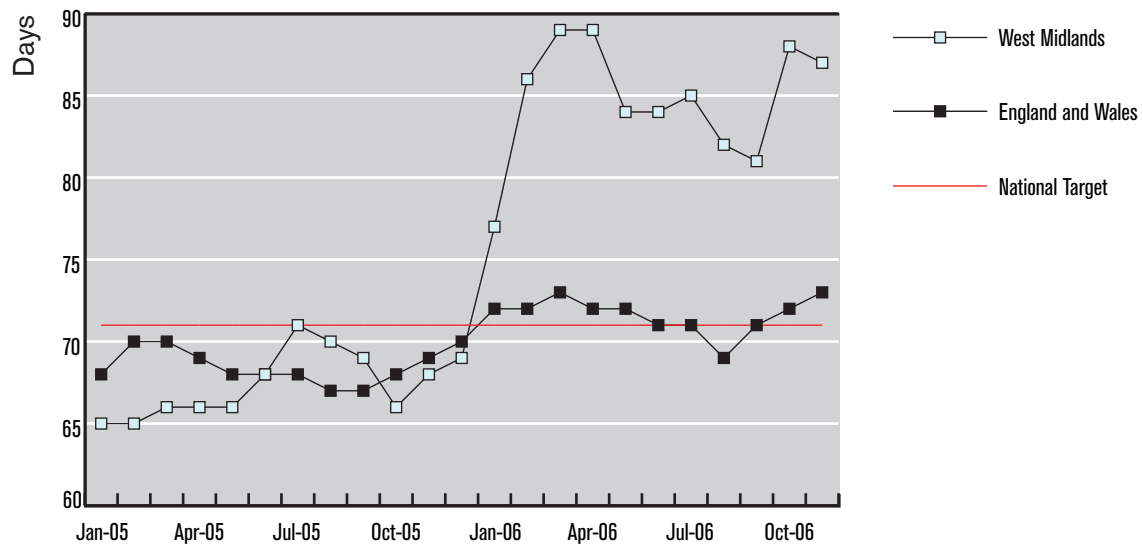
That the WM CJB, drawing on interim evaluation of the Coventry and other Simple Speedy Summary Justice tests, assure itself that the conditions for effective implementation of the initiative Area wide can be established prior to roll out, and take steps to identify and manage the key risks involved, including those concerning victim and witness care.

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**Persistent Young Offenders (PYO)**

- 5.8 The Area's performance against the national target of 71 days or less average time from arrest to sentence of PYOs has been poor for a year. The Area has missed the target since November 2005. In August-October 2006 (3 month rolling figure), arrest to sentence in the West Midlands Area took 84 days on average. The Board recognises that the drop in performance resulted in part from agencies' losing focus on the PYO target. Poor performance was in part attributable to a WMP software change which deleted the PYO identification marker on the IT system; this has now been rectified. The WMP has also introduced an IT upgrade which provides an interface enabling immediate data transfer. Such data was previously transferred manually, and the Youth Justice Board (YJB) added eight days to the Area's PYO performance indicator to reflect the time taken to do this. With WMP's establishment of the new interface, the Board has asked the YJB to remove what the Area perceives as this eight day penalty from its performance data. The Court Processes and Enforcement ADB (CPE ADB) prepared, implemented and updated an action plan to address poor PYO performance, with reminders to CJA staff about the PYO target. A range of issues, including for the Crown Court, are being pursued. But it is only recently that WMP analysis, based on a monthly report introduced in October 2006, has highlighted the variations in performance of individual Operational Command Units (OCU) in the timeliness of processing PYO cases. For example, WMP data indicated that the average arrest to charge period for PYOs in the three months to October 2006 varied from four days in one OCU to 28 days in another, compared with the target of eight days and the Area average of 14 days. As noted in paragraph 4.3 above, weaknesses in the flagging of PYO cases and variable bail practices have contributed to delays in progressing PYO cases. The CPE ADB disseminated the WMP data on OCU timeliness in processing PYO case to LCJGs for monitoring. The Board needs to further analyse the factors, at Area and local level, which are affecting PYO performance and take action to ensure that national targets are met.

Fig 14 PYO - Average number of days from arrest to sentence - 3 month rolling average



Source: West Midlands CJB performance bulletin February 2007

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**RECOMMENDATION 5:**

We recommend

That the WM CJB: further analyse Area and local factors affecting performance on Persistent Young Offenders, and take steps to meet national targets.

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**Victim and Witness Care**

5.9 The Area made a significant and proactive contribution to the piloting and development of the national No Witness No Justice (NWNJ) initiative. The Area was a pathfinder area for the launch of the witness intermediary scheme to support vulnerable and intimidated witnesses in November 2004. Prosecution witnesses have benefited from the introduction of ten Witness Care Units (WCU) across the Area, which were in place by August 2005. The Area is engaging enthusiastically in other victim and witness initiatives, including the Victims' Advocates Scheme.

5.10 Prosecution witness attendance at court has improved. However, in the Crown Court, the impact on victims and witnesses of the transfer of cases is not systematically monitored. Witness waiting times and unnecessary attendance, (as monitored in the national survey) improved in MC to around or better than the national average in the June 2006 survey, after being worse than the national average in 2005 surveys. But these remained an issue in the CC. Under-use of staggered witness arrival times in both CC and MC contributes to some long waiting times.

- 5.11 The Area continues to develop a productive partnership with Victim Support (VS) and the Witness Service (WS), at Board and local level, assisted by new leadership during 2006 in the Area VS; but this partnership is not yet consistently effective. Victim Support is increasingly effectively engaged with the Board. The Chief Executive Officer is a Visiting Member of the Board and regularly attends Progress Group meetings; VS is also a member of the V&W ADB, and of the Communications and E&D Enabling Groups. However, VS is not yet represented at all LCJG. The performance of VS is not reported to the Board, nor its data, for example on ethnicity, shared and utilised. There is scope for VS to be more systematically involved in police training – its input is regularly sought and appreciated in some OCU, but not used in others. Victim Support was concerned about the variable and sometimes low rate of referral of victims, and the provision of information, by the police, and about the lack of progress on electronic receipt of these referrals.
- 5.12 The Victims and Witnesses ADB has ensured that the agencies are compliant with regards to policies that reflect the Victims' Code. The Board needs to take steps to ensure and monitor compliance in practice. Shortly before the inspection, the WM Area's approach to supporting victims and witnesses was the subject of a review by the OCJR's No Witness No Justice Unit, the findings of which were made available to the inspection team. The review noted a number of achievements and strengths of the Area's approach to supporting victims and witnesses, including the commitment of staff at all levels and across all agencies. However, the review also identified a number of priority concerns, including gaps in the knowledge and application of the Victims' Code among some police and WCU staff. The review urged the Board to implement action plans to ensure delivery of an optimum quality of service to victims and witnesses in the Area. Inspectors intend their recommendation (below) to reinforce the Board's commitment to this work. Work is in hand by the WMP, CPS, HMCS and Probation Area, under the aegis of the ADB, to scope the requirements for Victims' Code compliance and to make necessary changes in their operational processes. For example, the WMP is revising the crime reporting form to ensure compliance with the Code, and the CPS is revising processes under the Direct Communications with Victims Scheme. The ADB plans to use the OCJR's Delivery Toolkits to help identify best practice in victim and witness care. These positive developments are reported in the October 2006 update of the Delivery Plan.
- 5.13 Staff in WCU show commitment to their work. However, the resourcing and effectiveness of WCU across the Area vary and some WCU seem very stretched. There is a need, with the direction and support of the Board, to make the training of WCU staff (eg on Victims' Code requirements, and on telephone contact with vulnerable and intimidated witnesses), and the monitoring and reporting of WCU performance, more systematic at Area level.

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**RECOMMENDATION 6:**

We recommend

That the WM CJB build on its clear commitment to victim and witness care, by:

- Taking steps to ensure and monitor Victims' Code compliance (including referral of victims to Victim Support; keeping victims informed of case developments; informing victims of changes in plea or bail conditions; avoiding adjournments in sensitive cases; reducing waiting times for witnesses on the day of trial; and effective support to vulnerable and intimidated witnesses).
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- 5.14 At the time of the inspection, the future staffing of the WCU was the subject of some uncertainty. This was also true of the VS/WS staff seconded to WCUs. Communication with WCU staff about future staffing was not effectively coordinated by the Board. Some WCU staff received redundancy notices from WMP. The Board discussed the issues and expressed its concern about aspects of their handling. The matter was resolved and the notices withdrawn shortly thereafter.
- 5.15 Witness facilities at courts are varied; some are good, notably at Crown Court centres, while the adequacy of others is affected by a range of issues including space, cleanliness, and the availability of refreshments. Such issues affect witnesses' sense that their important contribution to the CJS is recognised. There was scope for more joint working between HMCS and the WS to identify ways in which witnesses could be more effectively supported.

**The rights of defendants**

- 5.16 WMP's "Taking charge of custody" programme sets guiding principles for the conduct of custody officers, who were observed to be both professional and respectful in their handling of those in police custody. HMICA's inspection of services for defendants in WM HMCS Area, in February 2006, found court staff generally enthusiastic to help defendants and treating them with courtesy and respect. However, many defendants wait for long periods at court without updates. No joint targets were set for court timeliness in 2006/07, but the Board reports on timeliness as part of wider measures. Timeliness at both WM CC and MC is worse than the England and Wales average. At the Crown Court, both Birmingham and Wolverhampton Crown Court centres deal with significant numbers of complex and serious cases from outside the Area which the Area considers delay the progress of local cases.
- 5.17 In the WM Area, a varying but significant percentage of defendants requires information and assistance in a language other than English. WMP and HMCS make use of a telephone-based translation service. Arrangements for booking interpreters are generally effective, though there is sometimes confusion over responsibility for the first hearing, and there was some evidence of courts employing informal mechanisms in these circumstances. WM HMCS has committed itself to improving provision of information in languages other than English, ahead of HMCS national developments. Observations by Inspectors suggest there remains room for improvement. The Board's Equality & Diversity Enabling Group has begun a promising inter-agency initiative on the use of interpreters.

- 5.18 An inter-agency protocol on Mentally Disordered defendants, agreed in 2005/06, is being followed up by the Offender Management ADB to ensure the needs of vulnerable defendants in custody are addressed. At WMP custody suites, however, services can be variable; while contracted nursing and psychiatric services are quickly available at some suites, some long waits can be experienced at others.
- 5.19 Court custody facilities within the Area have benefited from some investment; however, the custody facilities at the Victoria Law Courts buildings of the MC and WMP in central Birmingham still show room for improvement, partly arising from the limitations of old buildings and facilities, and partly, as regards the MC, from cleanliness issues which relate in part to the management of defendants' behaviour and the apparent reluctance by agencies to use sanctions when soiling of cell areas occurs. Decency audits undertaken by the Prisoner Escort and Custody Service monitor and report on court custody conditions and find some decency issues at older facilities in the WM Area.
- 5.22 At the time of the inspection, part of WMP's central Birmingham custody facility was in use as overspill prison accommodation due to pressures on the national prison estate. Inspectors visited this accommodation and provided feedback to the Board about a number of concerns. The Board has indicated its intention to concern itself with the local implications of national strategic issues concerning the future prisoner population and prisons estate management.
- 5.21 The Board's early and continuing active engagement with the Improving Prisoner Availability Project (IPAP) reflects the Board's recognition of the potential to improve prisoner delivery-related quality of service and performance, including the availability and use of prison video-link (PVL). In the six months to March 2006, prior to the IPAP project, data prepared by the national IPAP team showed that the WM Area achieved a higher average PVL usage, at 74%, than the 65% average for the three IPAP pilot areas. A sub-group, led by the Board's Business Manager, reviewed the scope for increased PVL capacity and usage at the Area's courts, and submitted detailed proposals to the centre at the time of the inspection. At Birmingham MC, a number of PVL cases were observed to proceed efficiently, with scheduled time for consultation via PVL with defence representatives. At some courts, productive use is made of PVL by Probation staff. However, at some courthouses the optimisation of PVL is restricted by a range of factors, including limited PVL capacity, and limited use of facilities by CJA and defence representatives.
- 5.22 Facilities for defence witnesses are provided at some courthouses but not all. Practitioners felt that not all WS staff and volunteers were sufficiently aware of the needs of defence witnesses. Witness Support staff and volunteers, however, find they receive very few referrals of defence witnesses in spite of their efforts to promote this service with defence representatives.





## 6 ENFORCING COMMUNITY PENALTIES

### Overview

Though the national COMET system shows West Midlands as the highest performing area for the enforcement of community sentences, the good performance recorded by COMET is misleading because it reflects the prompt withdrawal of many summonses. There is shared ownership of targets and processes through the Board's Court Processes & Enforcement Action Delivery Board. Inter-agency protocols and a training plan are in place. The Area believes that its approach to the prompt issue of summons speeds up the handling of breaches and improves compliance with community sentences.

Though many withdrawals follow offenders' provision of an acceptable reason for absence, around a third of withdrawals, in which there is a prima facie case to proceed, are withdrawn because no breach pack is ready for the hearing. These cases are not reinstated or prosecuted, with implications for public confidence locally and for the accuracy of Public Sector Agreement data nationally.

The Inspectors' analysis of a selection of files for concluded breach cases (excluding those in which summonses were withdrawn) showed that the West Midlands youth cases met both national targets, whilst adult breach cases met the target percentage of cases concluded within 25 days, but performed poorly against the average end-to-end target of 35 working days.

### Background information

- 6.1 Targets for the enforcement of community penalties were introduced to LCJBs in 2005-06. Performance against the targets is measured by a bespoke HMCS administered database known as COMET.
- 6.2 The national targets are that all community penalty breach proceedings should take an average of 35 working days from breach to resolution, and that 50% of all breach proceedings be resolved within 25 days of relevant failure to comply. COMET tracks the performance of the breach of all adult and youth community penalties where the second unacceptable absence occurred after 1 April 2005. Nationally, performance data was available from November 2005.
- 6.3 In addition to the LCJB target, there are various single agency targets concerning enforcement, such as the Youth Justice Board (YJB) and National Probation Service (NPS) targets to initiate breach proceedings within a defined number of working days, and magistrates' court targets for the enforcement of community penalty breach warrants.
- 6.4 The WMCJB established a Court Processes and Enforcement Delivery Board to agree processes and protocols to improve enforcement performance. This group meets regularly and has appropriate representatives from the relevant agencies. The group has monitored performance since data were first made available in October 2005, examining performance at a local and regional level, differentiating between youth and adult performance.
- 6.5 Members of the Court Processes and Enforcement Delivery Board were invited to present their vision for end-to-end enforcement at a CJS national conference on delivering rigorous community penalty enforcement in January 2006.

- 6.6 Performance against the two enforcement targets as measured by COMET for the period April to October of 2006 was as follows: that breach proceedings took an average of 27 working days to be resolved and that 75% of cases were resolved in 25 working days. Nationally, the West Midlands Area's performance as measured by COMET is the best in the country.
- 6.7 Until mid-2006, one YOT manager attended the WMCJB on behalf of the Areas' seven YOTs. A middle manager from one YOT also attended the Court Processes and Enforcement Delivery Board. Due to the structures of both the WMCJB and the YOTs, communication was complicated. At the time of the inspection, consideration was being given to the benefits of the YJB Regional Manager representing all YOTs on the board. Detailed work on the flow of information to YOTs had not commenced.

### **End-to-end Enforcement Performance**

#### ***The Inspection Sample***

- 6.8 To independently inspect performance in respect of the enforcement of community penalties, the probation area and each of the YOTs were asked to provide a sample of recently concluded breach cases.
- 6.9 The probation area had no means of identifying concluded breach cases other than through COMET. It became apparent that there was a major discrepancy between the definition of "concluded" as reported by COMET and the definition used by Inspectors. The COMET definition includes withdrawn cases where "the court approves an application from the offender manager to withdraw the case". The inspection definition included only cases that had been concluded with a conviction for the offence of breach of a community penalty. These two methods of counting have provided significantly different performance figures, which will be discussed below.
- 6.10 Of the 99 cases selected for the sample, a total of 85 were inspected, the remainder having been removed from the sample for a variety of reasons. The results are shown separately for the 25 YOT and 60 probation cases.

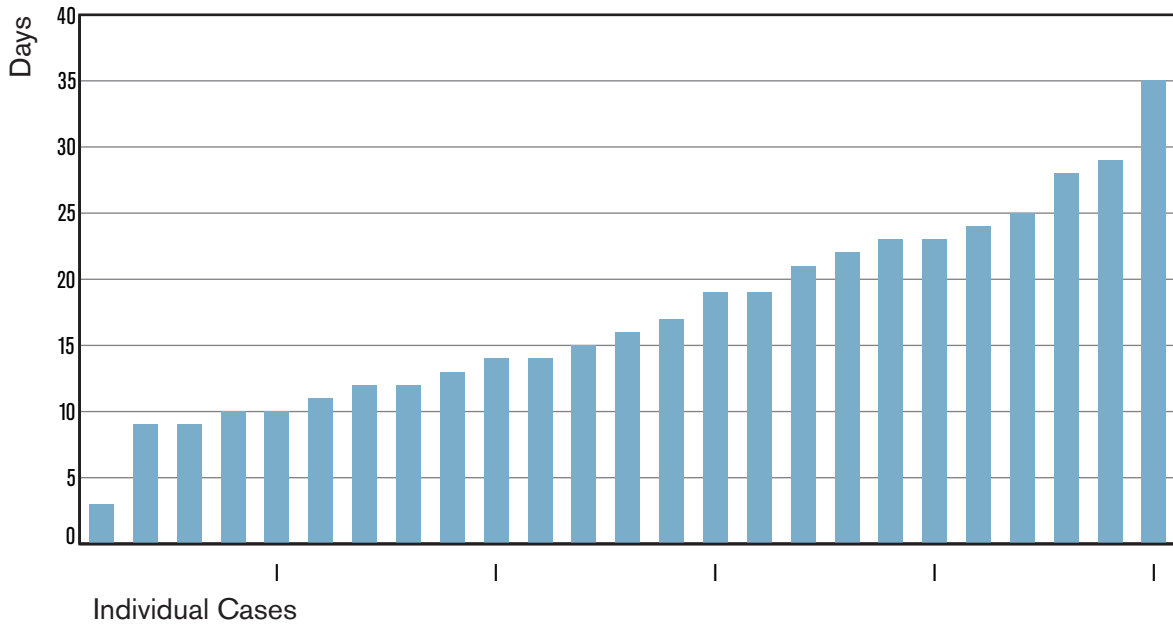
#### ***An analysis of the time taken from the relevant unacceptable absence to the conclusion of breach proceedings***

**Fig 15 YOT cases**

|   |     |              |
|---|-----|--------------|
| Average number of working days to first hearing | 17  |              |
| % of cases dealt with at first hearing          | 64% |              |
| Average end-to-end time (working days)          | 24  | Target < 35  |
| % of cases concluded in 25 days                 | 68% | Target > 50% |

6.11 This analysis shows that the sample of YOT cases inspected comfortably met the targets for the average number of days for end-to-end enforcement and for the percentage of cases concluded in 25 days. This is a very strong performance in youth cases.

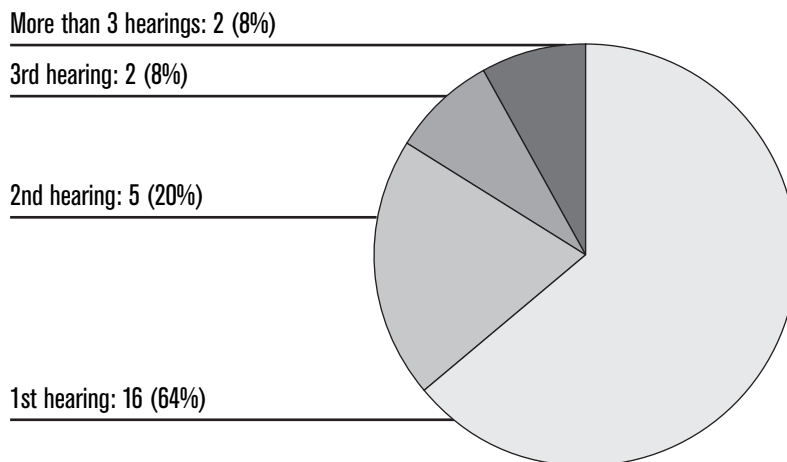
Fig 16 YOT cases: number of days to first hearing



**YOT Cases**

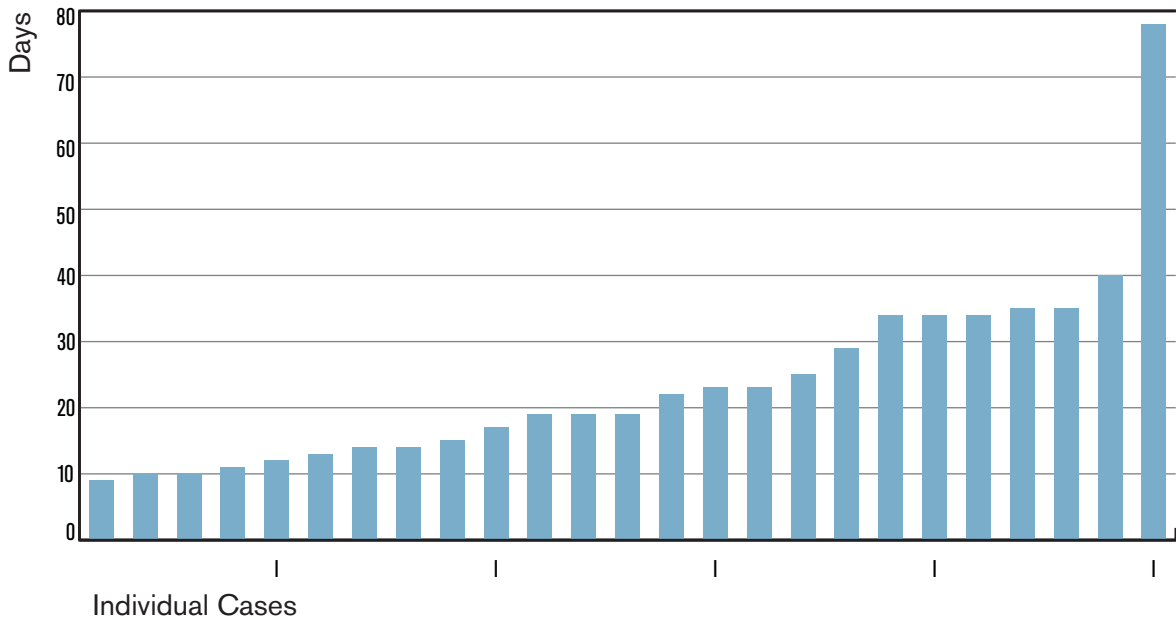
6.12 Once a decision to breach is taken, court dates are arranged swiftly. All but three cases were scheduled to attend court within 25 days. These three cases were all from one YOT indicating there may be specific problems within that YOT.

Fig 17 Number of YOT cases resolved at each hearing



6.13 Sixty-four per cent of YOT cases were resolved at the first hearing. Only four cases took more than two hearings to conclude and two of these cases had been committed to Crown Court.

Fig 18 YOT cases: number of days to conclusion



6.14 Only two cases were not concluded within 35 days. Only one case was significantly above 35 days. This case had more than four hearings and had been committed to Crown Court for sentence, and then remitted back to the youth court.

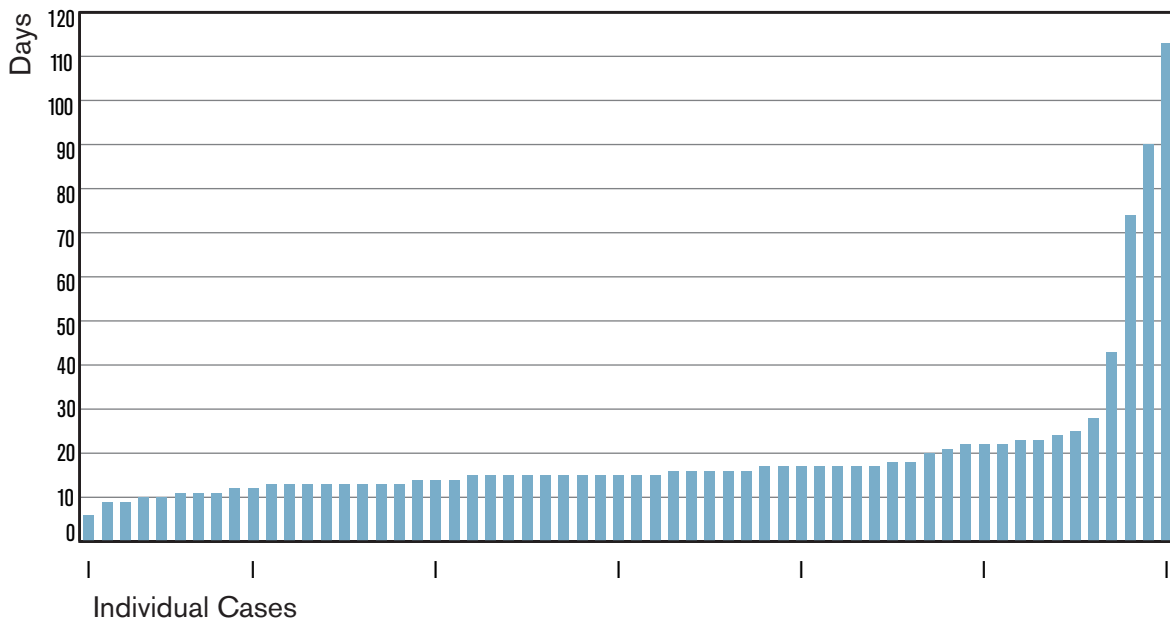
Fig 19 Probation Cases

|   |     |              |
|---|-----|--------------|
| Average number of working days to first hearing | 20  |              |
| % of cases dealt with at first hearing          | 48% |              |
| Average end-to-end time (working days)          | 61  | Target < 35  |
| % of cases concluded in 25 working days         | 57% | Target > 50% |

6.15 This analysis shows that the sample of probation cases inspected comfortably exceed the 50% target, but failed to meet the 35 day target by a considerable margin.

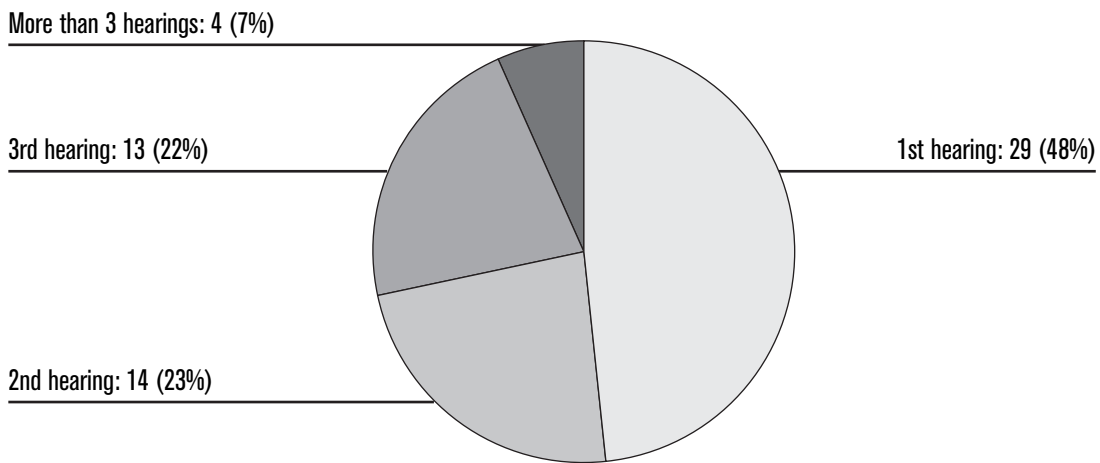
6.16 This performance is significantly worse than that indicated by the overall COMET data.

Fig 20 Probation cases: number of days to first hearing



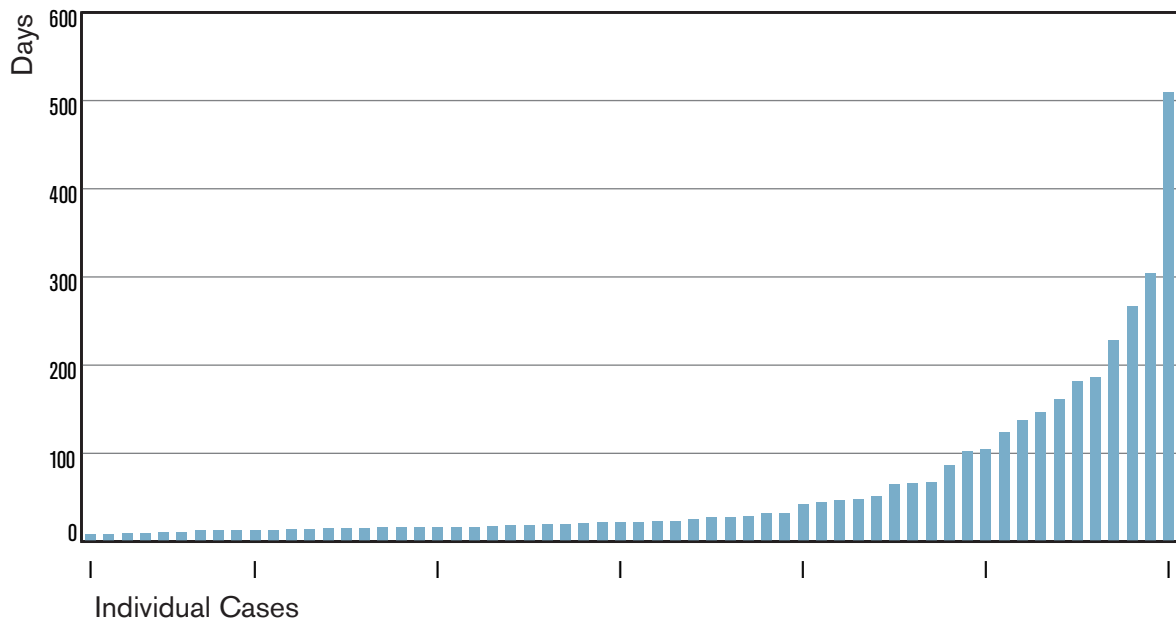
6.17 Fifty-five of the 60 cases had their first hearing within 25 days. The average number of days to first hearing was 20. This indicates that arrangements for the prompt provision of court dates were good.

Fig 21 Number of probation cases resolved at each hearing



6.18 Twenty-nine of the 60 probation cases (48%) were resolved at the first hearing. Seventeen cases took three or more hearings to conclude. Reasons for this are analysed below.

Fig 22 Probation cases: number of days to conclusion



6.19 One fifth of cases took in excess of 100 days. There was a combination of reasons for this including the slow start of breach proceedings, non attendance followed by the issuing of warrants and cases being adjourned to allow the offender to complete their unpaid work hours.

**COMET data**

6.20 One case in the sample took in excess of 500 days to resolve. This case should have been excluded from the COMET data due to the breach date falling outside of the counting rules. A further four cases, considered but rejected for the inspection sample had unacceptable absence dates that should not have been included on COMET.

6.21 Other cases inspected were shown as concluded on COMET, although in fact they had merely been convicted in their absence, with warrants still outstanding. These data problems undermine the reliability of the COMET data for West Midlands.

**The West Midlands Enforcement Process**

**The expedited breach process**

6.22 As soon as it became apparent to the WMCJB that an end-to-end target for enforcement was to be set, there was a clear commitment from both HMCS and probation management to drive up performance and meet the new target. Senior managers from HMCS and probation devised a set of revised procedures know locally as the expedited breach process. This process aimed to commence proceedings rapidly and remove all unnecessary impediments to a prompt outcome. Extra court sittings were arranged to facilitate the anticipated increased the volume of breaches. Comprehensive training and guidance was issued.

- 6.23 One of the processes thought to be causing unnecessary delay after the apparent failure to comply was the time allowed by the National Standard for the offender to provide an acceptable reason for the absence. The probation National Standard for enforcement requires that the offender provide any explanation for non attendance within seven working days of the failure. The offender manager must commence breach proceedings within ten days of the unacceptable absence.
- 6.24 The West Midlands expedited breach process requires that the offender manager puts in train the breach process within two working days. By the end of the second working day the court has been contacted, a summons authorised and a letter sent to the offender advising them to seek legal advice, provide evidence within seven working days of the reason for the failure to attend and to attend court on the summons date. Within ten working days the offender manager must have completed a breach pack and dispatch all of the necessary paperwork to the probation court team. The summons date will be approximately 15 working days after the apparent failure.
- 6.25 If the offender provides an acceptable explanation for the absence within seven working days, the offender manager writes a "withdrawal of breach action" letter to the offender and arranges for the summons to be withdrawn on the arranged court date.
- 6.26 An anticipated consequence of this policy is that a large number of breach packs is collated that are ultimately unused as the apparently unacceptable absence becomes acceptable due to the provision of an explanation. Furthermore, the summons that has been applied for can only be withdrawn by the court (albeit in an administrative fashion).
- 6.27 Within the COMET counting rules, these withdrawn cases contribute to the total of resolved cases, although there is no breach. The probation area believe that this process is an efficient way to ensure that cases that are actually in breach are prosecuted effectively and that the impact of the policy is to improve compliance levels in general.

***Inspection findings with regard to the expedited breach policy***

- 6.28 The expedited breach policy is a good example of a bi lateral management drive to improve performance against a centrally set objective. Working collaboratively, HMCS and the probation area have devised a system that has the potential to ensure that offenders are returned to court very swiftly.
- 6.29 Where the policy is followed and offenders do not provide an acceptable reason for the failure to comply, breaches can be returned to court very quickly. This is reflected in the average figure of 20 days to first hearing and the fact that 57% of cases are resolved in 25 days or less.

- 6.30 In practice, the West Midlands policy raises a number of issues. At a national level, a view must be taken as to whether it is correct that an unspecified proportion of cases reported on COMET are ones where ultimately, there was no breach. The misleading effect of including large numbers of these cases, which are all withdrawn between 15 and 20 days within the performance framework, is to reduce the average number of days to conclusion and to increase the percentage of cases resolved in less than 25 days.
- 6.31 In a further complication, we found that an additional number of withdrawals were regularly made, simply because the breach packs were not ready on the day of the Court hearing. We therefore sought to identify how many cases ended with a withdrawal, and, where withdrawn, for which reason.
- 6.32 Although there was no centrally gathered management information on the numbers of cases withdrawn and the reasons for the withdrawals, some probation and court staff had gathered information locally. This information suggested that, of all cases where breach action was started, between half and two thirds of the summonses were subsequently withdrawn. These figures were consistent with the information gathered as part of the sample selection process and an analysis of 27 breach cases at Birmingham Magistrates' Court. It was also possible to explore the outcomes and the reasons for the withdrawal of the summons in these cases. Between a third and a half of summonses actually led to a first hearing. Up to a third of summonses were withdrawn due to the offender supplying an acceptable reason for non-attendance, while over a third were withdrawn as the breach pack required to prosecute the offence was not available or was incomplete.
- 6.33 With regard to the cases withdrawn due to the absence of or deficiencies with the breach pack, there was no system for identifying or collating the reason the pack was not available. The area policy was that where the pack was not available the case should be withdrawn. Furthermore, on the basis of legal advice, the local policy was that the failures to comply referred to in the summons could not be used in subsequent hearings. The net effect of these two policies was that in a large number of cases, despite the fact that there was a prima facie case that the offender had breached the conditions of the order, no effective action was taken against them.
- 6.34 Staff interviewed suggested that this rate of withdrawals had persisted for a significant period, and was a consequence of the large numbers of cases requiring a breach pack, too few administrative staff to prepare the packs and the reluctance of some staff to prepare packs until such time as they were certain it would be needed.
- 6.35 Senior staff believed that some of the administrative problems with the production of breach packs were a consequence of staffing difficulties. West Midlands reported significant problems in the recruitment and retention of administrative staff.



### ***Management of cases prior to the relevant unacceptable absence***

#### *Paperwork from court*

- 6.36 Another of the consequences of the expedited breach process was that in some cases, breach action had been commenced prior to the provision of the actual Order by the court. It had been possible to find a solution to this problem by use of the court register.

#### *Securing compliance to community orders*

- 6.37 In 76% of YOT and 80% of probation cases inspected, sufficient steps had been taken to ensure that the offender fully understood the requirements of the order and the consequences of any failures to comply. There was evidence of the young person signing a copy of the order or other document setting out the requirements of the sentence in 63% of cases. This was the case in 75% of probation cases.
- 6.38 Although nearly all YOT cases were offered sufficient appointments to meet the requirements of national standards, only 75% of adult offenders were. In several adult cases inspected, there had been serious failings with offenders left unsupervised for significant periods. Generally, reasonable efforts were made to secure compliance, including offering appointments at regular times each week in most cases.
- 6.39 Good use was made of telephone or text reminders by YOTs. Family members were used to remind and encourage young offenders of their appointments and obligations. Work was undertaken on consequential thinking to help young people make appropriate decisions. In appropriate cases some young offenders were escorted to appointments by mentors in the early stages of their orders. Consideration was given to the venues used for reporting. There were good examples of missed appointments being swiftly followed up by unannounced home visits, reinforcing the consequences of non-compliance. Good use was made by YOTs of pre-breach meetings, designed to underline the importance of compliance and the consequences of breach.

#### *Managing initial failures*

- 6.40 Where there was an absence the officer clearly recorded whether the reason for it was acceptable or unacceptable in only 68% of YOT and 70% of probation cases. This indicated a lack of clarity over when breach should be instigated. A more rigorous approach may lead to an increase in the number of cases requiring breach action. Record keeping in the probation area was not of sufficient quality.
- 6.41 For YOTS, where breach actions had been commenced, this had been achieved within the YJB national standard time limit in 54% of cases. The equivalent figure for probation was 78%.
- 6.42 A minority of probation offender managers had misunderstood the National Standard on enforcement which states "where breach proceedings are required, instigate these proceedings within ten working days". The incorrect interpretation of this was that if the ten day target had been missed, it was not permissible to breach, and that no action was taken. As a consequence of this misinterpretation, apparent breaches went unpunished. Although most staff interviewed were aware of the NPD or YJB single agency targets fewer were aware of the 35 day average target, and fewer still the 50% of cases to be resolved in 25 days target.

***The management of cases through the court process***

*Young offenders*

6.43 In all the YOTs there were clear procedures for staff to follow, with the offender's supervisor taking direct responsibility for the enforcement of orders. The number of cases breached was relatively small in each YOT. Once action had been commenced there was an appropriate focus on getting the case concluded.

*Adult offenders*

6.44 The commencement of breach proceedings against adult offenders was a very common occurrence. Comet data indicates that in the West Midlands nearly 900 cases per month are concluded. This large number of cases is partly a consequence of the expedited breach process. Despite the provision of a clear policy framework, there are significant areas for improvement in practice.

6.45 The reasons for adjournments in adult cases are listed below:

**Fig 23**

| Reason for Adjournment                    | 1st hearing | 2nd hearing | 3rd hearing | Total     |
|---|-------------|-------------|-------------|-----------|
| Warrant with bail                         | 3           | 1           | -           | 4         |
| Warrant no bail due to non attendance     | 16          | 9           | 2           | 27        |
| PSR request                               | -           | 1           | -           | 1         |
| Defence request                           | 4           | -           | -           | 4         |
| To tie in with other matters              | 1           | 1           | -           | 2         |
| To test motivation                        | 1           | 1           | 1           | 3         |
| Following a plea of Not Guilty/PTR        | -           | 2           | -           | 2         |
| Breach file unavailable/probation request | 2           | 1           | -           | 3         |
| Committed to crown court                  | -           | 1           | -           | 1         |
| Not known/unclear/other                   | 4           | -           | 1           | 5         |
| <b>TOTAL</b>                              | <b>31</b>   | <b>17</b>   | <b>4</b>    | <b>52</b> |

6.46 Within the sample inspected, there were 52 examples of court hearings that did not conclude the case. The most common reason for an inconclusive hearing was that the defendant failed to appear and a warrant was issued. Nearly a third of all first hearings result in a warrant without bail. Defendants in a number of cases that are adjourned for other reasons subsequently fail to attend and have warrants issued.

- 6.47 Although few cases in the inspection sample actually went to trial for breach of community penalty, observation of practice did indicate a significant number of cases going to trial, this was supported by evidence that over 50 not guilty pleas are entered in respect of community penalties each month, an increase of 400% over the past four years.
- 6.48 Where a defendant contests the breach, there are major resource implications, often requiring a lawyer for the prosecution, and several probation witnesses. These staff may be required to be in court for half a day or more, rendering them unavailable for other duties. There is a risk that the more cases that go to trial, the less resource is available for the preparation of breach packs, and other enforcement work, leading to a greater withdrawal rate.
- 6.49 All breaches of community penalty warrants are managed by the courts' civilian enforcement officers (CEOs) in the West Midlands CJB area. These staff had good working relationships with both the probation area and YOTs, regularly requesting and sharing information appropriately.
- 6.50 The CEOs had access to the police national computer and were responsible for entering data on the status of warrants. Within the sample of 25 adult cases where a warrant without bail was issued between the first and third hearing the average amount of time a warrant was outstanding was 69 working days. Twenty per cent of warrants were outstanding for in excess of 100 days. The range was between four and 397 days.

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**RECOMMENDATION 7:**

We recommend

That the WM CJB:

- end the policy and practice of withdrawing cases for breach of community penalty, without reinstatement, because the file is not ready;
  - evaluate the appropriateness and efficiency of the policy to commence proceedings by way of summons prior to giving the offender an opportunity, within due time, to provide an acceptable reason for absence;
  - subject COMET data to increased quality assurance; and
  - review the resourcing and training of staff responsible for breach proceedings, to ensure the correct preparation of papers for use in the court.
-



## ANNEX 1 KEY PERFORMANCE RESULTS

**Performance Information West Midlands Criminal Justice Board*****Public Confidence in the effectiveness of the CJS in bringing offences to justice***

|                   | PSA Baseline<br>(Year ending<br>March 2003) | CJS Baseline<br>(Year ending<br>March 05) <sup>a</sup> | Year ending<br>March 2006 | Year ending<br>September 2006 |
|-------------------|---|--|---------------------------|-------------------------------|
| <b>CJS Areas</b>  |   |  |                           |                               |
| England and Wales | 39%   | 43%  | 44%*                      | 43%*                          |
| West Midlands     | 32%   | 40%  | 43%*                      | 42%*                          |

<sup>a</sup> Baseline against which each CJS area will be monitored

\* denotes a statistically significant change at the 95% level since the CJS baseline

Data are provisional and subject to change

Data shown as at 27 January 2007

Source: www.cjsonline.gov.uk

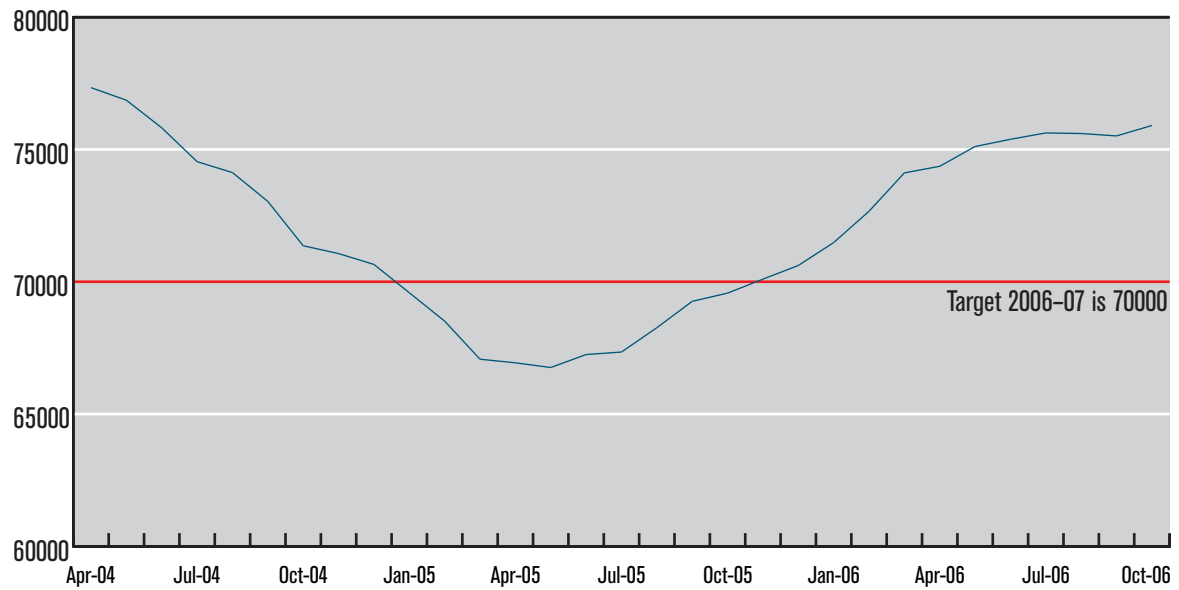
***Public Confidence in the effectiveness of the CJS in bringing offences to justice – secondary measures******Performance Section - Confidence***

| Description of Target   | West Midlands Target 2006/2007  | Performance to Date | Performance to Date |
|---|---------------------------------|---------------------|---------------------|
| Increase Public Confidence in Bringing Offenders to Justice – Key Confidence Figure | Increase to 47.2% by March 2008 | 42%                 | Year ending Sept 06 |
| Meet the Needs of Witnesses   | Increase to 65%                 | 64%                 | Year ending Sept 06 |
| Respect Rights of Defendants and Treats them Fairly                                 | Increase from 73% to 74%        | 77%                 | Year ending Sept 06 |
| Effective in Reducing Crime   | Increase from 26% to 32%        | 39%*                | Year ending Sept 06 |
| Deal with Cases Promptly and Efficiently  | Increase from 30% to 35%        | 44%*                | Year ending Sept 06 |
| Meet the Needs of Victims   | Increase from 25% to 31%        | 34%*                | Year ending Sept 06 |
| Effective in Dealing with Young People Accused of Crime                             | Increase from 18% to 23%        | 28%*                | Year ending Sept 06 |

Source: West Midlands Criminal Justice Board

\* denotes a statistically significant change at the 95% level from year ending March 03 figures

**Offences Brought to Justice: Rolling Annual Figures**



Source: West Midlands Criminal Justice Board, performance bulletin December 2006

Data correct as at December 2006

**Offences Brought to Justice - West Midlands: Rolling Annual Figures**

| Date   | Number of OBTJ | Date   | Number of OBTJ |
|--------|----------------|--------|----------------|
| Apr-04 | 77336          | Aug-05 | 68262          |
| May-04 | 76861          | Sep-05 | 69259          |
| Jun-04 | 75818          | Oct-05 | 69570          |
| Jul-04 | 74538          | Nov-05 | 70098          |
| Aug-04 | 74126          | Dec-05 | 70614          |
| Sep-04 | 73036          | Jan-06 | 71480          |
| Oct-04 | 71360          | Feb-06 | 72663          |
| Nov-04 | 71065          | Mar-06 | 74114          |
| Dec-04 | 70654          | Apr-06 | 74364          |
| Jan-05 | 69585          | May-06 | 75111          |
| Feb-05 | 68512          | Jun-06 | 75384          |
| Mar-05 | 67072          | Jul-06 | 75624          |
| Apr-05 | 66936          | Aug-06 | 75602          |
| May-05 | 66758          | Sep-06 | 75511          |
| Jun-05 | 67249          | Oct-06 | 75905          |
| Jul-05 | 67342          |        |                |

Source: West Midlands Criminal Justice Board, performance bulletin December 2006

Data correct as at December 2006

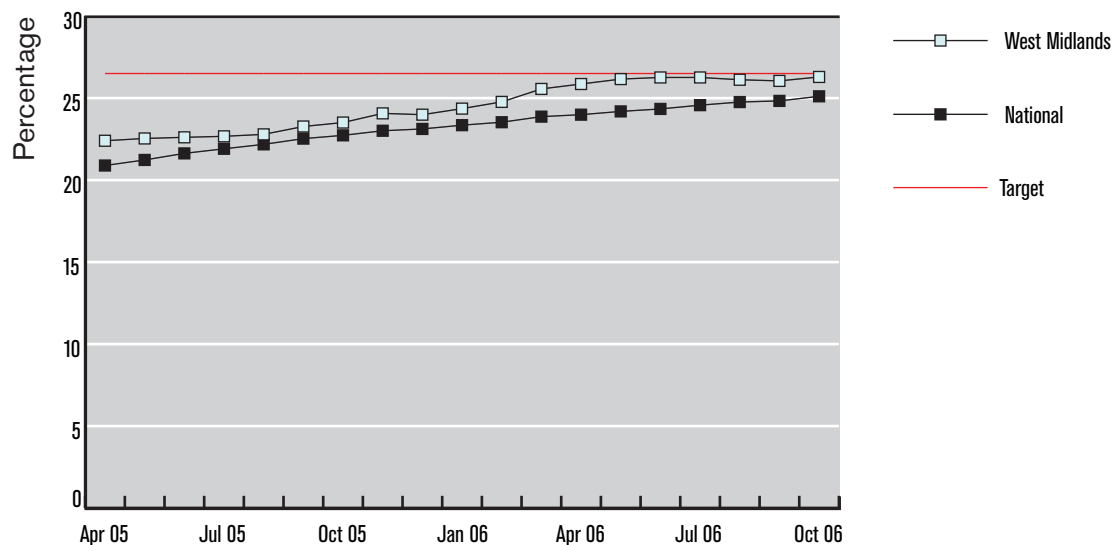
**Sanction Detection Rate: 12 Month Rolling Average Rate by Crimes Count**

|        | National | West Midlands |
|--------|----------|---------------|
| Apr 05 | 20.89%   | 22.40%        |
| May 05 | 21.23%   | 22.54%        |
| Jun 05 | 21.63%   | 22.61%        |
| Jul 05 | 21.91%   | 22.67%        |
| Aug 05 | 22.18%   | 22.79%        |
| Sep 05 | 22.53%   | 23.27%        |
| Oct 05 | 22.73%   | 23.51%        |
| Nov 05 | 23.01%   | 24.07%        |
| Dec 05 | 23.12%   | 23.99%        |
| Jan 06 | 23.35%   | 24.36%        |
| Feb 06 | 23.53%   | 24.77%        |
| Mar 06 | 23.87%   | 25.56%        |
| Apr 06 | 23.99%   | 25.86%        |
| May 06 | 24.19%   | 26.16%        |
| Jun 06 | 24.34%   | 26.26%        |
| Jul 06 | 24.57%   | 26.26%        |
| Aug 06 | 24.76%   | 26.12%        |
| Sep 06 | 24.83%   | 26.05%        |
| Oct 06 | 25.11%   | 26.29%        |

Source: Home Office

WM Area local target is 26.5% (source: West Midlands LCJB)

**Sanction Detection Rate: 12 Month Rolling Average Rate by Crimes Count**



***Ineffective and Effective Trial Rates (Crown Court)***

|        | Ineffective Rate (%) |               | Effective Rate (%) |               |
|--------|----------------------|---------------|--------------------|---------------|
|        | England and Wales    | West Midlands | England and Wales  | West Midlands |
| Apr-05 | 12.8%                | 12.6%         | 49.6%              | 41.4%         |
| May-05 | 13.4%                | 12.1%         | 47.5%              | 39.7%         |
| Jun-05 | 14.3%                | 17.9%         | 48.1%              | 43.5%         |
| Jul-05 | 14.5%                | 16.3%         | 48.1%              | 43.3%         |
| Aug-05 | 12.5%                | 13.1%         | 50.3%              | 44.3%         |
| Sep-05 | 14.2%                | 9.9%          | 48.3%              | 49.5%         |
| Oct-05 | 13.8%                | 18.1%         | 49.6%              | 50.0%         |
| Nov-05 | 12.7%                | 9.4%          | 49.8%              | 50.5%         |
| Dec-05 | 14.1%                | 10.4%         | 45.0%              | 38.4%         |
| Jan-06 | 11.9%                | 9.3%          | 47.0%              | 39.3%         |
| Feb-06 | 11.8%                | 11.4%         | 47.1%              | 40.8%         |
| Mar-06 | 12.5%                | 7.8%          | 48.8%              | 49.0%         |
| Apr-06 | 13.5%                | 7.5%          | 48.3%              | 56.1%         |
| May-06 | 11.8%                | 8.4%          | 49.4%              | 39.6%         |
| Jun-06 | 12.6%                | 9.9%          | 49.1%              | 47.3%         |
| Jul-06 | 13.3%                | 10.8%         | 49.2%              | 47.3%         |
| Aug-06 | 13.0%                | 5.9%          | 47.4%              | 40.6%         |
| Sep-06 | 12.6%                | 4.9%          | 46.8%              | 40.7%         |
| Oct-06 | 11.8%                | 7.7%          | 49.5%              | 45.6%         |
| Nov-06 | 12.2%                | 11.4%         | 49.0%              | 39.9%         |

Source: HMCS Crown Court Statistics

Data Correct as at: 29 January 2007



***Ineffective and Effective Trial Rates (Magistrates' Court)***

|        | Ineffective Rate (%) |               | Effective Rate (%) |               |
|--------|----------------------|---------------|--------------------|---------------|
|        | England and Wales    | West Midlands | England and Wales  | West Midlands |
| Apr-05 | 21.4%                | 22%           | 41.3%              | 40.3%         |
| May-05 | 21.6%                | 23.4%         | 41.2%              | 39.2%         |
| Jun-05 | 21.9%                | 22%           | 42%                | 36.7%         |
| Jul-05 | 21.6%                | 21.4%         | 42%                | 38.9%         |
| Aug-05 | 20.6%                | 22.6%         | 42.3%              | 38.6%         |
| Sep-05 | 21.7%                | 20.9%         | 41.6%              | 40.6%         |
| Oct-05 | 21.2%                | 21.5%         | 42.8%              | 39.0%         |
| Nov-05 | 20.8%                | 21.5%         | 43.2%              | 39.9%         |
| Dec-05 | 21.7%                | 23.4%         | 41.4%              | 38.3%         |
| Jan-06 | 21.2%                | 21.3%         | 41.3%              | 38.4%         |
| Feb-06 | 19.9%                | 19.9%         | 43.3%              | 41.8%         |
| Mar-06 | 20.9%                | 21.2%         | 42.8%              | 40.7%         |
| Apr-06 | 19.9%                | 20.3%         | 44.0%              | 40.4%         |
| May-06 | 19.0%                | 17.5%         | 43.8%              | 37.4%         |
| Jun-06 | 18.7%                | 20.2%         | 44.7%              | 37.3%         |
| Jul-06 | 18.6%                | 20.8%         | 45.0%              | 40.4%         |
| Aug-06 | 18.3%                | 16.4%         | 44.7%              | 37.9%         |
| Sep-06 | 18.6%                | 19.8%         | 43.9%              | 37.9%         |
| Oct-06 | 18.9%                | 22.6%         | 43.9%              | 34.8%         |
| Nov 06 | 18.5%                | 19.9%         | 44.0%              | 38.8%         |

Source: HMCS Crown Court Statistics

Data Correct as at: 29 January 2007

**Timeliness in Crown Court (% within standard)**

| 2006                           |               | Jan  | Feb  | Mar  | Apr  | May  | Jun  | Jul  | Aug  | Sep  | Oct  | Nov  |
|--------------------------------|---------------|------|------|------|------|------|------|------|------|------|------|------|
| <i>Committals to Trial</i>     | England/Wales | 69.1 | 69.1 | 68.2 | 68.3 | 66.6 | 67.1 | 65.9 | 67.7 | 66.7 | 67.6 | 67.2 |
|                                | West Midlands | 72.2 | 69.8 | 69.4 | 67.1 | 66.8 | 66.8 | 72.1 | 68.7 | 70.5 | 70.4 | 74.6 |
| <i>Sent to Trial</i>           | England/Wales | 75.4 | 75.9 | 73.9 | 72.6 | 74.2 | 69.8 | 70.1 | 74.4 | 75.5 | 72.2 | 71.6 |
|                                | West Midlands | 77.4 | 82.9 | 78.0 | 78.6 | 79.8 | 69.4 | 70.4 | 74.5 | 74.7 | 69.9 | 74.0 |
| <i>Committals for Sentence</i> | England/Wales | 90.1 | 86.6 | 88.6 | 89.2 | 89.4 | 89.6 | 89.2 | 90.5 | 89.0 | 91.0 | 90.4 |
|                                | West Midlands | 89.7 | 85.9 | 90.5 | 91.7 | 85.6 | 87.0 | 87.9 | 91.7 | 92.8 | 89.1 | 93.4 |
| <i>Appeals</i>                 | England/Wales | 84.1 | 86.2 | 85.9 | 90.4 | 89.2 | 87.9 | 87.5 | 85.6 | 86.0 | 85.9 | 85.5 |
|                                | West Midlands | 93.6 | 75.6 | 89.5 | 97.7 | 88.9 | 89.1 | 88.7 | 86.8 | 87.3 | 85.2 | 82.3 |

Source: HMCS Court Statistics

Data Correct as at: 29 January 2007

**Timeliness in Magistrates' Court – Average number of days from first court listing to completion for defendants in all criminal cases**

|                   | March 2004 | September 2004 | March 2005 | September 2005 | March 2006 | September 2006 |
|-------------------|------------|----------------|------------|----------------|------------|----------------|
| England and Wales | 33         | 33             | 33         | 30             | 32         | 31             |
| West Midlands     | 36         | 35             | 30         | 27             | 27         | 25             |

The margin of error is a measure of the precision of a result based on a sample survey. Timeliness in magistrates' courts is measured using data from a sample of the total number of defendants. The sample provides one estimate of the average time taken. The margin of error for West Midlands performance in each survey from March 05 to March 06 is +/-3 and England & Wales for the same periods is +/-1. For September 2006 the margin of error for West Midlands is +/-2 and for England & Wales is +/-1

Source: HMCS

Data correct as at 30 January 2007

**Timeliness in Magistrates' Court – % Cases completed within standard – adult cases**

|   |                   | Mar 05 | Jun 05 | Sep 05 | Dec 05 | Mar 06 | Jun 06 | Sep 06 |
|---|-------------------|--------|--------|--------|--------|--------|--------|--------|
| <i>Initial Guilty Plea Standard = 59 days</i> | England and Wales | 83     | 84     | 84     | 86     | 84     | 85     | 85     |
|   | West Midlands     | 91     | 90     | 88     | 90     | 88     | 88     | 90     |
| <i>Trials Standard = 143 days</i>             | England and Wales | 66     | 69     | 69     | 67     | 63     | 64     | 66     |
|   | West Midlands     | 79     | 86     | 86     | 82     | 84     | 86     | 87     |
| <i>Committals Standard = 101 days</i>         | England and Wales | 89     | 92     | 92     | 90     | 88     | 91     | 93     |
|   | West Midlands     | 97     | 98     | 97     | 98     | 97     | 98     | 97     |

Results are presented from quarterly Time Interval Surveys. As of August 2004, the locally agreed timeliness targets were replaced by new national standards. Source: DCA Statistical Bulletins – Time Intervals for Criminal Proceedings in Magistrates' Courts

Data correct as at: 01 February 2007

**Timeliness in Magistrates' Court – % Cases completed within Standard – Youth Cases**

|                                       |                   | Mar<br>05 | Jun<br>05 | Sep<br>05 | Dec<br>05 | Mar<br>06 | Jun<br>06 | Sep<br>06 |
|---------------------------------------|-------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| <i>Initial Guilty Plea</i>            | England and Wales | 87        | 88        | 88        | 87        | 87        | 89        | 89        |
| <i>Standard = 59 days</i>             | West Midlands     | 89        | 90        | 91        | 87        | 93        | 90        | 91        |
| <i>Trials</i>                         | England and Wales | 87        | 89        | 90        | 89        | 87        | 87        | 87        |
| <i>Standard = 59 days</i>             | West Midlands     | 91        | 93        | 96        | 95        | 97        | 89        | 97        |
| <i>Committals Standard = 101 days</i> | England and Wales | 91        | 94        | 92        | 90        | 87        | 92        | 96        |
|                                       | West Midlands     | 100       | 100       | 100       | -         | -         | -         | -         |

Results are presented from quarterly Time Interval Surveys. As of August 2004, the locally agreed timeliness targets were replaced by new national standards. Some areas have small sample sizes, and care must be taken when interpreting these results.

Extremely small sample sizes, i.e. 30 defendants or less, have been excluded from the table and appear as dashed lines.

Source: DCA Statistical Bulletins – Time Intervals for Criminal Proceedings in Magistrates' Courts

Data correct as at: 01 February 2007

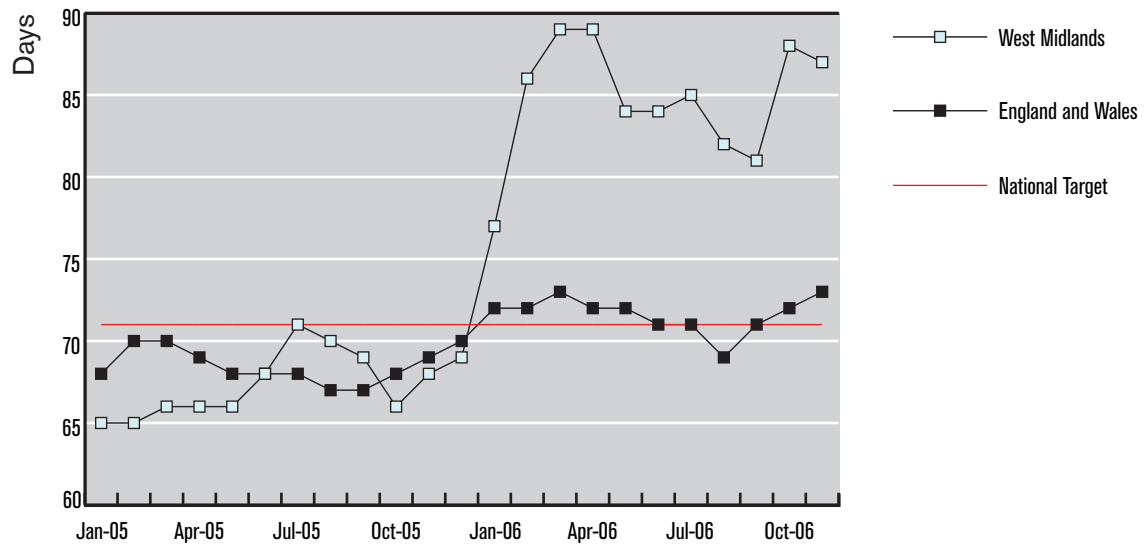
**Persistent Young Offenders – average number of days from arrest to sentence in Crown and Magistrates' Courts – 3 month rolling average**

|        | England and Wales | West Midlands | National Target |
|--------|-------------------|---------------|-----------------|
| Jan-05 | 68                | 65            | 71              |
| Feb-05 | 70                | 65            | 71              |
| Mar-05 | 70                | 66            | 71              |
| Apr-05 | 69                | 66            | 71              |
| May-05 | 68                | 66            | 71              |
| Jun-05 | 68                | 68            | 71              |
| Jul-05 | 68                | 71            | 71              |
| Aug-05 | 67                | 70            | 71              |
| Sep-05 | 67                | 69            | 71              |
| Oct-05 | 68                | 66            | 71              |
| Nov-05 | 69                | 68            | 71              |
| Dec-05 | 70                | 69            | 71              |
| Jan-06 | 72                | 77            | 71              |
| Feb-06 | 72                | 86            | 71              |
| Mar-06 | 73                | 89            | 71              |
| Apr-06 | 72                | 89            | 71              |
| May-06 | 72                | 84            | 71              |
| Jun-06 | 71                | 84            | 71              |
| Jul-06 | 71                | 85            | 71              |
| Aug-06 | 69                | 82            | 71              |
| Sep-06 | 71                | 81            | 71              |
| Oct-06 | 72                | 88            | 71              |
| Nov-06 | 73                | 87            | 71              |

Source: DCA

Data correct as at: 17 January 2007

**PYO – average number of days from arrest to sentence – 3 month rolling average**



Source: West Midlands CJB performance bulletin February 2007

## ANNEX 2 THOSE WHO ASSISTED OUR INSPECTION

We are most grateful to all those who contributed to the inspection, in particular by agreeing to be interviewed, by responding to a questionnaire, or by providing written information. The Criminal Justice Agencies and other organisations which participated in the inspection included the following:

West Midlands Police

Crown Prosecution Service

HMCS (judiciary and staff of the Crown Court and Magistrates' Courts)

West Midlands Probation Area

Youth Justice Board and Youth Offending Teams

HM Prison Service

Legal Services Commission

Defence Solicitors

Witness Care Units

Crime and Disorder Reduction Partnerships/ Community Safety Partnerships

Victim Support (staff and volunteers)

Witness Service (staff and volunteers)

Commission for Race Equality

Birmingham Partnership against Hate Crime

Birmingham Inter Agency Domestic Violence Forum

Birmingham Women's Aid

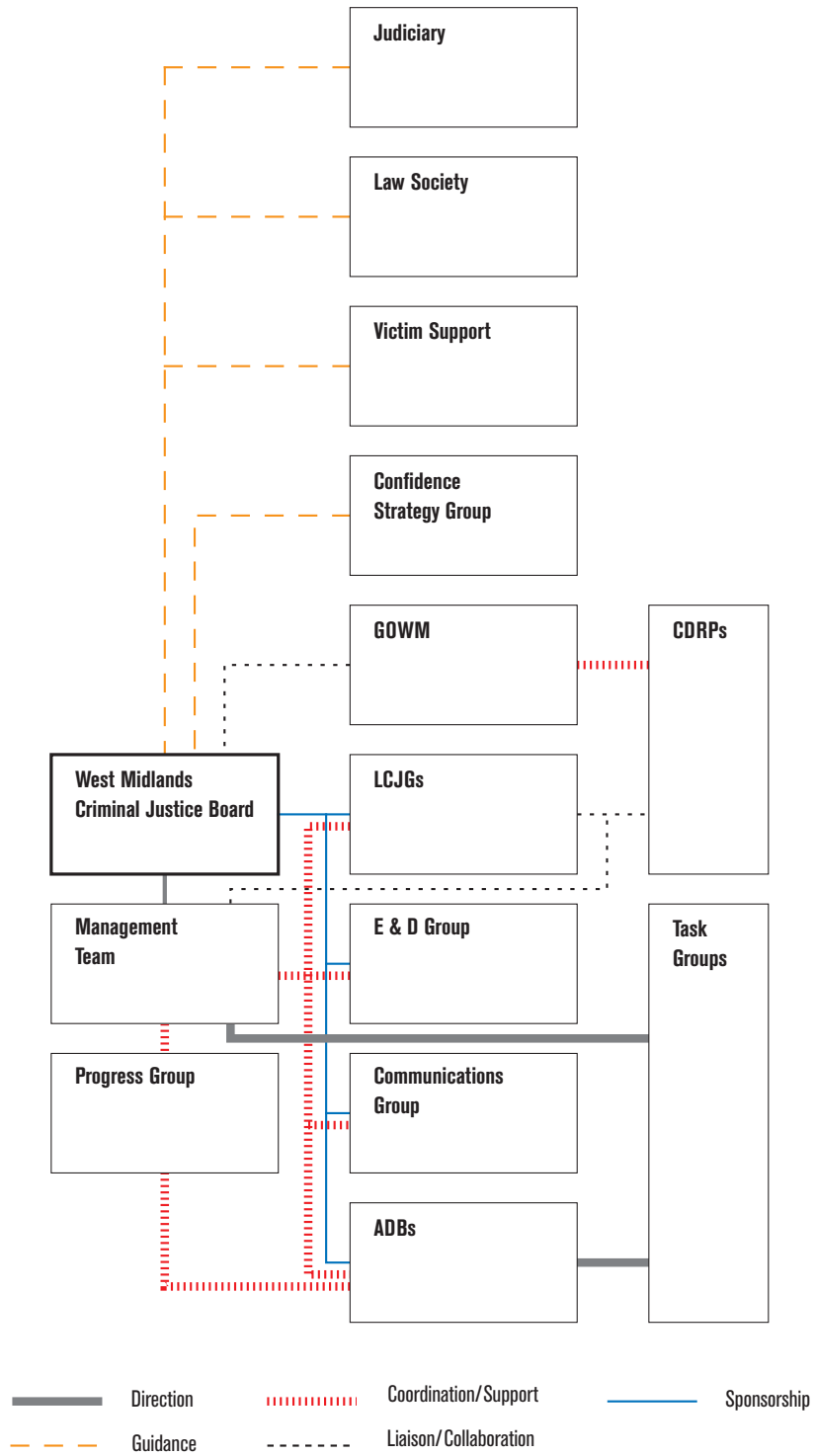
Prisoner Escort & Custody Service

West Midlands Criminal Justice Board (members and management team)

Local Criminal Justice Groups

Additionally we thank the victims, witnesses and defendants who assisted this inspection.

## ANNEX 3 WEST MIDLANDS CJB: STRUCTURE AND REPORTING FRAMEWORK





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[www.inspectorates.homeoffice.gov.uk/hmic](http://www.inspectorates.homeoffice.gov.uk/hmic)



HM Crown Prosecution Service Inspectorate  
26 - 28 Old Queen Street, London SW1H 9HP  
Tel: 020 7210 1197, Fax: 020 7210 1195  
[www.hmcpssi.gov.uk](http://www.hmcpssi.gov.uk)



HM Inspectorate of Court Administration  
8th Floor, Millbank Tower, Millbank, London SW1P 4QP  
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HM Inspectorate of Prisons  
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HM Inspectorate of Probation  
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