

SOCIAL AFFAIRS SCRUTINY PANEL

THURSDAY, 5TH OCTOBER 2006

Review of Centeniers' Role in the Magistrates Court

Panel:

Deputy F.J. Hill, B.E.M., of St. Martin (Chairman)

Deputy J.A. Martin of St Helier

Deputy A.E. Pryke of Trinity

Deputy D.W. Mezbourian of St. Lawrence

Deputy S. Pitman of St Helier

Witnesses:

Ms. Tracy Easton, District Crown Prosecutor, Hampshire and Isle of Wight Crown Prosecution Service.

Present:

Mr. C. Ahier, Scrutiny Officer

The Deputy of St. Martin:

Can I formally thank you, Tracy, for coming this afternoon. I am Deputy Bob Hill. I am the Chairman of the Social Affairs Scrutiny Panel. As they did previously, I will ask my fellow colleagues to introduce themselves.

Deputy J.A. Martin:

Judy Martin, Deputy for St. Helier No. 1.

Deputy D.W. Mezbourian:

Hello. Deirdre Mezbourian, Deputy for St. Lawrence.

The Deputy of Trinity:

Good afternoon. Anne Pryke, Deputy of Trinity.

Deputy S. Pitman:

Shona Pitman, Deputy for St. Helier No. 2.

The Deputy of St. Martin:

Charlie Ahier, who is our clerk who is quickly writing down everything, our administrator, and Jane at the back who is taking the recording. Could I ask you please to keep your voice up so everyone can hear

what you have to say and also make you aware that you were or you did receive a notification from us to inform you that you were or you were not subject to privilege this afternoon, so you have a free rein to give us the answers you would like to give us. So in formally welcoming you here and also kicking off the first question, could I ask you what is your role in CPS (Crown Prosecution Service) and also possibly, very interesting, tell us a little bit about how you got to be where you are now?

Ms. T. Easton (District Crown Prosecutor, Hampshire and Isle of Wight Crown Prosecution Service):

I am called a District Crown Prosecutor. What that means is that the CPS is divided into 42 areas that are coterminous with the 42 police forces within England and Wales. Each area has a Chief Crown Prosecutor. The structure of each area then differs. In the area of Hampshire and the Isle of Wight, where I work, it is divided into 3 districts. I am the District Crown Prosecutor for South-West Hampshire. To put it into context, this covers Southampton and the environs of Southampton up to Winchester and out to the New Forest, and my district borders on Dorset. In terms of caseload, if that puts it into context for anybody, I deal roughly in my district with between 11,000 and 13,000 Magistrates Court cases a year and 1,500 cases in the Crown Court. As far as my background is concerned, I joined the Crown Prosecution Service on the date of its inception in 1986 as an administrator. I was the telephonist on the front desk of Furnival Street, which was one of the headquarters in London on that momentous day. I have gone through every rank in the CPS including a case worker. I was sponsored by the CPS, who paid for me to qualify as a member of the Bar of England and Wales, and now have hopes of becoming a Chief Crown Prosecutor myself, although I am realistic about my prospect of ever becoming the DPP (Director of Public Prosecutions) of England and Wales!

The Deputy of St. Martin:

Have you got anything you would like to elaborate on? No? Maybe just to clarify, the 1,500 cases are in addition to the 11,000 to 13,000?

Ms. T. Easton:

Yes, the 1,500 cases are the higher profile cases dealt with at the Crown Court: murders, rapes, anything like that that has to be heard by the Crown Court or is elected to go there.

Deputy J.A. Martin:

Can you explain to us the role of the designated case worker in the Magistrates Court?

Ms. T. Easton:

Yes. To deal with all these cases, I have about 100 staff, and of the 100 staff roughly about 27 or so of them are lawyers, but 3 of them are a role called a designated case worker. This is a fairly recent introduction to the CPS. The Prosecution of Offences Act on which the CPS is based gave the power to

the Director of Public Prosecutions to designate people as suitable for presenting certain sorts of cases. The DCW (designated case worker), which is what we call them in shorthand, what they do is that they are actually trained. They undergo training and assessment. They are subject to some legal requirements like barristers and solicitors within England and Wales where they have to do continuing education. If they do not do that, then their certificate or designation will be taken from them. They are personally designated by the Director, having passed exams. They are able to do the majority of the work now in the Magistrates Courts. They can do anything but trials, so they cannot do the trials. They can, however, do things that we call exceptional hardship arguments. So when somebody will say, if their licence is taken away from them or if they are asked to pay so much money, that will cause them exceptional hardship, they are allowed to cross-examine and deal with that sort of thing. They are technically not allowed to do 2 things which are, in theory, easy, but they cannot deal with committals so they cannot have a matter committed, although they can argue mode of trial. They can make the argument to the Magistrate as to where the case should be, but they cannot do the physical committing. They cannot also send a matter that is only one that can appear in the Crown Court -- they cannot send that up to the Crown Court. But short of that, they can do everything else. When they are not in court -- and they do a lot of courts. In my particular Magistrates Court, Southampton, we sit roughly between 92 and 100 courts a week, so 100 sessions. A session is half a day. Each designated case worker who works fulltime hours will do a minimum of 7 sessions, 3 and a half days in court. The other day and a half is spent looking at the paperwork that they will be dealing with in those courts, going through it, making sure that they have -- the charges are right, that they have got the right papers there, that anything that has come over previously with action ordered to be done will be done.

Deputy D.W. Mezbourian:

How many cases do they deal with in their 3 and a half days on average?

Ms. T. Easton:

I can tell you that on Monday, 2 of them were preparing the DCW courts for Tuesday, the 4 sessions on Tuesday, and on Monday they were dealing with 64 cases between them.

The Deputy of St. Martin:

Is that a typical sort of working day or is that just a heavy day, bad weekend?

Ms. T. Easton:

No, that is probably right for that end of the week, yes.

The Deputy of St. Martin:

I think I heard you right, you said you had 3 designated case workers?

Ms. T. Easton:

Yes, 3.

The Deputy of St. Martin:

And 27 lawyers?

Ms. T. Easton:

Mm hmm.

The Deputy of St. Martin:

Of the 3, then, would you be looking maybe to further training to increase that number and reduce the number of lawyers or do you think you have it right?

Ms. T. Easton:

Well, I will, I do not think there is any question about it. If I have courts that designated case workers can conduct instead of lawyers, then I will be taking on designated case workers. The mood in the system of the CPS in England and Wales is that a lot of the Magistrates Court work can be done by designated case workers because they are quasi legally trained. In fact, the training that they undergo as part of the CPS is certified by the College of Law in Guildford, who is responsible for solicitors, and they, in fact, are the assessors on this course. So it is independently assessed and can be used by people to gain exemptions from further legal qualification.

The Deputy of St. Martin:

Do you have any difficulty in recruiting people? I know you only have 3 but have you got a waiting list? There are people who are looking to do that job?

Ms. T. Easton:

No. We are oversubscribed many times over, like many other areas of the CPS, because it is an attractive way into a legal career for those who cannot get training contracts or pupillage, who have got law degrees, but also those who have worked in the CPS for a number of years and want to do that sort of advocacy work.

Deputy D.W. Mezbourian:

What is the salary band for a DCW?

Ms. T. Easton:

I have got the full salary bands for the CPS of England and Wales with me on paper which I can hand in to the Panel, but roughly I pay mine roughly about between £27,000 and £30,000.

The Deputy of Trinity:

Those 3 case workers, on average do they stay with you for a long time or is there a lot of job movement?

Ms. T. Easton:

Yes, 2 of my 3 were designated case workers right from the very start, and at the start they did not have so many powers. What has happened is that the Director has gradually designated, so we have seen how they have performed on certain areas of work and then because that was a success he allowed them -- he designated them further - he is the only one with the power to do this - until they have got very wide rights, including bail applications now. So, 2 of mine have been there right from the start so they have been with me or they have been with the area for about 5 years. Prior to that they were with the CPS and previous prosecuting authorities, so I think one of them has done 20 years in the Crown Prosecution Service already. The other one is a young lady who joined at 17, has worked her way through the ranks and fully intends to stay and is now talking about doing sponsorship to do a law degree because she wants to be a lawyer.

The Deputy of St. Martin:

Can I just ask about the flexibility? One advantage we have in Jersey, we have 56 centeniers who do not have the case load that you have in the UK, but at the same time if there is sickness or holidays, et cetera, it is fairly easy to slip one in to cover. But with only 3, do you think a little bit light in Southampton and how do you overcome the problem if you have sickness and leave?

Ms. T. Easton:

Well, I think that moves on to whether or not the centeniers and DCWs are comparable. In a lot of ways I think they are, but I notice that you asked about duplication in the Magistrates Courts in Jersey. Originally in England we did have a bit of duplication because the DCWs were limited to doing certain sorts of cases and then if anything that did not fall within that designated pot was called then we had to have a lawyer in the same court. We decided that that was not an efficient use of resources, so a lot of work goes into negotiating with the listing offices at the Magistrates Court. In England listing is not controlled by any of the parties, so it is impartial, if you like, in that it is controlled entirely by the courts. It is felt to be a judicial function. Because of equality of arms under the European Convention, what it is believed is that neither the prosecution nor the defence should have undue influence over the way a court is listed. Everything should be fair and, therefore, it is in the hands of that. So we have negotiated with the courts over the years that this has developed so we have courts that are purely DCW courts. They understand what sort of work they can do and because the work is prescribed - I understand that there is no prescription of what a centenier can do; ours is prescribed and set down in statute - we can have courts that are purely DCW courts. Now, that has taken duplication away from it but your point being whether or not it is flexible, a lawyer can always cover a DCW court; a DCW cannot always cover a lawyer's court, is what I would I say. I do not have any problems with my coverage of court if one is off sick.

The Deputy of St. Martin:

Could I just press again, though, with the business of the 3? Three seems quite a small number given the workload and if there is someone on leave - there is bound to be someone sick or someone on leave by virtue of the fact that they are all entitled to leave - so how do you cover it? Have you got people in the wings, so to speak, who are deputy designated workers or anything?

Ms. T. Easton:

No, we do not have any deputies. You either are designated or you are not. If you are not there, if there is no DCW to cover it, a lawyer will cover it.

Deputy D.W. Mezbourian:

You mentioned the area that you have responsibility for, the geographical area. What population do you have responsibility for?

Ms. T. Easton:

The whole area of Hampshire and the Isle of Wight I think is roughly about 9 million people. I think Southampton, which is one of the 3 major conurbations, we are looking at about 2 million. We have a large itinerant population as well because we are a major docks and export business from the Southampton area so the population varies wildly.

Deputy D.W. Mezbourian:

Would you tell us about the training that DCWs have to undergo?

Ms. T. Easton:

Yes. Perhaps I should have mentioned at the start, but one of my duties as well, as well as the day job I am a trainer for designated case workers. I am one of the national trainers. There are not many people who are. In order to train DCWs, despite having law degrees and professional qualifications, you have to go through an exam, which I went through. The training consists of we deliver to the designated case worker in waiting a pack, a copy of which I think I have already sent on to the panel. It is a substantial pack and it is about 3 inches high. That pack is given to them at least a month before the first course. They are instructed that they should be given time to look at that. Having looked at that, it contains mainly the law and it contains mainly what I would call low level nuisance crime, the volume crime that we deal with in the courts. They are expected to look at that and they are expected to go and watch designated case workers to see exactly what the job is about and what advocacy in general is about. If they have good managers, the good managers will show them a range of advocacy in various different courts including the Crown Courts so they can look at advocacy, which is a different skill to being able to read a manual and know what the law is. Having done that, they are then sent on a course. The first course lasts 5 days and deals principally with the law when they are taken through an intensive course

dealing with various different -- the main headings of crime. So they will deal with theft generally, they will deal with public order, they will deal with criminal damage, all the main heads of law. They are taken through it in quite a lot of detail. They are given the opportunity to do exercises on that. They have homework every night. The course lasts from about 8.30 in the morning until at least 5.30 at night and it is 5 days long. At the end of it, the last day, they will then be introduced into the whole question of advocacy and they will be given -- they will be working on cases that they have done during the week and given their first chance to do the advocacy that is videoed. They are then sent away for a month and they then come back a month later when they do the advocacy course. Again they have the materials and the advocacy course is 5 days when we take them through all sorts of advocacy, including cross-examination, we get people in to play witnesses, they are asked to give speeches. We train them in basic advocacy techniques and at the end of that they have to prosecute a court. It is a court that we as trainers set up for them, so if you imagine I will sit here as a magistrate, we will have them sitting with 2 or 3 files and we will build up scenarios for them where they have to go through files so they may have to cross-examine somebody, they will have to give facts to the court, they will have to ask for warrants to be issued and various other technical things. That is assessed by the independent assessor from the Law Society and the Guildford College of Law. Once they have passed that, they then can go on their feet but they cannot do any bail applications until they come back and do an intensive bail course, which is 3 days long.

Deputy D.W. Mezbourian:

What does it cost to train a DCW?

Ms. T. Easton:

I can give you a rough guide. We believe it is ideal to take them out of the CPS offices and into somewhere independent, so what we normally do is we try and negotiate with a hotel for conference rooms in a hotel and equipment. I can tell you that in order to train 12 DCWs with 4 trainers over 5 days in a hotel, full board, costs about £15,000.

Deputy D.W. Mezbourian:

So that includes the cost of the trainers themselves, albeit that they are part of the CPS?

Ms. T. Easton:

Yes.

The Deputy of Trinity:

How many trainers are there?

Ms. T. Easton:

Currently there are about 16.

The Deputy of St. Martin:

Can we look at your number 4?

Deputy D.W. Mezbourian:

Tracy, you have heard us speaking to the Magistrate earlier this afternoon and obviously we came to Southampton to meet you and spoke to you about the system that we have over here of centeniers presenting the cases in court and, indeed, the centenier being the person who decides whether to charge. What would be your comments on how the dedicated case worker system would be able to operate in a small jurisdiction such as Jersey?

Ms. T. Easton:

I think you have the basis for a designated case worker system. From my limited experience - and it is limited - of Jersey, and I have seen the courts this morning, it was slightly confusing for me that there were so many people in gowns and suits in the court. It would appear that there was more than one centenier in there. As I said, we have already faced the question of duplicity in our courts and I think it is tied up -- the effectiveness of that system, if you brought something like that into the centeniers, would be emphasised if the listing that I think the Magistrate you were previously questioning went hand in hand because then it would become streamlined. But I do understand that there is a lot more to the centenier system than is on the face of it because it is an honorary position and it is a very representative position regarding the parish. It is an elected position and people feel a great honour and responsibility for their particular parish, and so there are elements that do not fit into the practicalities that I am addressing you on. If the listing was such that you could list different parishes and you had one centenier in there, I mean, obviously you could get round that. But I think as far as advocacy is concerned, it would be a good thing for a centenier to be trained, if not exactly but in the same way. I know you have asked questions of the Magistrate on this, and the comment I would make is that I agree entirely that the criminal law system, regardless of the fact that we are in 2 different jurisdictions, is becoming ever more complicated and crime is changing. I am sure it is changing in Jersey like it is changing in England and Wales in that there is less of the low level crime and crime becomes more technical: credit card fraud and internet fraud and things. The law, therefore, becomes more technical and those who appear before professional judges should be themselves protected because you cannot always -- it is not always apparent if you are a lay prosecutor what the law says and what common sense may tell you. It is for the protection of an advocate to make sure that they are confident enough to bring their case before a professional bench that we give them this training. I could easily send a very junior member of staff in to tell a magistrate about what a shoplifting was all about, but there are not many of them really that go before the courts. I cannot get them to tell you the finer points of the Proceeds of Crime Act, which takes most lawyers a bit of time to get their head around. I think it is all to do with the confidence in being able to prosecute.

Deputy D.W. Mezbourian:

You told us earlier how much it costs to train 12 DCWs for 5 days. What is your training budget?

Ms. T. Easton:

We have a national training budget that I am not privy to the amount, but it is a commitment. There is a commitment by the Crown Prosecution Service nationally that this is the way forward and this money has been accounted for. Between the designated case workers and the High Court advocates, which is another form of advocacy in the Crown Prosecution Service, I imagine they take a huge chunk of the pot.

Deputy D.W. Mezbourian:

I think for the record I should state that my understanding is that there is no funding for the training of centeniers to present cases in court in Jersey, so everything that we spoke about earlier when we were interviewing Mr. Christmas, when we were discussing the training, there is no budget for training of centeniers to present cases in Jersey, so we have been told. Just to change the tack slightly, I understand that we have approximately 3,000 cases a year that are presented by centeniers in Jersey. If you had 3,000 in your area, how many DCWs and additional staff do you think you would need to present those?

Ms. T. Easton:

If this is 3,000 cases that are dealt with by centeniers, it is quite difficult to make a guess because it will depend on how many courts are sitting. Because if you could have 2 centeniers in 2 courts sitting next to each other in the same building, you could get rid of probably a week's worth of cases fairly promptly. But I would have thought bearing in mind mine are doing 7 sessions a week and, you know, between 30 and 60 cases over 2 sessions, that 2 or 3 DCWs should see you right, quite frankly.

Deputy D.W. Mezbourian:

Additional staff, what support staff do your DCWs have with regard to administration and preparation of cases?

Ms. T. Easton:

They have police staff, which I think is what you already have and I think you might call them criminal justice units. So what will happen with us is that police will come and present the evidence to a lawyer, to the duty lawyer. The duty lawyer will then indicate whether or not a case can be charged, much in the same way as your centeniers operate here. The police will then charge and the police have then the responsibility for putting the basic papers together, which they then provide to the CPS. So it is the police administration that does the majority of the work. We do have support staff. The 3 DCWs are supported as well by the lawyers because they need to be able to have access to a lawyer in order for the lawyers to make decisions. They would probably have -- they have got a case progression officer and they have got 2 others, 2 other administrators who just help with photocopying and things like that.

The Deputy of Trinity:

Just to expand a bit further on the previous question, how would you see the CPS system working within our own Honorary Police structure that we have?

Ms. T. Easton:

To be quite honest with you, I do not think that the CPS system can work within an Honorary Police structure and the reason is because we are nothing to do with the police. We are completely independent. The reason the CPS was set up at the start was it was thought the prosecution function should be made entirely independent from the police. We make the decision whether or not things are charged and we do not have any pressures from allegiance or alliance with any other body. We make a completely objective decision based on our written code. So it is not going to transform into the centenier system at all. I think it would be wrong for me to suggest that my system and because of where I come from and it would be very presumptive of me to say that we know how to do it and Jersey does not. I think it is a matter for the people of Jersey and for yourselves to make sure that you have a prosecution system that is fit for the purposes that your citizens want the prosecution service to operate under. Mine is not going to work necessarily for you.

The Deputy of Trinity:

Because they are 2 totally different systems?

Ms. T. Easton:

I think you can recognise elements in it, but the focus, I have to say, of my prosecution system is based on statute, it is not based on a lot of tradition, which I understand the Jersey system is. It has got 500 years of tradition. Mine has got tradition since 1986 and has been evolving since then and it is completely independent of the police.

The Deputy of St. Martin:

Could I say one of the arguments that supports the idea of centeniers charging is because as they are Honorary Police they are separate from the States Police, who do most of the arrests. Are you aware that is probably one of the ideas behind the present system? So, therefore, it is deemed that there is sufficient independence because the honoraries are not States Police. Were you aware of that school of thought?

Ms. T. Easton:

I am aware that that has been put forward. I have read somewhere that it could well be possible, however, that the duties of a centenier -- they apparently work with the police. They may go out to accidents and things and secure scenes and things, which is an interesting dilemma if they end up to be the centenier on duty when the States Police bring somebody who has been involved in that particular

incident to them for charging. Whether or not it happens and whether or not there are safeguards I am not expert enough to know, but a lot of ... I am sure the centeniers here are ... well, they are, they are completely honourable people who do a great work for their community, but what we work on really is perception. I suppose if the public perceived that I was in the pocket of my local police force then there would be more complaints about prosecutions brought than there are.

The Deputy of St. Martin:

That was really one of Sir Cyril Philips' main arguments for separation of duties, was the fact of the independence of the criminal ... Could I just ask, do DCWs charge?

Ms. T. Easton:

No, they are not allowed to. What happens is that the power to charge is only with the lawyers, the CPS, and only with the senior Crown Prosecutors.

The Deputy of St. Martin:

Is there a particular reason why they do not charge?

Ms. T. Easton:

Well, the idea of charging, which is a fairly recent thing - we just sort of caught up with Jersey, I think - because up until 3 years ago the police used to charge everything. The idea of charging in the UK is that we have to try and get the charge right the first time so that the delays in the case are lessened and that we have a proper case right from the start. So we consider that proper legal training is needed in order to come to the right charge.

The Deputy of St. Martin:

So at the moment, then - to run us through the system - a police officer arrests someone; he takes that person to a police station; he goes before a duty sergeant, whoever; a decision is made to charge; and then when will that person be charged and whose decision is it to charge?

Ms. T. Easton:

As you say, somebody will be arrested. The officer will then have to do an investigation. Somebody may or may not be taken into custody, depending on the type of case it is, whilst the investigation takes place. So they may be bailed by the custody sergeant on 47(3) bail pending investigation. When the investigation is complete, the police officer takes a file to the CPS or arranges to meet the CPS depending on what sort of case it is, the CPS lawyer, and discusses the matter. The evidence is assessed in accordance with the Code of Crown Prosecutors and the decision is then written down as to what the appropriate charges are. It may well be that there is insufficient evidence and we will either say that there is no further action to be taken on a case or they should go back and get some other items of evidence before a case has got a realistic prospect. But the decision will be made by the Crown

Prosecution Service lawyer. We give them something called an NG3, which is like their ticket to charge. They take it back and the custody sergeant will ask to see that document before charging can take place.

The Deputy of St. Martin:

So it is still the custody sergeant does the charging?

Ms. T. Easton:

Physically does the charging but cannot --

The Deputy of St. Martin:

Cannot make the decision?

Ms. T. Easton:

There are a number of charges that are very, very straightforward where there have been indications of a guilty plea that a custody sergeant can do off his own bat. There are emergency provisions, for instance, if something happened in the dead of night when somebody needed to be charged and every phone line had gone down and you could not get hold of a prosecutor or anything like that. There are emergency provisions for a custody sergeant to charge.

The Deputy of St. Martin:

Just going on to night time, one of the advantages we are told for the centeniers, they are on call 24 hours a day and they are available. What sort of safeguards or provision is there for the CPS system if, indeed, you need an officer at 5.00 a.m. to make a decision to charge? How flexible is the system?

Ms. T. Easton:

Well, we have a 43rd area, which is called CPS Direct, and that is a telephone and technology-based CPS area. That involves people who work shift work between 5.00 p.m. and 9.00 a.m. and an officer will ring the CPS Direct number and obtain the advice that they require from that particular service and they will be faxed through the NG3.

The Deputy of St. Martin:

A criminal does not always choose to commit a crime -- in fact they do not often like to get caught, but there is no guarantee they are going to get caught between 9.00 p.m. and 5.00 a.m. In fact, from my experience you tend to catch more people when it is dark. What sort of numbers have you got on standby at night? It would seem to be that if you have got more people being arrested at night you would need more of your staff at night. Is that something we might have to have here, more officers working late rather than early?

Ms. T. Easton:

I do not know what the numbers are of how many work. I think it is a shift, so it could possibly be up to 7 people who all work from home. That is part of the CPS Direct thing. They work from home, although they are required to visit their area once a month minimum in order to do some advocacy. But about 7 of them cover the whole country.

The Deputy of St. Martin:

One of the criticisms we have heard of the UK system is that there is a delay in decision making. The officers are waiting, lining up in fact, waiting for someone from the CPS to make the decision to charge.

Ms. T. Easton:

I think it is a criticism that I have heard frequently, including from the officers in my own district. What I will say is that CPS Direct is there for a certain function and that is if you have got somebody who has committed or allegedly committed a serious crime who you need to have remanded into custody immediately, there is no question that you can let them out on bail, or if something of an emergency turns up. If it is a case where somebody would have been normally bailed, then the officer should not be ringing CPS Direct. However, a vast majority of calls that they receive in the wee hours are from officers who are circumventing the normal system.

The Deputy of St. Martin:

Are you aware that, again, the centeniers are responsible for bail? Your designated case workers do not have that right?

Ms. T. Easton:

No.

The Deputy of St. Martin:

Is there anything else? We will go on to Shona.

Deputy S. Pitman:

May I refer you to Centenier L' Amy's report and ask you for your thoughts on that report?

Ms. T. Easton:

Centenier L' Amy visited Nottingham CPS and I have read the report. He spoke to the Chief Crown Prosecutor and the Chief Constable. I was unfamiliar with some of the conclusions he drew from the many people that he spoke to. I am not surprised that if he spoke to a number of police officers in cells, the constables in the cells, that an axe would be ground. What I have done is I pulled out the independent assessment of the same area, which happened at around the same time. That is from Her Majesty's Inspectors who are independent and much feared by any CPS area, who have gone into all of

these things. I can say that that report, because I read it, indicates that the charging system which is much complained and much criticised by those that Centenier L'Amy spoke to has got quite a good assessment. It is said that that has bedded in quite nicely, as has the relationship between the police and the CPS which obviously people had told him was at an all-time low. He has used terms that I would disagree with, which is that the CPS is failing. Contrary to many publications that you may see, I think reports of our demise are actually a bit premature. The CPS is acknowledged to have been moving into the 21st century and modernising and becoming stronger.

The Deputy of St. Martin:

I raised the question earlier about the business about delays, et cetera. Would you say that, probably like most places, there is good and bad and indifferent?

Ms. T. Easton:

Yes. To base a view of the Crown Prosecution Service on one area I would suggest is difficult because in the way that I say that Jersey's prosecution service has got to be fit for purpose for the citizens of Jersey, each area in the UK is different. Certainly I have worked in London and in Avon and Somerset and in Hampshire and the Isle of Wight and had experience of many different areas, and I can tell you that not 2 of them run in exactly the same way because there are regional differences that dictate how the services operate. I have brought a further document that I thought might be helpful for the panel, and it is actually an assessment of every single CPS area in the country so it gives you a comparator between them and it also compares numbers of cases and the differences that they have. So that may well be of assistance to you in putting one CPS into context. Of course, you have seen CPS Hampshire and the Isle of Wight, or at least my particular district, which I would submit bears no resemblance to the description given in Centenier L'Amy's report of the CPS area he visited.

The Deputy of St. Martin:

You might not be able to answer the question, but with Sir Cyril Philips' argument that there should be a separation of duties, et cetera, what we are doing in Jersey at the moment with police prosecuting or making the decision to charge, would you know whether it would be contrary to human rights at all? Has that ever become part of an argument that you have heard?

Ms. T. Easton:

It has never become part of an argument and, of course, up until 4 years ago it was entirely what happened in the UK. The European Convention on Human Rights legislation had come in by then and it was not challenged, not to my knowledge.

The Deputy of St. Martin:

So if, indeed, we carried on with the present system with police making the decision, it would not be perceived to be human rights, but of course that is just your opinion, you do not know if it has been

written anywhere?

Ms. T. Easton:

I do not know if it has been written anywhere. I would have hoped that I might have heard of it, but there again I am fallible.

The Deputy of St. Martin:

No, that is all right. I did not know if you could point us to where it has been said it is or it is not, but if you are not in a position to say so we will not press you. Have you got any other questions before we move on?

Deputy J.A. Martin:

Yes. We were told when we were visiting Southampton that the Magistrate in the court that was hearing the case is a volunteer and a layperson. Can you tell us what training is given and if that training is compulsory and is also kept under review?

Ms. T. Easton:

Yes. There are 2 sorts of magistrates that sit at the Magistrates Court. First of all, we do have the equivalent of your magistrates who are legally qualified, or judge; we call them district judges. We also have those who are known as Justices of the Peace, and these are members of the community who volunteer their time to act in a judicial capacity. They are unpaid; they do get expenses. They first have to apply and they require references. They are selected and much of it is made that they are selected to represent the local community because this is something that is local to the area that they serve. So there will be an attempt to ensure that opportunities are given from -- if there is an area of a dense population with a particularly ethnic minority that they get the chance to apply. So, apply and selected. They are then introduced to all of the agencies on the main day, so they find out what we do, but they then go into intensive training which includes lots of manuals as to the court process, their duties, sentencing, which is a very complicated issue. They have regular training, so it is not just one training and then they are qualified. They have regular training and the court actually shuts on half a day every month or every six weeks for a training day. They are further trained when any new legislation comes in and in order to be either a youth magistrate or a chair of a bench - they sit in 3s and one is the chair - they have to have further training for that.

Deputy J.A. Martin:

You said they give their time freely. On average how much time do they give monthly or yearly or is it dependent --

Ms. T. Easton:

I think it depends on what their commitments are outside their particular -- some people will sit once a

week, some people will sit once a month. But a certain commitment is required of them. They are not prescribed to sit a particular number of times.

Deputy J.A. Martin:

In the training you say it is intensive, it is reviewed. Is there ever the case where someone has very good intentions, volunteers, but they are not up to the training and they are not then carried on, or what happens if you find you have a magistrate --

Ms. T. Easton:

As I understand it, people do drop out of the selection for various reasons if they find that this is not the job for them or this is not suitable to them.

Deputy D.W. Mezbourian:

Talking about selection, what skill specifications are required when you recruit a DCW? What are you looking for?

Ms. T. Easton:

When we recruit DCWs they are made to -- well, they are asked to go through an assessment process. They will be given a case. It will be a fairly simple case. They are given half an hour to look at the case and they are given copies of the Code for Crown Prosecutors and they are asked to do a legal assessment or a legal review as if they were a lawyer on the case. They are also then given instructions that this case will be presented before the panel as if we are a bench of lay magistrates. We are looking for reasoning and decision making because I often say to mine that when they are in court anything can happen in the next 5 minutes, so we are looking for people who can reason their actions, who can make decisions, who are calm in a crisis and not get in a flap. We obviously are looking for some form of advocacy skills in that they have got some sort of charisma when they -- they can tell a story, they can engage. At that stage, obviously, you have got to realise it is a raw recruit but I think you can exclude people who clearly do not have that sort of talent. We are looking for people who can communicate and can pick bits of information out of a mass of information and pick relevant bits of information because they are the mouthpiece for the witnesses in the case, which is a very important element to us and they are answerable. They must provide the magistrates with sufficient information so an appropriate sentence can be given or appropriate action can be taken. So it is reasoning, decision making, communication skills and advocacy.

Deputy J.A. Martin:

Sorry, to just go back to the magistrates, on the training element, whose budget does that come out of, the intense training?

Ms. T. Easton:

It was the Lord Chancellor's Department; it is now called the Court Service. It is central government, Home Office.

Deputy J.A. Martin:

Central government, Home Office? It is not the police or it is not the CPS?

Ms. T. Easton:

No.

Deputy J.A. Martin:

There is a budget, though. Have you got any idea how much it is to train a layperson magistrate?

Ms. T. Easton:

I would not like to speculate.

Deputy J.A. Martin:

Okay, thank you.

The Deputy of St. Martin:

Could I ask if, indeed, you have a Justice of the Peace who says: "I do not want to be trained but I want to be a Justice of the Peace" would that person be allowed to continue being a Justice of the Peace?

Ms. T. Easton:

My understanding is that in order to sit they have to go through the training.

The Deputy of St. Martin:

You are aware that during the questioning of Mr. Christmas prior to you coming here, we did raise the issue about obligatory-ness. Are you aware that centeniers are not obligated whatsoever to attend any training and have you any comment on that at all?

Ms. T. Easton:

Yes, I am aware of that, yes.

The Deputy of St. Martin:

Do you have any comments?

Ms. T. Easton:

I think what I said earlier to the panel was that I would -- as somebody who has about 100 staff, some of them going to court, I have a duty to my staff, quite frankly, and I would not send anybody into a court

situation without what I would consider to be adequate training. I think if you go in there and you have one bad experience, it can set your confidence back years. I have seen it happen.

The Deputy of St. Martin:

Are the authorities obliged to select sufficient JPs (Justices of the Peace)? I do not know who the authorities are, whether it is the county, et cetera. Would the county be fined if they did not find sufficient JPs to carry out their role?

Ms. T. Easton:

No.

The Deputy of St. Martin:

Are you aware that in Jersey if a parish cannot provide a centenier they are fined?

Ms. T. Easton:

Yes, I had heard that was the situation.

The Deputy of St. Martin:

So you can probably understand why sometimes we have centeniers who feel that maybe court is not for them but at the same time they are fulfilling their duty on behalf of the parish?

Ms. T. Easton:

Yes.

Deputy D.W. Mezbourian:

When you were speaking about the magistrate, you said if there are any legal changes or law changes they would go on refresher training. Would the same thing apply to the DCW?

Ms. T. Easton:

Yes. The DCW staff are treated -- I consider them part of my legal staff, so any training that we have - and we have had just a raft of training in the UK in the last year so we have dealt with bad character and hearsay and dangerous offenders and lots of very complicated changes in legislation - they have all been on the same training as all of the lawyers that I have.

Deputy D.W. Mezbourian:

You heard us questioning Mr. Christmas earlier about the fact that perhaps if a centenier was not performing properly we wondered whether there was a procedure to report that and for it to be acted on. Is there such a procedure with your DCWs?

Ms. T. Easton:

Yes, they fall into the same assessment programme as all advocates in the CPS, including myself. They have a set of objectives issued to them at the start of every year. Our reporting year started in April. They have objectives. They will have 3-monthly reviews -- sorry, a review every 3 months, one every quarter. Part of the review not only is assessing their paperwork - so their written decision making and reviews and that sort of thing - they will be observed by a manager who is qualified in advocacy, who usually will turn up very quietly when they do not know they are there. They will also canvass opinion of various other people who work in the court system, such as the clerk to the justices and other people, and will make an assessment on that. If there are any complaints about a designated case worker or, indeed, a lawyer by any of the judiciary, they come directly to me as District Crown Prosecutor and I will deal with those through a complaints procedure that we have that is written down and available to anybody.

The Deputy of Trinity:

Just one question going back to recruitment, you talked about the initial recruitment, how your prospective designated case workers have to do, like, a mini trial and present, tell a story, et cetera. How many would decide it is not for them after a period of time? Do you have a high drop out?

Ms. T. Easton:

We hardly have any drop out from the designated case workers. I have to say that they are extremely committed and they like what they do. What usually happens is ... what has happened and frequently happens is that they get into a pattern that they are doing the same sort of thing and they get a taste for actually wanting to go even further, so what you will find is that we lose designated case workers because they have gone off to train to become solicitors or barristers so they can be Crown Prosecutors. So the taste for it has made them want to go further. It is quite encouraging.

The Deputy of St. Martin:

Could I ask just as a safety net for a designated case worker who is in court, how much support is there physically in court bearing in mind certainly when we went to Southampton you have any number of courts within one building. How many lawyers or senior to the designated case worker would you have? We call ours legal advisers, but how many would you have in Southampton on call should a designated case worker feel that there is a problem with a case?

Ms. T. Easton:

There would never be a case these days where a lawyer will sit in the back of a court that was conducted by a designated case worker because I am confident that they are able to deal with everything that is likely to be thrown at them in that particular court. They do take transferred work, however, from between courts, so they might have to take on something that they are unfamiliar with. You will usually find that there is at least 2 lawyers who are conducting other courts in the building who they can go to.

Failing that, there are duty lawyers on the ends of phones that they can ring. They can ask for a short recess while they ring. Or I have an office that happens to be within about 2 minutes' walking distance from the Magistrates Court so, if necessary, they can phone that particular office and a lawyer would willingly go out to assist them if they needed some face-to-face support.

The Deputy of St. Martin:

The downside of that could be said that whilst that designated case worker is talking to the legal adviser the court is not functioning. How do you overcome that problem? Because I am sure the courts would find that they are waiting for something to happen but there is no other designated case worker to take on the next case. Do you think that may be one of the downsides of the current system?

Ms. T. Easton:

Well, of course, if it caused a lot of court delays then it would be a downside. I have to say that we have court user group meetings and never has there been a complaint that that has happened. That is because when the preparation for their courts is done the day before, they are allocated a lawyer who is already in the office doing other things, and so as they go through the 64 cases or however many there are and prepare them, they will refer the problems then. So the problems are usually sorted out before they get to court. If there is a problem in court and they need to speak to a CPS lawyer, it is unusual for that to happen but I cannot say it has never happened.

The Deputy of St. Martin:

No, but what you are saying is because of the system you have in operation, there are safeguards inasmuch that the preparation is important and if there are any problems they will sort it out prior to going to court rather than waiting to go to court?

Ms. T. Easton:

Yes. Also, though, because they have quite a body of legal knowledge by the time they have been working -- I mean, some of mine have been working for 5 years in that post and undergone regular and further training. They have the confidence to be able to deal with most things.

The Deputy of St. Martin:

Thank you. Are there any other questions?

Deputy D.W. Mezbourian:

Yes. The role of the centenier is not just to present cases in court. As you mentioned earlier, you are aware that it is a parish role, it is an elected role. The Parish Hall Inquiry is the precursor to the centenier presenting a case in court because it is at the Inquiry that the decision to charge is made. In fact, the centenier also has the power to give cautions, be they verbal or written, at the Parish Hall Inquiry, which is a diversionary system of justice that is working well over here. If the role of the

centenier was to be taken out of presenting cases in court, it would have a knock-on effect on this diversionary system that we have. What would be a comparable system that you have in the UK of a diversionary system such as ours?

Ms. T. Easton:

I think it is fair to say we do not have anything that is comparable. We have elements of it that are trialled. So the CPS lawyer when making the decision whether or not to charge could recommend that somebody was cautioned if they had admitted the offence. Especially with youth, there are a number of disposals that are enshrined in statute that we try and deal with people with final warnings before we actually prosecute youths and give them a criminal record should they be found guilty. But we do not have a system as you describe where there is an automatic opportunity to go through a diversionary process before going to court. It is within the power of the prosecutor to exclude somebody from any diversionary tactic and send them straight to court if they feel it is appropriate.

The Deputy of St. Martin:

Could I come in and just ask, because that is the system in Southampton or Hampshire, et cetera, but are there not other systems whereby a cautionary system is in operation elsewhere in the country?

Ms. T. Easton:

As I understand it, there are a number of trials going on in different areas, so what happens is that the government trial out different attempts to put in that sort of system and they will trial, like, 3 different ones in 3 different areas at the same time. We have one called conditional cautioning, which is something that we are awaiting to arrive in Southampton, where instead of cautioning it will be a caution if somebody does A, B, C and D and it may well involve doing work for the community. But these things are in early stages and are being trialled.

The Deputy of St. Martin:

Could I just pick you up on 2 points, I think? Because the Children and Young Persons Act 1969, I think it was, introduced certain ways of preventing young people going to court. I think it also raised the age of criminal responsibility from 8 to 10. As a result of that, I know in the Metropolitan Police area there were a number of bureaux set up called Juvenile Bureaux, which were precautionary or pre-court diversion schemes whereby police officers were cautioning young people and they certainly were cautioning young people from 1974 to 1991 when I left the Metropolitan Police. So, would you accept that possibly there are other means very much similar to a Parish Hall Inquiry but maybe in a different guise? Were you aware of the Juvenile Bureaux system in the Metropolitan Police area?

Ms. T. Easton:

I think what has happened is the Juvenile Bureaux system has been slightly changed and we have brought in this 3-tier system of how to deal with youth. It is certainly -- the question I was asked was

have we anything comparable. I think the answer is that with youth they are a special case and there are naturally a number of different disposals that are tried before ultimately we will prosecute. My understanding is that that is not actually comparable with the Parish Hall system, which offers a wider range of disposals to a wider range of people.

The Deputy of St. Martin:

Well, possibly the old Juvenile Bureaux, having a knowledge of both, they were very much based on the business of trying to keep young people out of court and if a good fatherly word of warning advice was given that would stop them going to court, which is very much akin to what is going on in a Parish Hall Inquiry. Likewise, are not cautions administered for certain people with lower forms of cannabis, et cetera, or small quantities?

Ms. T. Easton:

Yes, we have such a thing as a cannabis caution these days. We have fixed penalty tickets, so the police can issue fixed penalty tickets for a range of offences, including wasting police time which was -- there has been a change because at one point that was indictable only but now you can issue a fixed penalty ticket for it. You may be aware in the press that there are discussions about whether shoplifting should have fixed penalty tickets issued to it, but the fixed penalty ticket would be the policeman on the scene.

Deputy D.W. Mezbourian:

I think our diversionary system covers not only juveniles and youth, it covers every age, of course, because the centenier can make a decision pertaining to anyone who appears in front of him or her.

Ms. T. Easton:

I think that is why I replied in the negative when I was asked if it was comparable.

The Deputy of St. Martin:

It is a weeding out system in a way. Even yourself, CPS has a weeding out system. If you do not think the case is worth prosecuting you will throw it out at an early stage rather than proceed with something which may well be wasting everybody's time. No further action with something at the early-on stage may be the better answer.

Ms. T. Easton:

Yes. The whole introduction of charging by the Crown Prosecution Service, by the lawyers, has been an attempt to stop cases that are not going to go very far at a very early stage, which was happening beforehand.

The Deputy of St. Martin:

Fine. I think it is very difficult comparing like for like. I think what we have in Jersey is something

quite peculiar to Jersey that has done the Island very well. Could I just ask my members have you any questions at all? No? As indeed I asked Mr. Christmas, are there any questions we have not asked of you that you would like us to have asked, and if so we will do.

Ms. T. Easton:

No, thank you.

The Deputy of St. Martin:

Likewise, I will just ask everyone in the audience if anyone has any questions they would like to ask. We have someone there, Mr. Orlando Crowcroft. If you ask me, then I will see if we think it is valid to ask.

Mr. O. Crowcroft (JEP Reporter):

Okay. I know you have only had limited experience of the court this morning, but I wondered what you felt the pros and cons were of the Jersey system as an outsider looking in.

The Deputy of St. Martin:

Well, if you want to be put on the spot!

Ms. T. Easton:

I think the answer to that is that I found my experience visiting your courts this morning fascinating, but I think you are right when you say it was a very limited experience this morning. I would welcome the opportunity to study it further.

The Deputy of St. Martin:

Okay. With that, can I thank you for your attendance this afternoon. I think we have all found it very enlightening, very helpful. I will conclude. Thank you very much.