

**OPERATIONAL PERFORMANCE COMMITTEE**

**MINUTES OF THE MEETING HELD ON 15 NOVEMBER 2017  
CROWN OFFICE, EDINBURGH**

**Present:**

Lindsey Miller	Deputy Crown Agent Serious Casework (Chair) (DCA)
Anthony McGeehan	PF Policy and Engagement (PF P&E)
Gioia Ezzi	Secretariat

**By VC:**

Liam Murphy	PF Specialist Casework (PF SC)
Stephen McGowan	PF High Court (PF HC)
Ruth McQuaid	PF Local Court West (PF LC West)
Graham Kerr	Head of Business Management, Operational Support (BM OP)

**Apologies:**

Helen Nisbet	Assistant PF Specialist Casework (APF SC)
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**1. Welcome & Apologies**

DCA welcomed everyone to the meeting, apologies were noted.

**2. Minutes of previous meeting**

Minutes were agreed.

**3. Outstanding Actions**

Action 28 (closed) – PF SC advised that he had a meeting with the police regarding process for receipt of intercept letters. The police were concerned that they would not know which Function should receive the initial letter given the early stage of issue. Decided best approach would be the initial letter was submitted to PF SC. The police advised PF SC that the letters held by them pending agreement of the revised process contained no exculpatory material and had been destroyed in line with their retention policy. They provided a template with the details of these cases for audit trail. DCA advised that the retention policy could cause difficulty as police are making an assessment on the material at the initial stage with the risk that the assessment of the material may be different at a later stage of the prosecution cases and therefore would engage our duty of disclosure if the material had been retained.

**ACTION: PF SC to discuss with police retention policy and concern over disclosure.**

Action 32 – Crown Agent (CA) and Lord Advocate (LA) recognise that High Court not resourced properly. LA would like Key Performance Indicators (KPIs) for sexual offence cases at 8 months and shorter for child witnesses, which is not achievable on current resourcing. By January Specialist Casework and High Court to provide paper on Scottish Fatalities Investigation Unit (SFIU) and High Court (HC) requirements on reducing journey times. Flagged to Law Officers 10 extra case preparers would be required to keep current level of performance. **ACTION: ongoing.**

#### **4. Monthly stats/indicators**

##### High Court (PF HC)

33% rise in new sexual offence cases from last year with overall 50% increase. Police Scotland has done some research looking at trends and victims seem more confident in reporting sexual offences. Other pressures are large custody homicides and in regarding to Operation Engagement a 6 month extension was sought but only got 2 months. The Inspectorate Report on Sexual Offences is out tomorrow and it is accepted in respect of the service that we give victims that it takes too long. It is accepted that resources are required and Lord Advocate and Crown Agent are of the view more generally that resources could be moved from other parts of the business, this is along with looking at SFIU.

System is toiling to respond to nature of business. There are issues with premature case reporting, police not doing things timeously, forensic backlog and court planning.

Lot more cases are going High Court and this is a longer term trend and not a spike.

##### Local Court (PF LC West)

##### *National Initial Case Processing (NICP)*

Location Neutral Team has been in place for 5 months. From 6,800 unmarked cases of 10 weeks and over this is now sitting at 149. Of those, only 18 are appropriate for the team to mark. Other functions reminded that the unmarked cases include cases belonging to their functions. Local Court are seeking to ensure that all unmarked cases aged over 31 weeks are prioritised for marking across COPFS. A paper has been submitted to the Resources Committee seeking to extend the funding for the team until end of the financial year (FY) to focus on cases currently aged 4-31 weeks to ensure that as at end FY there are no unmarked cases over 26 weeks (6 months). DCA is content to support this.

##### *Sheriff & Jury (S&J)*

Some positive results from S&J reform; more pleas and reduction in witness citations.

**“Releasable under the Freedom of Information (Scotland) Act 2002 after the next meeting”**

The restructure of West sexual offences and indecent images work into sheriffdom specialist units continues with some challenging issues emerging around skills sets and vicarious trauma concerns. DCA mentioned identifying resourcing requirements, with sexual offences accreditation being an aspect. Don't want untrained and reluctant staff. Requires wider discussion on managing process.

*Summary*

Overall outstanding trials are down; 2,000 less in sheriff court and 3,000 cases in Justice of the Peace (JP) court, albeit the Glasgow sheriffdom has been the single biggest benefactor in the JP drop.

There is still a shortfall in Band B staff. BM OP advised that another paper is going to Workforce Planning Group on Band Bs and trying to address real vacancies.

Specialist Casework (PF SC)

CAPs and Deaths sitting at target; 92% CAPs 90% Deaths. Report is being prepared for the Lord Advocate regarding SFIU & RTFIU (Road Traffic Fatalities Investigation Unit) as discussed above.

Clutha – instruction from Crown Counsel; satisfied that no criminal proceedings at this time and move to petition court for a Fatal Accident Inquiry (FAI) in 2018. A communication to families/next of kin will be prepared and issued prior to the 4<sup>th</sup> anniversary. Sheriff Principal keen to take the FAI and venues and timescales being looked at, Glasgow Sheriff Court is not an option.

Operation Escalade (9 accused) – PF SC provided an update on possible resolution for some of the accused.

Policy & Engagement (PF P&E)

Victims Right to Review (VRR) – currently sitting year to date at 39% within target 20 days. Properly conducting reviews often takes longer than 20 days due to e.g. the requirement to investigate additional evidence provided by victims. Policy are therefore revisiting the target to assess whether a more meaningful KPI would be appropriate.

COPFS has now received a Judicial Review post VRR. Historic sexual case marked no pro, VRR upheld no pro decision. Judicial Review now seeking to again challenge our decision making.

**5. KPIs**

Flag issues to LA. Potential 8 month date for receipt of sexual offence report to indictment, shorter for child witnesses.

## **6. AOB**

BM OP asked if the committee were agreeable to be the decision making body for Information Systems Division (ISD) taking systems down. DCA is relatively comfortable although there has been significant impact in past. ISD to provide risks and timetable.

PF LC asked if Victim’s Forum, of which she is Chair, could report through OPC. They intend meeting quarterly and have met 3 times. All functions require to provide representation to tis Forum.

PF HC raised issue regarding search warrants as not sure what other forum to take it to. Search warrants are being produced with no jurisdiction specified and there have been numerous common law firearms warrants and drug warrants. They need to ensure they are the gatekeeper and can push back requests until they are satisfied that there is jurisdiction and reasonable suspicion.

**ACTION: Function reps to remind staff to follow guidance and use styles**

**ACTION: PF P&E to create reminder on PF Eye signposting staff to relevant guidance.**

## **9. Date of Next Meeting**

Wednesday 17 January 2018.