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ORIGINAL ARTICLE

'No TV programme is made about boring magistrates' cases': Revisiting the 'ideology of triviality' in magistrates' justice

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Abstract

Magistrates' courts in England and Wales deal with around 95% of cases from start to completion, with many cases heard by lay magistrates. Despite this reliance on both the lower courts and decision making by lay adjudicators, it has been repeatedly argued that magistrates' justice receives little attention. McBarnet (1981) argues that this is due to an 'ideology of triviality' in which the work of the magistrates' courts is constructed as 'trivial', when in fact the cases heard are serious in nature and consequence. This article draws upon the framing of the 'ideology of triviality' to present findings from a qualitative study which examined contemporary workings of magistrates' justice through court observations and interviews with lay court users. The findings suggest that the fallacy of 'triviality' continues to pervade magistrates' justice. This has consequences for both those with personal experience of the magistrates' courts and wider society.

KEYWORDS

defendants, domestic abuse, ideology of triviality, juries, lay magistrates, magistrates' courts, victims, witnesses

1 | INTRODUCTION

In England and Wales, magistrates' courts deal with the overwhelming majority of criminal cases – reportedly in the region of 95%[1] – from start to completion, with many cases heard by lay magistrates. Lay magistrates (hereafter magistrates) are members of the public who make decisions on trial, sentencing and other outcomes, such as bail applications, with the assistance of a legally qualified adviser. Magistrates can impose a range of sentences including unlimited fines, community penalties and up to six months in custody.[2] The role is unpaid and does not require any formal qualification, however, magistrates undertake various training activities. At present, the total number of magistrates is approximately 13,340 (Ministry of Justice, 2023a). In addition to this, cases in the magistrates' courts can also be heard by a single (professionally qualified) district judge.[3] There are currently 138 district judges and 88 deputy district judges in post in the magistrates' courts (Ministry of Justice, 2023a). Despite this reliance on both the lower courts and decision making by lay adjudicators, it has been repeatedly argued that magistrates' justice has received relatively little societal attention. The relative lack of media reporting in the magistrates' courts is well documented (Chamberlain et al., 2021; McBarnet, 1981; Townend & Welsh, 2023), while existing studies have shown that levels of public understanding of the magistrate role are very limited (Morgan & Russell, 2000; Roberts et al., 2012; Sanders, 2001). This inattention, McBarnet (1981, 1983) argues, is due to the construction of the 'ideology of triviality' in magistrates' courts. Within this ideology, the work of magistrates and magistrates' courts is constructed as 'trivial' and 'humdrum', and the cases it deals with as 'simple' or 'straightforward', in a way which masks both the complexity of cases and gravity of consequence for the members of the public involved (McBarnet, 1981, 1983). McBarnet's analysis has greatly influenced much of the academic writing on the magistrates' courts in the intervening years and, as Henderson & Duncanson (2019) note, is of 'continued relevance' today.

This study draws upon the analytical framing of the 'ideology of triviality' to present findings from a piece of qualitative research which examined contemporary workings of magistrates' justice through observations of court proceedings (n = 100) and interviews with 28 members of the public who had personal experience of participating in criminal courts as victims, witnesses or defendants. The observational data support the notion that the 'triviality' with which magistrates' justice is associated is a fallacy and provide modern-day illustrations of the seriousness and nuance of cases heard. This includes an examination of this from the perspective of victims and witnesses, who have hitherto been largely absent from discussion of the 'ideology of triviality' (McBarnet, 1981), and reflections on the paradox between the fallacy of 'triviality' and the gravity, complexity and volume of cases involving gendered violence in the magistrates' courts. Findings from the interviews with victims, witnesses and defendants indicate that understanding of the magistrate role is weak among those with personal experience of the courts, particularly when contrasted with interviewees' knowledge and understanding of the other main type of lay adjudicator in the criminal courts: juries. A lack of understanding of magistrates among members of the public, including those with personal experience of the courts, suggests that the fallacy of 'triviality' continues to pervade magistrates' justice. Together the findings from the observations and interviews highlight the continuing personal and societal impact of a 'neglect' (Darbyshire, 1997; Welsh, 2022, p.3) of the magistrates' courts. The implications of this for research, policy and practice are examined in the conclusion.

The term 'magistrates' justice' – incidentally the title of Carlen's (1976) influential monograph – is used in this article ahead of terms such as 'summary justice' and, unless directly relevant to the analysis, 'lower courts'. This is to avoid perpetuating the connotations of 'triviality' associated

with the magistrates' court, as described by McBarnet (1981, 1983). Here, the term 'magistrates' justice' refers to all types of work undertaken in the magistrates' courts, including that of district judges.

2 | 'IDEOLOGY OF TRIVIALITY': CONCEPTUALISATION AND APPLICATION TO CONTEMPORARY MAGISTRATES' JUSTICE

Over 40 years ago McBarnet (1981) coined the term 'ideology of triviality' to describe the fallacy of magistrates' court cases being interpreted as trivial by academics, the public, the media and criminal justice professionals, when in fact the cases heard can be serious in nature and consequence to those involved:

> To read law books for information on the magistrates' courts is to come away with the clear impression that what goes on in them is overwhelmingly trivial. They deal with 'minor' offences', 'everyday offences', 'the most ordinary cases', 'humdrum events' … Much of what happens in the court is funny or pathetic or absurd, and so very trivial, too trivial to attract any serious attention from the press. … Nor indeed from the public. (McBarnet, 1981, p.189)

This notion of triviality is, however, an 'interpretation' that is applied as much to the *status* of members of the public attending the magistrates' courts – 'the lower class, the unemployed, homeless, feeble, who provide fodder for the lower courts' (McBarnet, 1983, p.12) – and the *penalties* prescribed, as the offences themselves. McBarnet's work focused on the overarching structure of the law rather than the interpersonal dynamics and social control that can exist in the magistrates' courts described by other prominent writers, such as Carlen (1976). Within this McBarnet juxtaposed the construction of the 'ideology of triviality' in the lower courts with the construction of the 'ideology of justice' in the higher courts:

> Legal policy has established two tiers of justice. One, the higher courts, is for public consumption, the arena where the ideology of justice is put on display. … The other, the lower courts, deliberately structured in defiance of the ideology of justice, is concerned less with subtle ideological messages than with direct control. The latter is closeted from the public eye by the ideology of triviality. (McBarnet, 1981, p.195)

Although the magistrates' courts have been associated with academic inattention (Darbyshire, 1997; Welsh, 2022), recent years have witnessed an uptick in scholarly writing and research. Much of this research either explicitly connects with McBarnet's writing on the 'ideology of triviality' or has implicit relevance to this analysis. It can be classified in terms of three interconnected themes: (i) access to justice and defendant participation; (ii) research on recent policy developments in the magistrates' courts; and (iii) open justice.[4] Lucy Welsh has written extensively over the last decade on the subject of access to justice and defendant participation in the magistrates' courts (e.g., Townend & Welsh, 2023; Welsh, 2017, 2022, 2023). She argues that a 'culture of perceived informality' among those working within the magistrates' courts and notions of 'triviality' adversely impact on defendant participation (Welsh, 2023). Furthering McBarnet's observation that defendants in magistrates' cases are likely to come from socially deprived backgrounds, recent research has highlighted that defendants appearing in the magistrates' courts routinely experience

multiple and intersecting forms of disadvantage and vulnerability (Campbell, 2020a; Jacobson, 2020; Kirby, 2019; Ward, 2017). Ward (2017), in her commentary on social justice within the magistrates' courts, noted that:

> magistrates' courts are mainly processing people whose lives and lifestyles are enmeshed within complex and tangled situations of disadvantage, who quite often have health and other treatment needs, such as drug and alcohol addiction and mental disorder, to which offending is sometimes attributed. (p.113)

Campbell (2020a, 2020b) highlighted the prevalence of racial disparities in his discussion of intersecting forms of disadvantage and 'precarity' among magistrates' court defendants and Howard (2022) raised the importance of Liaison and Diversion teams for mentally vulnerable defendants. It should be noted that this high level of vulnerability and need is not unique to the magistrates' courts and applies to defendants across both types of criminal court, magistrates' courts and the Crown Court alike (Jacobson, 2020; Jacobson with Talbot, 2009; McEwan, 2013). However, it is the contrast between the high level of need of defendants in the magistrates' courts and the 'triviality' with which they are associated that has drawn the attention of McBarnet and others.

The last decade or so has witnessed numerous policy developments concerning the magistrates' courts, centred on efforts to modernise, digitise and increase efficiency (e.g., Ministry of Justice, 2012, 2016, 2023b; Ministry of Justice & HM Courts and Tribunals Service, 2018). With this there has been a corresponding growth in academic interest in the magistrates' courts. The potential adverse impact of reforms designed to enhance efficiency in the magistrates' court – in the context of managerialism and austertiy measures – on due process has been commented on by a number of scholars (Campbell, 2020a; Loo & Findlay, 2022; Ward, 2015, 2017; Welsh, 2022). Changes to the availablility of legal aid under the Legal Aid Sentencing and Punishment of Offenders Act 2012 (see, e.g., Ministry of Justice, 2014) and the impact these have on defendant participation, access to justice and lawyer-client relationships have also been documented (Newman & Dehaghani, 2023; Ward, 2017; Welsh, 2017, 2022). Others have noted the impact of closures of magistrates' courts – which halved in number between 2010 and 2020 (Collins, 2021; Welsh, 2022) – on the additional time and financial costs to defendants attending court and the principle of local justice (Newman & Dehaghani, 2023; Ward, 2017). These discussions are also set in the context of a sharp fall in magistrate numbers: the number of serving magistrates has declined by more than 50% over the last 15 years, from 29,419 in 2008 (Ministry of Justice, 2008) to 13,340 in April 2023 (Ministry of Justice, 2023a).

Recent digital reforms have been discussed within the context of a 'trivialisation' of magistrates' justice. Welsh (2023) noted that the introduction of the single justice procedure under the Criminal Justice and Courts Act 2015 – whereby defendants can enter a guilty plea to a specified summary offence online before the case is dealt with by a single magistrate and legal adviser – 'trivialises' summary justice and means that 'the procedure is reduced to a series of documents and tick boxes' (p.5). Similarly, Townend & Welsh (2023) have argued that the increase in virtual courtrooms trivialises the process and limits defendant expression. Loo & Findlay (2022) explictly connect increased digitisation and automation (such as online guilty pleas) in Singaporean courts with the 'ideology of triviality'. They argue that the distinction between digitised and in-person forms of justice represents a new version of McBarnet's two tiers of justice, with digitised justice being synonymous with perceptions of 'triviality':

> Depersonalised justice and its technologies present the same paralysing effect in its depiction of all defendants and their 'trivial' cases as being one in the same. 'Trivial' cases are viewed as undeserving of the courtesy and majesty of the courts, thus withdrawing also fundamental principles of procedural fairness and due process safeguards. (p.29)

Many of the recent policy developments have raised questions about the extent to which the principle of 'open justice'in the magistrates' courts is maintained: this includes the increased use of digital techologies and aspects of procedure that take place outside the formal court hearing (Soubise, 2017; Townend & Welsh, 2023; Ward, 2015, 2017; Welsh, 2022).

Despite the increased academic focus on the magistrates' courts, McBarnet's assessment of the lack of media and societal interest in the magistrates' courts applies today. A recent study appeared to confirm anecdotal evidence of the lack of media presence within the magistrates' courts: in conducting a week's worth of observations at Bristol magistrates' court, Chamberlain et al. (2021) found that only three of 240 cases were reported in the local media. This included just one case in which a journalist was present at the court hearing and two in which media reports were compiled from 'official' published sources, such as police and Crown Prosecution Service (CPS) press releases. This again has implications for the principle of open justice and led the authors to conclude that magistrates' cases are 'largely invisible to the public' (Chamberlain et al., 2021, p.2404). Townend & Welsh's (2023) research on open justice in the magistrates' courts similarly notes a lack of media and public attention to the magistrates' courts. This lack of scrutiny, they argue, perpetuates the notion of 'triviality' that is intrinsic to magistrates' justice (McBarnet, 1981) and reduces the accountaibility and educative function of magistrates' courts.[5]

The limited existing research on public understanding of magistrates' justice has shown that the public are 'ill-informed' (Roberts et al., 2012) of the role occupied by magistrates. Three studies, each of which included large-scale surveys, have examined public understanding of the magistracy (Morgan & Russell, 2000; Roberts et al., 2012; Sanders, 2001). All reached similar conclusions regarding the presence of 'confusion among the general public about who magistrates are and the role that they play' (Sanders, 2001, p.16). Forty per cent of respondents in Sanders's (2001) study were not aware that magistrates are lay members of the public; 46% thought that full legal training was required to be a magistrate; and respondents significantly underestimated the proportion of cases dealt with in magistrates' courts (Sanders, 2001). Seventy-three per cent of respondents in Morgan & Russell's (2000) study were not aware of the distinction between magistrates and district judges and 61% were not aware that magistrates usually sit in panels of three. In Roberts et al.'s (2012) survey, just 40% of respondents were aware that magistrates are unpaid members of the public and less than half were aware that sentencing decisions are made both by professional judges and members of the public serving as magistrates. Although Sanders's (2001) research included focus groups with six to eight serving prisoners,[6] there is a lack of in-depth research examining how the roles of magistrates are understood by members of the public with personal experience of the courts – a gap which the present study sought to address.

3 | METHODS

The qualitative data presented in this article comprise observations of 100 cases at two magistrates' courts and 28 in-depth interviews with members of the public with personal experience of attending the criminal courts (hereafter lay court users) in a single region of England in 2016

and 2017. Two contrasting areas within the region were selected: (i) a densely populated inner-city urban conurbation with a younger-than-average mean age, a higher-than-average proportion of residents from racially minoritised groups and an above average unemployment rate; and (ii) a provincial town with a mean age that is similar to the national average, a lower-than-average proportion of residents from racially minoritised groups and an unemployment rate below the national average. The findings formed part of a wider empirical study examining lay participation across the Crown Court and magistrates' courts (see Kirby, 2019). In the analysis below, data from magistrates' court observations are drawn upon to provide a contemporary illustration of the workings of the lower courts; while the findings presented from the interview data concern an aspect of the study which examined the extent to which the roles of lay adjudicators (lay magistrates' and juries) are understood by lay court users.

The methodological approach adopted continues a long tradition of using ethnographic approaches to study the magistrates' courts, usually in the form of observations and interviews – sometimes in combination with documentary analysis (see, e.g., Campbell, 2020a; Carlen, 1976; McBarnet, 1981; Ward, 2017; Welsh, 2022). A unique feature of the present study is that it included in-depth interviews with lay court users, a marginalised and under-researched group (Jacobson, Hunter & Kirby, 2015; Shapland & Hall, 2010; Welsh, 2022). Traditional magistrates' courts' ethnographies have involved 'informal' interviews with lay court users, usually defendants (Carlen, 1976; McBarnet, 1981), while contemporary studies have largely comprised interviews with members of the 'workgroup' (Welsh, 2022), such as defence lawyers (Welsh, 2022), prosecution advocates (Soubise, 2017) or magistrates (Ward, 2017). For the present study, 28 interviews were conducted with six complainants, eleven prosecution witnesses, seven defendants and four 'supporters' (i.e., family members or friends of complainants, prosecution witnesses or defendants who had attended court to provide informal support).

Interviewees were purposively recruited from the pool of lay court users attending four selected research sites – two magistrates' courts and two Crown Courts – in the study period, with permission from HM Courts and Tribunals Service (HMCTS) and Citizens Advice (who operate the Witness Service). Interviews were carried out subsequently either in person or by telephone, according to the interviewee's preference. Most opted for a telephone interview. Interviews were audio-recorded, with permission, and transcribed verbatim. Interviewees were evenly split between the Crown Court and magistrates' courts: 14 were recruited while attending a Crown Court and 13 were recruited while attending a magistrates' court.[7] Over two-thirds of the sample had attended a magistrates' court on at least one occasion. As defendants were recruited from court waiting areas, only those receiving non-custodial sentences were approached. The age range of interviewees was 18–70 years. The majority (n = 17) were women and just over two-thirds were from white British backgrounds. Of the remaining interviewees: two were Asian British, two were Black British, one was Black-Caribbean, two were of mixed ethnicity (self-described as Black Caribbean-white and mixed Asian-British) and two were from white European backgrounds. English was not the first language of five of the interviewees. All five had appeared in court without the assistance of an interpreter and were comfortable with the interview being conducted in English. Pseudonyms are used to preserve interviewees' anonymity.

In interview, respondents were asked questions designed to elicit their understanding and perceptions of the roles performed by magistrates and juries and to reflect upon their experience of the wider court process. To examine levels of understanding, specifically, interviewees were asked first to describe the role of (i) a magistrate and (ii) a jury, in their own words. After they had given a description of the role, interviewees were provided with basic information about the roles of magistrates and juries and asked to discuss their thoughts. The information about

magistrates was adapted from the information provided to members of the public in Roberts et al.'s study (2012). The information covered the facts that most criminal cases are dealt with in the magistrates' courts; that magistrates (usually) sit in panels of three; that magistrates are unpaid members of the public who can make decisions on the outcomes of trials and sentencing hearings; that magistrates undertake regular training and are assisted by a legally qualified adviser (see Kirby (2019) for a full description).

Observations were conducted from the public gallery of each magistrates' court. The 100 cases observed included 18 full trials; four partial trials;[8] 47 sentencing hearings; and 31 other hearings, such as bail hearings, plea and case management hearings, and cases that were scheduled but did not proceed due to missing parties. Detailed handwritten notes were made of all proceedings under observation and then typed up into full fieldnotes to preserve the 'idiosyncratic [and] contingent character' of individual observations (Emerson, Fretz & Shaw, 1995) and to facilitate the development of 'thick description' (Geertz, 1973). Echoing findings from existing research regarding the lack of media presence in the magistrates' courts (Chamberlain et al., 2021; McBarnet, 1983; Townend & Welsh, 2023), in only one case was a court reporter observed to be present.

The small-scale nature of the study limits its generalisability and representativeness. The exclusion of defendants in custody also means that the sample is skewed towards those with less experience of the criminal courts. Nevertheless, the interviews provide a rich source of qualitative data about lay understandings of magistrates, while the observations provide a contemporary illustration of the operation of the magistrates' courts.

Interview transcripts and observation fieldnotes were analysed with the assistance of qualitative data analysis software MAXQDA. The analytic approach for the overall dataset broadly corresponded with the principles of 'grounded theory' (Glaser & Strauss, 1967).[9] Separate codes were created for data relating to the understanding of the: (i) role; (ii) eligibility; and (iii) selection procedures for magistrates and juries. In addition, the codes 'awareness of lay adjudication' (reflections on where their awareness of magistrates and/or juries comes from), 'everyday understandings' (reflections on levels of public consciousness, or assumptions about public consciousness, of magistrates and/or juries) and 'evident lack of understanding' (examples of a lack of understanding of magistrates and/or juries, including the expression of uncertainty) were created in response to the open, line-by-line, coding of data. This study did not set out to explicitly examine the 'ideology of triviality' (McBarnet, 1981, 1983) in the magistrates' court; however, the relevance of this theme became apparent during data analysis. This is both in terms of the observational data which highlight the gravity and complexity of cases heard in the magistrates' court, and the interview findings which suggest that, despite this, those with personal experience of the courts have low levels of understanding of the nature of magistrates' justice. It is argued that this lack of understanding is a consequence of the enduring fallacy of 'triviality'.

4 | OBSERVING PARADOXES: TRIVIALITY AND SIMPLICITY VS. GRAVITY AND NUANCE

The findings from the observational data support McBarnet's assertion that the 'ideology of triviality' in the magistrates' courts masks the gravity and complexity of cases under consideration and provide a contemporary illustration of this. These data highlight that defendants often have much at stake even in seemingly 'low-level' cases, such as 'minor' driving charges for which the penalty may incur a losss of licence – particulularly if their livelihood depends on it (see also Campbell, 2020a; Henderson & Duncanson, 2019; Townend & Welsh, 2023). The observations also provide

a vivid depiction of the juxtaposition between the perceived 'triviality' of the magistrates' courts and, as noted by others, the intersecting needs and vulnerabilities of those appearing before the courts (Campbell, 2020a; Jacobson, 2020; Ward, 2017).

Magistrates' courts dealing with relatively short hearings such as sentencing hearings, bail hearings and case management hearings often acted as a site within which the various needs and vulnerabilities of defendants involved in lower-level offending, or alleged offending, were manifest.[10] This can be illustrated by summarising the cases heard before a single courtroom during a day's observation. The court heard 15 cases (MCSH39-47; MCOH20-25)[11] among which needs or vulnerabilities of the defendant were identified in seven cases, usually by the defence. Four of the defendants were identified as having problems with substance misuse, and three of the four were identified as having interrelated mental health difficulties. In two further cases, adjournments were granted so that psychiatric reports could be obtained. In the final instance, the defendant was sentenced for driving offences relating to a car accident in which he sustained a brain injury. In addition to the multiple and overlapping individual needs described above, were signs of high levels of socio-economic deprivation. For example, common among observed cases were applications for reduced court costs due to the defendant's low income, or income that was reliant upon employment or disability benefit, and there were a number of occasions in which defendants were brought back before the courts to account for failing to keep up with the payment of fines. Caseloads such as this were commonplace, rather than unusual, in the daily life of the magistrates' court and are arguably part of the social fabric of cases coming before the court. They also intersected with the 'congested [and] hectic' (Ward, 2017, p.77) environment of the magistrates' courts which simultaneously involve pressures to deal with cases swiftly and efficiently (Ministry of Justice, 2012) *and* frequent periods of delay, inertia and confusion. Issues of waiting and delay in the criminal courts – magistrates' courts and the Crown Court alike – have permeated the literature for decades (see, e.g., Duff & Leverick, 2002; Jacobson, Hunter & Kirby, 2015; Ratcliffe & Gibbs, 2024) and were one of the most common sources of frustration cited by lay court users in this study. However, a particular connection can be drawn between the specific operational pressures on the magistrates' courts – where policy imperatives that focus on speed and efficiency are most pronounced – and concerns about the 'trivialisation' of magistrates' justice, as described above.

While the paradox between the fallacy of 'triviality' and the impact of court processes and outcomes on the lives of defendants is relatively well established, little prior attention has been paid to this in relation to victims and witnesses. This group of lay users have traditionally been described as the 'forgotten party' (Pemberton, Aarten & Mulder, 2019; Rock, 2018) in criminal proceedings, in part because crimes are prosecuted on the part of the state rather than the 'private' victim (see Christie, 1977; Rock, 2004; Shapland & Hall, 2010). Indeed, McBarnet (1981) noted a relative absence of lay witnesses in the magistrates' courts at the time of her study, writing that 'police are often the *only complainants*' (p.191, italics in original). In comparison, over two-thirds of the trials observed in this study involved lay complainants or witnesses. This is likely an over-representation given that, due to the study's focus on lay participation, trials involving lay complainants and witnesses were prioritised for observation. However, it nonetheless indicates a significant shift since McBarnet's time of writing. A number of factors are likely to have contributed to the greater inclusion of lay complainants and witnesses in the magistrates' courts during the intervening years. These include formal developments such as the advent of the CPS in 1986 and measures designed to enhance participation and access to justice for victims and witnesses, such as the provision of 'special measures' for vulnerable and intimidated witnesses under the Youth Justice and Criminal Evidence Act 1999 and statutory entitlements under the Victim's Code (Ministry of Justice,

2020). In addition, societal shifts and decreasing levels of tolerance towards previously 'hidden' (see Jacobson & Hough, 2018; Maguire & McVie, 2017; Porter, 2020) harms that often occur in the private domain, such as domestic abuse and sexual violence, have contributed to cases of this nature increasingly being brought before the courts (Office for National Statistics, 2018; see also Ward, 2017). The magistrates' cases observed in this study ranged from low-level offences, such as speeding or cases brought by local councils, to much more serious ones, which often involved lay complainants and witnesses, including sexual assault, malicious communications and stalking. Cases involving allegations of domestic abuse accounted for one-fifth of the overall magistrates' court sample and one-third of the full trials observed. As noted above, this proportion may, in part, be because the cases identified for observation primarily concerned those involving lay court users. However, it also very likely reflects the fact that the vast majority of domestic abuse cases (88%) are heard in the magistrates' courts (Crown Prosecution Service, 2019) and challenges the notion that business in the lower courts is inherently 'trivial'.

Data from the present study highlight that overlapping needs and vulnerabilities are also visible among victims and witnesses attending the magistrates' courts. In some instances, the experience of victimisation itself had in part stemmed from the perpetrator(s) taking advantage of a pre-existing vulnerability of the complainant; in others, complainants had needs and vulnerabilities arising from the offence being committed. This could include fear or anxiety about the prospect of attending court or due to the impact of the (alleged) offence on the individual's physical or mental well-being. The use of 'special measures' was common for complainants and prosecution witnesses giving evidence in cases involving alleged domestic abuse or sexual violence, with screens or live links used in approximately two-thirds of observed trials of this nature. This indicates that the gravity of such cases is recognised and that they are not being treated as 'trivial' by the court workgroup (such as the magistracy, district judges, court staff and legal professionals).

In addition to cases involving lay victims and witnesses often being potentially serious in nature, the observations suggest that they can involve a number of complexities. Welsh (2022) highlighted that the complexities involved in points of law in the magistrates' courts belies the notion that they are 'law-free zones' (Darbyshire, 2011). Particularly relevant here is the argument that an increase in use of out-of-court penalties means that cases that do come before the magistrates' courts are 'likely to be complex or contested in some way' (Welsh, 2022, p.100). Examples of legal or case complexity were also evident in this study. During prosecution and defence closing statements in a stalking case (MCFT09), the prosecutor read out a dictionary definition of harassment and the defence commented that a dictionary definition was most appropriate due to the lack of case law (surrounding this relatively recent legislation).[12] The legal adviser provided further advice to the magistrates regarding their need to be satisfied that the defendant had engaged in a 'course of conduct' that amounted to harassment, in order to be convicted. Meanwhile, there was a discussion between the bench and prosecution and defence advocates in a sexual assault trial about disclosure (MCFT04). This concerned the Crown's decision to use only 15 to 20 messages – selected by the officer in the case – out of a possible 30,000 messages, as evidence.

However, complexity arises not only in legal matters but in the sensitive individual circumstances of the lay parties and/or relationship dynamics in which harm occurs. In the aforementioned stalking case (MCFT09), two witnesses gave evidence from behind screens and the defendant, though not in receipt of special measures in court, was described by his advocate as a 'very vulnerable individual' who had been appointed an appropriate adult[13] during his police interview. Meanwhile, complainant reluctance or lack of co-operation was cited in approximately half of the observed cases involving alleged domestic abuse. This is a similar proportion to CPS statistics which documented a lack of support from complainants in 53% of contested

domestic abuse cases that did not result in a conviction (Crown Prosecution Service, 2019). In observations, this reluctance manifested itself in different ways, for example, through the alleged complainant: refusing to give a statement to the police and/or attend court; entering a withdrawal statement; or attending court after being issued with a witness summons (or being informed that a summons would be issued if they did not attend) (see also Kirby, 2024). On occasion, when a reluctant witness ultimately gave evidence, the prosecution entered a hostile witness application to cross-examine them on parts of their evidence that did not match their witness statement.

Difficulties could also arise when legal restrictions were imposed that prevented contact between partners in an ongoing relationship. For example, MCOH29 was a hearing in which the defendant was alleged to have assaulted his partner and then breached his bail condition not to contact the complainant by entering her property and committing criminal damage. The complainant attended court to observe the hearing along with her and the defendant's baby but was informed by the district judge that she could not remain in the public gallery with the baby. The complainant left the courtroom but popped her head in and out of the gallery at various points during the morning until the case was heard. The defendant entered a guilty plea to criminal damage and the case was adjourned for a pre-sentence report. In granting bail, the judge firmly stated that he was being released on the condition that he did not contact the complainant directly or indirectly until after the sentencing hearing. Moreover, if she contacted him, the defendant was told that he must not respond. The juxtaposition between the rule of law and the 'messy realities' (Jacobson, Hunter & Kirby, 2015) within which offending occurs was starkly highlighted when the complainant returned to the courtroom during the hearing and tried to attract the defendant's attention. She left the public gallery in tears when he did not respond.

The challenges of bringing domestic abuse cases before the courts are well documented (see Campbell, 2020a; Cretney & Davis, 1997; Hall, 2009; Hoyle, 1998; Porter, 2020), however, the findings from this study provide an original contribution because they illustrate the paradox between the fallacy of 'triviality' associated with the lower courts and the gravity, complexity, and volume of these cases. Domestic abuse is an offence category which disproportionately affects women (Crown Prosecution Service, 2019; Hoyle, 2007; Porter, 2020), and thus an enduring fallacy of 'triviality' regarding how the work of the magistrates' court is perceived by society risks undermining the lived experiences of victims and survivors of gendered violence.

5 | LAY (MIS)UNDERSTANDINGS OF THE MAGISTRACY: LACK OF AWARENESS AND (IN)VISIBILITY

Findings from interviews with lay court users suggest that that fallacy of 'triviality', and associated societal inattention, is so ingrained that even those with personal experience of the criminal courts have limited understanding and awareness of the nature of magistrates' justice. For example, it was not uncommon for interviewees to find it difficult to describe the role of a magistrate when asked:

> What [a] magistrate is? Magistrate is the name of the court, the County Court. Am I right? (Irenka, defendant)

> I don't know … I'm not sure … I don't know if it is higher than the Crown Court. I don't, I really don't understand about magistrates, I really don't to be honest with you. (Gloria, supporter)

> I have no idea, the only thing that I sort of think I know is that the Crown Court is for more serious crimes than the magistrates' court. (Jake, prosecution witness)

In other instances, interviewees were able to offer some description of the magistrate role but this was usually tentative or incomplete. Prosecution witness Sandrine, for example, was able to make the distinction between the higher and lower courts and identify the decision-making function of magistrates but was unfamiliar with the collective nature of the adjudicatory task:

> I think a magistrate is – there's no jury – it's for much more minor offences, I think. And it's just put before the magistrate and he makes, I think he makes a decision, I think – I don't actually know – I think that's what he does. I'm not really sure what happens in a magistrates' court.

Magistrates were often described by interviewees as 'judges'. When asked to describe the role of a magistrate, supporter Theresa responded: 'Oh, well, when you say magistrate, you mean a judge?'. Although magistrates are indeed 'judges' in the sense that they are members of the judiciary who make judgments on the outcome of cases and applications, the notion of a 'magistrate' as a 'judge' appeared to be more connected to the perception that magistrates are qualified legal professionals or, in the words of prosecution witness Evelyn, 'specialists':

> Is it a specialised lawyer? I suppose you would need specialised training to be a magistrate. I don't imagine it would be like your regular lawyer on the High Street. I imagine somebody with specialist training.

While magistrates do undertake training for their role, they are not required to be legally qualified. Interestingly, defendant Martin specifically described how he did not think someone from his own occupational background, a railway worker, would be able to become a magistrate:

> I thought [a magistrate] was like a lay person who's been in some way a solicitor or a councillor or something like that, in a previous life and now they've got to a stage where they are giving something back. … I know they get paid, but I think it's, I don't know a bit of a part-time job. It's something they might do a couple of days a week, a bit like consultant surgeon or something, in the sense that they would work a little bit, that's how I see it. … You'd have to have some kind of degree or something, I wouldn't have thought that if I looked up [at the bench] there'd be an old railway man sitting there.

Comments such as this may reflect the fact that, although now more representative in terms of gender and ethnicity (Ministry of Justice, 2023a), magistrates are more likely to be older and to come from middle-class and well-educated backgrounds than the general population (Dignan & Wynne, 1997; Gibbs, 2014; Morgan & Russell, 2000; Ward, 2017). This includes an over-representation of those from professional or managerial occupational backgrounds (Gibbs, 2014; Morgan & Russell, 2000; Ward, 2017), holders of higher education qualifications (Dignan & Wynne, 1997; Ward, 2017), and those who are retired (Gibbs, 2014; Morgan & Russell, 2000).[14]

Upon being provided with the information about the magistrate role, several interviewees were surprised to hear of the voluntary, and unpaid, nature of the role. This is well illustrated by the following responses:

> I didn't know magistrates were made up of members of the public. I didn't know they were a panel of three. I didn't know they were not paid. (Dominic, prosecution witness)

> I didn't know any of it. One bit that surprised me is that magistrates are members of the public that are trained. I thought it would have to be somebody like a fully legal representative or something. (Jake, prosecution witness)

In line with the perception that magistrates occupy a 'specialist' role, all but three participants – before being provided with information – were unaware that magistrates sit with the assistance of a legally qualified adviser.

These findings correspond with existing research documenting low levels of understanding of the magistracy among the general public (Morgan & Russell, 2000; Roberts et al., 2012; Sanders, 2001), as described above. Collectively the findings from existing studies with the general public and those from this study strongly indicate that there is a lack of public consciousness of magistrates and the instrumental role that they occupy within the criminal courts of England and Wales.

A good level of knowledge of magistrates was demonstrated by around a third of lay court users. These interviewees were able to describe key aspects of the magistrate role including its lay nature. For example, prosecution witness Viv described the role of magistrates in the following manner:

> Well in the magistrates' [court] I think there's normally three on the bench and you have the main magistrate, who I believe, I'm not sure, they can only rule by law certain things. They can only give a certain sentence for a certain case and if they sentence anybody wh[o] deserves a higher sentencing then that's when they go to the Crown Court. They sort of like discuss it between themselves. And they do get advice from, I'm not sure what they call the person in front; that takes all the notes and everything. But I do know that they get advice sometimes. I think the magistrates are just normal working people.

However, even those respondents who were able to describe the role, often did so with some uncertainty, as Viv's response illustrates. Corresponding with the findings of Roberts et al. (2012), none of the interviewees were well informed as to the selection process for lay magistrates, and most were not able to say how magistrates are appointed.

Those with a stronger level of understanding of the role of magistrates tended to be those more familiar with magistrates and their work. Six lay court users referred to knowing a magistrate, usually a friend or family member, which could contribute to increased understanding. Likewise, a small number of interviewees reported that their understanding of the magistracy had increased because of their direct experience of attending a magistrates' court. For example, defendant Holly described how her solicitor explained the magistrate role to her when she asked why the magistrates in her case 'weren't wearing them funny wigs':

> Like I say it was my first experience and when I went I would have just called them judges. It was only they weren't wearing them funny wigs [that] I actually asked my solicitor like 'What are they? Why's there three of them?'

However, experience did not necessarily equate to increased levels of understanding: not all respondents who knew, or knew of, a magistrate displayed a good level of awareness of the role and some of the more experienced lay court users displayed limited levels of knowledge of the magistracy. This contrasts with Sanders's (2001) finding that defendants showed more understanding of the magistracy and the magistrates' courts than did the general public. It is difficult to gauge the significance of this due to the small sample size of defendants in both studies, however, it may reflect the fact that respondents in Sanders's (2001) study, as serving prisoners, were likely to have had more experience of the criminal courts than respondents in this study. Heightened emotions and a daunting and unfamiliar environment are factors which may help to explain why direct experience does not necessarily lead to increased understanding. When asked about her level of understanding of the magistracy, complainant Aylin reflected on the difficulties she experienced in absorbing the information about the magistrate role provided by the Witness Service because of the nervousness she was feeling in the lead-up to giving evidence:

> I mean when you say 'magistrates' court', you know you just think 'OK – "court"', you know, you get a judge, you get a jury … When you are going through the process people explain it to you [but] because you are so anxious you don't really listen as much as you normally would. So I think that might be the reason why I couldn't quite catch it.

Relatedly, existing research in both the magistrates' courts and the Crown Court has highlighted the routine difficulties that lay court users face in understanding the overarching court process and language of the courtroom, which can include 'jargon' or 'legalese' (Jacobson, Hunter & Kirby, 2015; Kirby, 2017; Welsh, 2022). In this context it is unsurprising that lay court users can also lack awareness of the specificities of the magistrate role.

Nevertheless, this lack of public consciousness of the magistracy can be sharply contrasted with levels of understanding of the roles of juries. Although there are important distinctions between the two lay adjudicatory roles – which include the fact that the role of magistrate, unlike that of juror, is voluntary, self-selecting and continuous – comparing levels of understanding between the two offers valuable insight. In contrast to the overall low levels of understanding of the magistracy, the vast majority of interviewees were able to talk with relative confidence about the role of the jury.[15] For example, interviewees often described the role of a jury as being to listen to the evidence and to make a collective decision about whether or not a defendant is guilty or not guilty:

> They are twelve impartial people that listen to the evidence and try and make a decision as to whether they think the person is guilty or not. (Sian, prosecution witness)

> My understanding of juries is like they are members of public sitting on the court hearing, before the judge; they've got to give the verdict. Members of public are juries, they decide about who is guilty or not guilty. (Usman, defendant)

Even those with more limited knowledge about the role of juries were able to describe the basic decision-making function of a jury: 'I thought they were the people that sit and make a decision for the judge' (Aylin, complainant). Only one participant, defendant Irenka, was not able to describe the role of a jury in any form; she attributed this to being from an Eastern European country which does not have a common law system.

Although there was often uncertainty around the exact process for eligibility and selection, the majority of interviewees correctly estimated that juries (usually) sit in panels of twelve and a substantial proportion were aware that juries are selected at random:[16]

> It's just twelve random people off the streets I believe, isn't it? Well not off the street but you get summonsed by letter. (Natalie, complainant)

> As the film says [they are] just twelve angry men. Twelve working class, twelve members of the public selected from the electoral register. (Martin, defendant)

These findings suggest that the role of the jury is well within the realm of public consciousness. To many lay court users, an understanding of the function of the jury was part of their 'everyday' knowledge and understanding of the workings of society. There is very little existing research about public knowledge and understanding of the jury system, perhaps precisely because such knowledge and awareness is regarded as assumed. When asked about where they thought their knowledge about juries came from, responses included: 'it was in the back of my mind' (Viv, prosecution witness) and 'I think it's common knowledge – no one has told us or taught us, it's something we just hear' (Frank, supporter). It is also perhaps indicative of the 'symbolic' value that the jury holds in the eyes of members of the public (Darbyshire, 1997; Devlin, 1956; Roberts & Hough, 2011).

This 'everyday', or 'commonplace' (Ewick & Silbey, 1998), understanding about the role and function of juries appeared to stem from one or more of several influences including the media, friends and family, and experience. Interviewees tended to regard the media as a primary source of information about the role of juries, reflecting the high volume of fictional courtroom dramas produced globally. 'It's too much *CSI*, isn't it?' laughed Gemma, a prosecution witness, upon being provided with the information about juries and realising that she had given a fairly detailed and accurate account of the workings of the jury system. She also reflected upon the prominence of reporting on Crown Court cases in the news media, in comparison to the magistrates' court in which she appeared, and how this impacted her level of understanding:

> The Crown Court seems to be on the news a lot more. There's a lot more kind of coverage of it. Obviously big cases seem to be there, so there's quite a lot that you see. … It is probably a bit of a television influence and also like newspapers and stuff like that, so I probably picked up bits from there.

However, as well as providing lay court users with an awareness of the role of the jury, fictional representations in the media did not necessarily support an accurate understanding. When asked about the jury selection procedure, a couple of interviewees described a selection process more akin to the United States system, where lawyers have an influential role in jury selection in the form of the pre-emptory challenge.

Interviewees also described how everyday conversations with friends or family members impacted upon their awareness of the jury – 'growing up, school, parents. I think my mum told me about the jury service ages ago. Usually someone will be called into jury in a family, so you know, you just learn about it as you grow, gradually' – said complainant Zara. Few interviewees reported feeling that formal education had impacted upon their awareness of the jury role. Those who did tended to have gained this knowledge while studying law in further or higher education, as was the case for two interviewees.

These 'everyday' understandings of the jury can be contrasted with the relative absence of this in interviewees' understandings of the magistracy. Several interviewees with limited levels of knowledge of the magistracy attributed this to a lack of public awareness of the role, providing support to Sanders's (2001, p.2) assertion that the magistracy is 'not visible to the public'. Education was rarely cited as a factor contributing to the understanding of those who displayed a good level of knowledge of the magistracy. Meanwhile, no respondents referred to the media as having a role in shaping their awareness of the magistracy. When reflecting upon his limited knowledge of magistrates in comparison to his strong understanding of juries, prosecution witness Dominic specifically noted the dearth of media portrayals of the magistrates' courts – joking that: 'No TV programme is made about boring magistrates' cases, are they?'. This stands in stark contrast to the influence of the media in lay court users' understandings of juries. It also neatly illustrates McBarnet's (1981) depiction of the juxtaposition between the 'ideology of triviality' in magistrates' justice, with the 'ideology of justice' in the Crown Court with regard to public consciousness of justice:

> Publicity is not, however, an issue that need trouble lower court justice, closeted from the public eye by its own triviality – or, more accurately, by its own ideology of triviality … So the higher courts alone feed into the public image of what the law does and how it operates. (pp.191, 195)

The implications of the lack of public consciousness of magistrates' justice, both in relation to awareness of the magistrate role specifically and the potential for the magistracy to reflect a diverse cross-section of society more broadly, is illustrated in the following quotations:

> It's not something you hear in a conversation. … So yeah we just assume these are legal[ly] qualified representatives. And you think they'd get paid for it as well, definitely. … If you are trying to get the general public, it's not known, information is not out there. It's not recognised – I didn't know. (Candice, prosecution witness)

> I suppose again knowledge is power; I suppose a lot of people probably aren't aware that they don't need to have got this highly specialised training to be a part of [the magistracy]. … So it's probably not publicised enough, *unless* you are in that group, in that group of people of work. I don't think it's something out there that normal lay persons know. I know a lot of people that does volunteering but I don't know anyone personally that does volunteering in the magistrates' sector. (Evelyn, prosecution witness)

Overall, these findings highlight a lack of awareness of the role of magistrates and the nature of magistrates' justice among victims, witnesses, defendants and their supporters. This replicates findings from existing research which have pointed to weak levels of understanding of the magistracy among the general public (Morgan & Russell, 2000; Roberts et al., 2012; Sanders, 2001) and suggest that this persists even among those with personal experience of the criminal courts. A lack of awareness of the magistracy is in direct contrast with levels of understanding of the jury role, even though the magistracy is responsible for decision making on a far higher scale. The illustrates both the enduring fallacy of 'triviality' *and* the personal and societal consequences of it. Not only is the nature of magistrates' justice absent from the wider public consciousness, those whose lives are directly affected by decisions made in the magistrates' courts have a limited understanding of their role and function.

6 | IMPLICATIONS AND CONCLUSION

In conceptualising the 'ideology of triviality', McBarnet pointed to the inattention of the public to magistrates' justice. Existing studies examining public understanding of the magistracy and magistrates' courts provide support for this, consistently finding that members of the public are ill-informed about core aspects of the magistrate role (Morgan & Russell, 2000; Roberts et al., 2012; Sanders, 2001). Findings from this study show this to be the case even for members of the public with personal experience of the courts and support Sanders's (2001) and Chamberlain et al.'s (2021) assertion that magistrates' justice is not 'visible' to the public. This lack of 'public consumption' (McBarnet, 1981, p.195) of magistrates' justice is reinforced by the finding that the lack of knowledge and understanding of the magistracy is in stark contrast to the firm location of the role of juries within public consciousness. This examination of lay court user understandings of lay adjudication in the English criminal courts thus brings into sharp focus the contrast between the Crown Court, where 'the ideology of justice is *put on display*' (McBarnet, 1981, p.195, italics added) and the magistrates' courts which are 'closeted from the public eye by the ideology of triviality' (McBarnet, 1981, p.195).

The findings of this study suggest that there is an absence of public education on the nature and functions of justice in the magistrates' courts, including the roles of lay magistrates. However, as Townend & Welsh (2023) note, education could play a valuable role in both increasing understanding of magistrates' justice and challenging the fallacy of 'triviality'. Public education and information regarding the roles of magistrates and the functions of magistrates' justice could take several forms. First, it is important that members of the public attending court are provided with information about the roles occupied by magistrates' (and district judges) by the courts service and members of the 'workgroup' (Welsh, 2022), alongside accessible information about the overall court process. This need has been acknowledged by HMCTS who, in documenting the findings from their own research into user experiences, noted the need to increase the 'visibility' of court processes 'by providing the right information in a timely manner' (HM Courts and Tribunals Service, 2018, p.1). However, it should be recognised that the heightened emotions that are often experienced as a direct result of attending court – as highlighted by Aylin above – may limit the extent to which this information can be absorbed 'in-situ'. Therefore, in addition to timely information provision by those working within, and those responsible for operating, the magistrates' courts, the wider education system has a role to play in increasing understanding of the courts and justice system. It is, after all, remarkable that primary or secondary education was rarely cited as a source of information about the jury and magistrate role among interviewees and points to an urgent gap to be filled. The most likely avenue for this would be during the subject of 'Citizenship', which is a statutory requirement for all children of secondary school age. The current syllabus specifies that this should include teaching about 'the nature of rules and laws and the justice system, including the role of the police and the operation of courts and tribunals' and 'the different ways in which a citizen can contribute to the improvement of his or her community, to include the opportunity to participate actively in community volunteering, as well as other forms of responsible activity' (Department for Education, 2014, pp.83–84). The extent to which this education includes details on the nature and operation of the magistrates' courts and of the roles of magistrates (and juries), specifically, is unclear and would benefit from further research.

Moreover, given the demonstrable effect of the media in contributing to public understanding of the jury – even if this does in some instances lead to inaccuracies – the findings of this study highlight the role that the media could play in increasing understanding, or at least awareness, of magistrates. Findings from this study, such as those concerning a lack of understanding of the

magistracy and the potential for serious and complex cases to be heard, highlight the role that the media could play in bringing these issues into view and challenge commonly held perceptions of 'triviality' in magistrates' justice. The potential role of the media in reporting on 'wider social issues of court processes' (Chamberlain et al., 2021, p.2414) or 'important characteristics of the justice system' (Townend & Welsh, 2023, p.125), rather than individual 'newsworthy' cases, has been termed 'justice reporting' (Chamberlain et al., 2021) or 'justice-worthiness' (Townend & Welsh, 2023). Reporting of this nature would help to bring some of the entrenched issues highlighted in the observations to greater public prominence, such as the prevalence of, and difficulties in bringing prosecutions in, domestic abuse cases. This is ever more important at a time when magistrates' courts have the potential to become more 'closed' in practical, if not policy, terms due to court closures – which mean further distances to travel to reach courts (Newman & Dehaghani, 2023; Ward, 2017) – and the advent of procedures which remove cases (and lay court users) from the physical courtroom, such as the single justice procedure and automatic online convictions (Townend & Welsh, 2023). A promising recent example of a 'justice reporting' initiative is the CourtWatch programme led by the charity *Transform Justice* in which volunteers are trained to observe and document magistrates' court cases (Ratcliffe & Gibbs, 2024).

In addition to aiding lay understanding of the court process and challenging the fallacy of 'triviality' in magistrates' justice, increasing education and awareness of how the magistrates' courts operate may contribute to efforts to increase the representativeness of the magistracy. As noted by several interviewees, it follows that if members of the public are unaware that the role of magistrate is a part-time, lay, unpaid role for which many citizens are eligible, they are highly unlikely to apply to take up such a position. In this regard, it is encouraging to see renewed magistrate recruitment drives, including social media campaigns.[17] More broadly, raising understanding of the criminal courts may help to empower victims, witnesses and defendants – those with least power but most at stake in the process (Benesh & Howell, 2001) – in what is generally considered to be a marginalising environment (Jacobson, Hunter & Kirby, 2015; Kirby, 2017, 2024; Shapland & Hall, 2010; Townend & Welsh, 2023).

The small-scale nature of the study means that it was not possible to make meaningful distinctions about levels of understanding of the magistracy based upon the demographic characteristics of interviewees. However, by examining the gravity and complexity of magistrates' cases from the perspective of victims and witnesses, particularly those involving domestic and/or sexual abuse, this article has highlighted the relevance of gender to the notion of 'ideology of triviality'. In light of this, and existing findings which illustrate the overlapping needs and vulnerabilities of defendants in the magistrates' courts (Campbell, 2020a; Jacobson, 2020; Ward, 2017), future work would benefit from a more explicit examination of 'triviality' through an intersectional lens (Crenshaw, 1991). This would allow for a consideration of the interplay between demographic characteristics including, but not limited to, race, class, gender, disability and sexuality.

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ENDNOTES

[1] See: https://www.judiciary.uk/courts-and-tribunals/magistrates-courts/magistrates-court/ [Accessed 2 February 2024].

[2] In May 2022 magistrates' courts sentencing powers were increased to twelve months' custody to assist in tackling court backlogs (Ministry of Justice, 2022) but in March 2023 these powers were 'paused' (see Fouzder, 2023).

[3] For a discussion of the rise of district judges in the magistrates' courts, formerly known as stipendiary magistrates, see Seago (2000).

[4] See also Henderson & Duncanson (2019) for a discussion of the application of the 'ideology of triviality' to courtroom design.

[5] However, it is important to highlight the work of a small number of well-known court reporters, such as, the Evening Standard's courts correspondent, Tristan Kirk: see: https://twitter.com/kirkkorner See also: https://howardleague.org/howard-league-in-conversation/ [Accessed 2 February 2024].

[6] Additionally, 12% of respondents in Morgan & Russell's (2000) study reported having attended a magistrates' court as a defendant and 10% had attended as a witness.

[7] In addition, the sample comprises one pilot interview conducted with a former defendant who had experience of attending both the Crown Court and magistrates' courts.

[8] These were included because each contained data that were not otherwise present in the sample. For example, MCPT03 provided the only instance in the study in which a defendant gave evidence with the assistance of an intermediary.

[9] See Kirby (2019) and Kirby (2024) for more detail.

[10] The length of these hearings ranged from approximately five minutes to one hour and 40 minutes (including any deliberation time). The latter was very much an outlier; the majority were dealt with in under half an hour. Trials were lengthier, though all of those observed were heard within one day's sitting or less.

[11] A further case was heard in chambers (closed court), and another was adjourned because the defendant had not been produced from the local prison.

[12] Protection from Harassment Act 1997.

[13] The role of an appropriate adult is to provide support to children and/or vulnerable suspects at the police station. See: https://www.appropriateadult.org.uk/ [Accessed 10 September 2024].

[14] Gibbs (2014) notes the paucity of data on other demographic characteristics such as religion, disability and sexuality.

[15] Three of the 28 interviewees had prior experience of jury service.

[16] The 'random' nature of jury selection should not necessarily be conflated with jury representativeness, which has been subject to debate (Darbyshire & Thomas, 2008).

[17] See: https://magistrates.judiciary.uk/how-to-volunteer/ [Accessed 22 April 2024].

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