

The Wild West?

Courtwatching in London
magistrates' courts

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Foreword

If you want to understand the reality of our justice system, spend some time in the magistrates' court which deals with more than 90% of criminal cases; or else read this report which draws on the observations of volunteer 'courtwatchers' who attended over a thousand hearings.

Whilst this volunteer army felt that the judgments were "overall fair," their reports reveal any number of ways in which court users have been failed by a justice system which treats people as "a problem" rather than the very people "for whom the system of justice was built." I am quoting the former Lord Chief Justice Lord Woolf speaking in 1995. "The true problem is the court system and its procedures which are still too inaccessible and incomprehensible to ordinary people," he said.

Nothing has changed – at least, not for the better.

The last time I visited a magistrates' court was with a group of students from the University of Sussex in March 2020 for a research project.¹ We walked up the steps of the dilapidated courthouse in Kemptown, Brighton to find our entrance sealed off with yellow and black hazard tape. We were forced to go in through the exit which seemed to offer an apt metaphor for the dysfunctional state of British justice.

The failure of our courts to adequately serve the public, especially that increasing number forced to navigate the justice system without lawyers, was a key theme of a 12-month research project I did with Dr Daniel Newman which took us to courts up and down the country.² "It is difficult to overstate the hurdles faced by those without lawyers," we concluded. "Interviewees would frequently describe their experience of the courts in the same emotional language: 'overwhelming' and 'harrowing.'"

Courts are a place of work for justice professionals but all too often a place of crisis for those compelled to use them. In this report, we learn that more than one in five defendants are unrepresented at trial (21%), often to their disadvantage. There were multiple reports of defendants not receiving papers for hearings in advance and in one (protest) case the prosecutor was apparently reluctant to go through the hassle of having to print out papers for each defendant. Defendants struggled to understand the nature of the process that they have become embroiled in, a confusion shared by the courtwatchers.

1 It was part of Observing Justice by Dr Judith Townend and Dr Lucy Welsh, University of Sussex

2 This featured in Justice in a Time of Austerity (2024)

In 2013 the judiciary published guidance which included the (no doubt) well-meant advice: “Listen carefully and try to understand.” I described it then as the kind of futile, non-advice I tried hard to avoid dispensing to my then eight and ten-year-old daughters.

That report came to mind as I read the observation of one courtwatcher: “**Clear that defendant could not properly understand English (despite chief mag speaking loudly! LOL).**” One fifth of the hearings involve a defendant who didn’t speak English as a first language and in roughly half of those cases an interpreter was not provided.

Some courtwatchers were impressed by the heroic conduct of defence lawyers; others alarmed at the indifference and lack of preparation of others (“duty solicitor didn’t seem to care – huffing and puffing about how he was getting late”). The observers were struck by how “isolated” or even “ignored” defendants were. A sense of separation exacerbated by the unnecessary overuse of the secure dock or else glitchy videolinks with fixed cameras rendering defendants partially visible.

Courtwatchers talk of the “kindness”, “empathy” and “patience” on the part of some judges, but one has to fear for those unlucky enough to appear before the judge described by one volunteer as “cold”. “Observing his cases this morning has been very challenging,” they noted. “I wanted to remind him he’s dealing/working with human beings and needs to be more respectful and listen more.”

On the conveyor belt of justice that is the magistrates’ court, humanity is quickly lost. As another courtwatcher records: “This young woman could barely stand upon entering the dock. No apparent concern for her dignity, her hair was a mess and she was shaking uncontrollably initially... Why is it tolerable for people to turn up in such distress and for that not to be addressed?”

This is a report that raises fundamental questions about our justice system. Observers were frustrated at the futility of fining people who have no money (£20 a month for someone on universal credit is rightly described as “a fortune”). Some were shocked by racial disparities in decision-making in a process where, on the basis of this exercise, almost one third of defendants are Black (30%) but only 14% of those sitting on the magistrates’ bench (and only 4% of district judges).

If we are to fix Lord Woolf’s “problem”, then the courts need to acknowledge that the problem is their responsibility to fix. Also we need more courtwatching. But more courtwatching will only happen if courts become more welcoming and easier to understand.

JON ROBINS

Journalist, lecturer and founder of The Justice Gap

Executive summary

This report summarises findings from CourtWatch London, a mass court observation project where citizen volunteers observed magistrates' court hearings and reported what they saw.

From July to December 2023, a diverse group of 82 volunteer members of the public (courtwatchers) visited their local London magistrates' courts armed with a booklet of observation forms and a small amount of training. Between them they observed over 1,100 hearings, reporting on the treatment of defendants, the decision-making of magistrates and district judges, and their experiences of attending magistrates' court as a public observer.

This report focuses on courtwatchers' observations of the court process and the court's decision-making. We have written separate reports on their experiences of being a public observer trying to access and understand the courts, and their reflections on how young adult defendants are treated.

Our first report - ["Why are you here?" Open justice in London magistrates' courts](#) - highlights how courtwatchers found it hard to comprehend the court system. Their observations suggested defendants were struggling too. People cannot have a fair trial without a clear understanding of what they are accused of, what is happening in court, and the implications of the court process. Our courtwatchers observed magistrates' courts often falling short. Defendants were usually physically isolated from the rest of the courtroom in the secure dock, where it was all too easy to ignore them for the majority of the hearing. A significant minority of defendants appeared without a lawyer. Courtwatchers felt that unrepresented defendants were severely disadvantaged by their lack of legal advice, even though court staff and judges made efforts to explain things. Defendants who needed interpreters were some of the worst served by the court. And courtwatchers were alarmed to see hearings going ahead despite some defendants being clearly unwell.

Despite these concerns, courtwatchers felt judgments made were overall fair, reasoned and practical. They appreciated magistrates and judges who took the time to get to the bottom of things and to find the most productive solution for the individual in front of them. Courtwatchers were most frustrated by what seemed to them ineffective or counterproductive sanctions. This included fines and other court costs which had to be paid by people of severely limited means, or punitive sentences given to people with serious drug addiction or mental health problems which did nothing to address those issues. Our courtwatchers also felt some time was wasted on cases which should not have been in court at all. Courtwatchers usually agreed with the court's decision to remand people, although their reports highlighted some examples where bail might have been more appropriate. A few courtwatchers picked up on inconsistencies in how defendants were dealt with which they saw as evidence of racial bias.

Courtwatchers were shocked by what they perceived to be the inefficiency of courts. They expected hearings to start on time and to run continuously throughout the day. They were concerned that the valuable time of the many professionals in the room was being wasted. It was hard for courtwatchers to work out why so little was happening since court staff and judges seldom explained the delays. As courtwatchers gained experience, they gradually discerned the reasons – prosecution and defence advocates who didn't have the right information in advance, nor the time to prepare for hearings, defendants not turning up for their hearing (often through no fault of their own) and technology which didn't work well.

The fundamental flaw in our courts system highlighted by courtwatchers – that many defendants don't know what's happening in the court and so can't meaningfully participate in the process – needs urgent action. We need simpler court proceedings so the process is intelligible to a layperson, and legal aid available for a wider range of circumstances. At the very least, we recommend introducing a support service for defendants, available in every magistrates' court. The use of court fines should be reduced, particularly for people whose poverty was a contributing factor to their offence. Fines should be replaced with sentences which instead address the drivers of crime. To improve court efficiency, research should be commissioned to understand the main causes of court delays and how they might be addressed. Meanwhile, the number of cases listed could be reduced by discontinuing some very old ones and encouraging the police to offer more out of court resolutions for lower level crimes.



This project shows the power and potential of courtwatching in England and Wales. The commitment from our volunteers to observe and report on over 1,100 hearings shows that ordinary people are willing to give their time and energy to hold our courts accountable. Their reflections, which focused on access, fairness and effectiveness, bring a unique perspective to the scrutiny of our courts. The act of courtwatching itself changed how many of our volunteers viewed the justice system and those who get into trouble with the law. And it's possible that courtwatcher presence played a small role in encouraging the courts they observed to be fairer and more compassionate towards those who are swept up in our justice system.

Introduction

About CourtWatch London

The magistrates' courts of England and Wales are little observed. Few members of the public know that they have full access to most criminal courts and few journalists now cover day to day court stories. What public and media debate exists tends to focus on the Crown Court, as do most fictional representations of courts. This means that the reality of what is happening in the magistrates' court is seldom reported. A few academics observe criminal courts, but they do not have the resources to observe extensively.

Transform Justice sought to change this by piloting a mass court observation programme, where volunteer members of the public observe the daily hearings and report what they see. Citizen courtwatching is well-established in many US states, where peer support and 'how to' guides have helped courtwatching proliferate. Courtwatching projects have also emerged in a handful of other countries, most notably in Poland where citizens have observed over 50,000 hearings since the project began in 2006.

The CourtWatch London project aimed to:

- Increase community ownership and oversight of our magistrates' courts.
- Improve our understanding of what actually happens in court, to strengthen the case for policy and practice change for more just decision-making.
- Find out what public observers thought of what they witnessed in magistrates' courts.
- Explore the potential of community courtwatching in England and Wales.

About Transform Justice

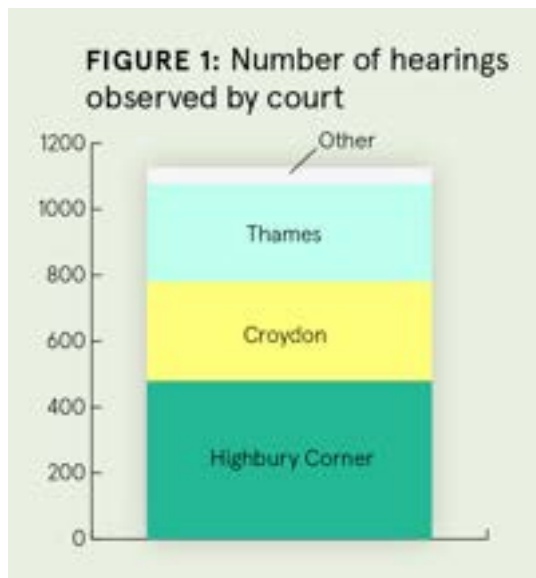
Transform Justice is a national research and campaigning charity working for a fair, open and compassionate justice system. We use research and evidence to show how the system works and what needs to change – then we persuade politicians and policy makers to make those changes. Through our work we hope to reduce crime and the harm that can be caused by the criminal justice system.

Methodology

Before beginning courtwatching, volunteers completed our two-part training: a three-hour in-person session covering the project aims, an introduction to the magistrates' court and the courtwatcher role; followed by a 90-minute online session on the data collection forms and how to upload notes. See appendix 4 for more details about the training sessions.

Courtwatchers filled out a CourtWatch London hearing observation form for each hearing they observed. The form was completed by hand, with courtwatchers uploading the data online later via Google Forms. The two-page form comprised a series of closed questions capturing details about the magistrates or district judge, the defendant, and details of the hearing, as well as a space for free-form reflections from the courtwatchers. Volunteers could use the reflections box to note down anything they found interesting, striking or concerning from their observations, ranging from the fairness of the court decision-making to the treatment of defendants to the experience of being an observer. They could also use that space to note down their reactions to what they had seen. Additional note-taking guidance was circulated two months into courtwatching. For hearings with a young adult defendant aged 18-25 years old, courtwatchers completed an additional young adult form (reported on separately). Courtwatchers also used a court environment form to record details about accessing the court and the court environment (also reported on separately).

Courtwatchers were prompted to record information about the demographics of the defendants and of the magistrates and judges, including gender, age group and ethnic group. The defendant's date of birth is stated at the start of each hearing. Otherwise, except in rare cases where such information was mentioned in court, data on defendant and bench [judge] demographic characteristics is based on the perception of the courtwatchers.



The project focused on three magistrates' courts in order to build a community of volunteers around each magistrates' court and allow us to target volunteer recruitment and training to smaller areas. The focus magistrates' courts (Highbury Corner, Croydon and Thames (in east London) were selected as they are all busy courts with several courtrooms each, making it more likely that volunteers would be able to see several hearings on each visit and, in theory, not have to wait around too long for something to happen.

Courtwatchers were free to visit magistrates' courts at a time that suited them. Volunteers were initially encouraged to attend our three focus magistrates' courts but then were welcome to branch out to other London magistrates' courts.

We encouraged observers to focus on cases brought by the Crown Prosecution Service and to avoid motoring offences and breach hearings. The courtwatching phase ran from late July 2023 until 31 December 2023. Volunteers received travel and, where relevant, lunch expenses.

During the courtwatching period we ran fortnightly online check-ins, open to all trained courtwatchers, and sent regular update emails to the mailing list. Trained volunteers could join the CourtWatch London WhatsApp community, which some used to identify a buddy for a court visit or to share practical information.

Courtwatchers observed over 1,000 hearings generating a large amount of both quantitative and qualitative data. We used an analysis software called Dedoose to code the qualitative data using a theme-based coding framework. Quantitative data was cleaned and analysed in Excel. The data analysis was supported by two academic researchers.

Most of the quotes in this report are taken from the data submitted in courtwatcher observation forms. A small number of quotes are taken from email or WhatsApp messages from courtwatchers and from facilitated discussions at a courtwatcher in-person event in January.

About the courtwatchers

“I wanted to help shine a little light into a system that has a huge impact upon society, but which operates in obscurity.”



Our 82 courtwatchers were volunteer members of the public recruited via social media, local volunteer websites, local press, e-newsletters, and flyers in public spaces around our three focus magistrates' courts. Many were attracted to courtwatching as an interesting opportunity to learn more about the courts and the criminal justice system. Some were motivated by concern about the fairness of the courts, particularly for “those least able to fend for themselves,” or “people disadvantaged by age, race, education and financial means.” Others saw courtwatching as a way to “give back to society” or “help my community.” A few were just keen to gain some volunteering experience or “get involved in something in the local community,” with one attracted by the fact the role “was doing something useful [which] didn't involve too much talking.”

We suggested volunteers visited their local court for a half day or whole day at a time. Some of our courtwatchers visited court just once over the five months of courtwatching, while others attended many times.

FIGURE 2: Who are our courtwatchers?



Acknowledgments

Transform Justice extends its heartfelt thanks to the 82 courtwatchers who volunteered to attend magistrates' courts and took the time to send us the detailed, thoughtful observations that have allowed us to produce this report. We hope the findings and recommendations they have contributed to will help to make our courts fairer, more effective and more accountable.

Thanks to the members of the project's advisory group, listed in appendix 1, for their engagement and support throughout the project. Thanks to the many more experts who gave advice and ideas during the project's design and to Dr Jessica Jacobson for her feedback on an earlier draft of this report. Thanks to the London Metropolitan University students who tested an early version of the observation form, to Mark Yin and Dr Samantha Burns for their support processing and analysing the vast amount of observation data, and Jenny Thomas from Statisticians for Society who provided pro bono quantitative analysis advice. Finally thank you to the magistrates' court staff for accommodating our courtwatchers during their visits.

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“Like he was invisible”: courtwatchers on the treatment of defendants

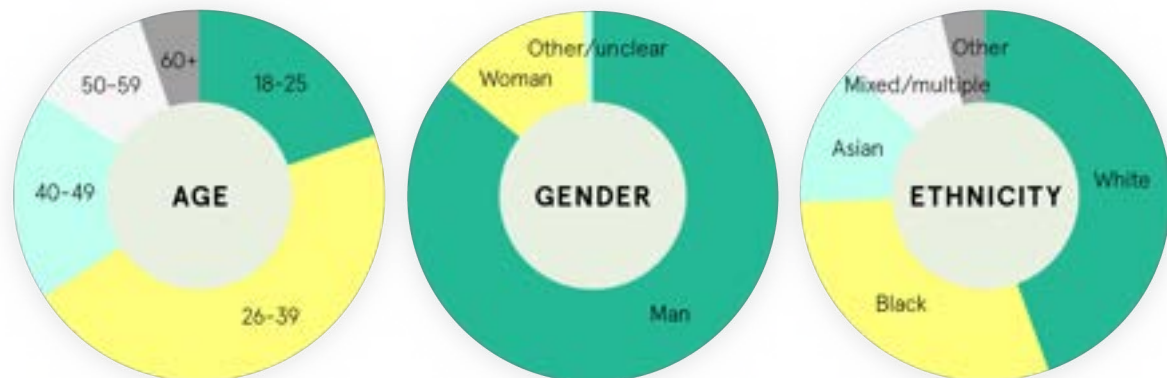
How are defendants treated by the court? Are they able to participate effectively? The right to a fair trial (Article 6 of the European Convention for Human Rights) includes minimum rights for those charged with a criminal offence. These are:

- To be informed promptly, in a language they understand and in detail, of the nature and cause of the accusation against them.
- To have adequate time and facilities for the preparation of their defence.
- To defend themselves in person or through legal assistance of their own choosing or, if they have not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require.
- To examine or have examined witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them.
- To have the free assistance of an interpreter if they cannot understand or speak the language used in court.

Courtwatchers used their observation forms to capture details about the defendant and their treatment. Many volunteers also used the form’s open text box to write their own reflections on how the defendant appeared and how other people in the court treated them.

About the defendants

Courtwatchers noted down anything salient relating to the defendant or the offence from the arguments made by the prosecution and defence lawyers. What they heard indicated the depth and breadth of underlying issues facing those brought before the magistrates’ courts. The most frequently mentioned was drug or alcohol use, followed by mental health conditions. Others faced financial difficulties and/or were on benefits, or were unemployed, or had nowhere to live.

FIGURE 3: Defendant demographics as observed and recorded by courtwatchers.

No lawyer, no justice?

Not every defendant in the magistrates’ court has a lawyer. Strict eligibility criteria for legal aid, combined with a complicated process to secure it, and mistrust of the criminal justice system amongst some defendants, means people sometimes end up representing themselves. As our courtwatchers observed, this was often to their disadvantage, despite efforts from the court.

Courtwatchers observed 165 hearings where the defendant was unrepresented – 15% of all hearings observed. Representation was lowest for trials, where 21% of defendants were unrepresented, and highest for hearings involving a bail/remand decision (7% unrepresented). 13% of plea entry hearings (where the defendant indicates whether they are pleading guilty or not guilty to the offence in question) and 13% of sentencing hearings involved an unrepresented defendant.

Having struggled to comprehend the court system themselves, courtwatchers were often surprised to see people appearing unrepresented. Defendants were not always asked why they didn’t have a lawyer. When they were, reasons included not being eligible for legal aid, not having completed the legal aid paperwork, not wanting to wait for the duty solicitor, or believing a lawyer was not worth it if the hearing was straightforward or they themselves knew enough about the process.

The bench and legal advisors often went to some effort to persuade unrepresented defendants to at least seek advice from the duty solicitor, especially if the case was serious, or if the person had an upcoming trial or Crown Court hearing.

For defendants who proceeded without a lawyer, court professionals and magistrates were usually patient, understanding and helpful.

“The defendant was quite erratic and kept speaking over the judge, but he had some kind of mental health issue. The judge handled this well and was understanding towards him, however warned him that he would be asked to leave if he kept talking.”

“The judge took time to explain the principles of law surrounding his case, and the details of sentencing, especially clearly.”

“The bench listened carefully to the (self-represented) defendant’s arguments against having to wear a tag while on bail.”

In fact, one courtwatcher who had observed multiple cases with the same district judge believed engagement was actually better where defendants were not represented, perhaps because court staff and the bench (the judges or magistrates in a court) were aware that extra support was needed.

“I thought the judge did a much better job of involving them than with the defendants who were legally represented who she seemed to ignore (not even making eye contact or allowing any pauses to check understanding) right until the final decision.”

There were, however, many accounts of unrepresented defendants not receiving the papers for hearings in advance. One courtwatcher observed a hearing with several unrepresented defendants charged with protest-related offences. The defendants should have received the papers for the hearing beforehand: “The defendants had not seen the statements or summary and the judge said that they had to have these before the trial.” The prosecutor was reluctant to print the papers out for the defendants on the day, presumably due to the time it takes.

“At one point the DJ [district judge] was a bit curt with the prosecution, saying as they’d done a lot of these ‘protestor cases’ already she ought to know 9/10 are unrepresented and so she should know to print off enough bundles. The prosecution lawyer had previously told someone else she didn’t print too many bundles as they were 100 pages long and often people don’t turn up.”

White Other Other (please specify)

ing Trial Plea entry

Self represented

Video link

CPS Clerk Witness Oth

Unsure If yes, who?

Another unrepresented defendant, charged with assaulting a police officer, had also not received the papers for his hearing in advance: “11:50 this defendant in court...He asked for all the papers related to the case as he hadn’t seen them. Adjourned so this could happen.” On his return an hour later he pleaded not guilty and chose for his case to go to the Crown Court for trial.

A defendant appearing from prison was so frustrated by not having received his pre-sentence report that he walked out of his hearing: “Court was adjourned because the defendant who appeared in court via video link walked out of the custody room in the prison. The defendant stated that the court was not prepared as he had not seen his pre-sentence report. He then left and contacts at the prison did not answer the call back from the court.”

While a few unrepresented defendants coped well without a lawyer, these were the exception. Most courtwatchers described defendants being severely disadvantaged by their lack of representation. Some appeared completely unprepared for the hearing or unfamiliar with law. Others made decisions which were not in their best interest.

“[The defendant] hadn’t prepared a defence statement and the judge was not impressed by this.”

“Defendant seemed to be under delusions: wanted court to call him ‘prince’ and had not turned up to his probation meeting claiming to have diplomatic immunity. He was articulate, having chosen to represent himself, but didn’t know the law. Difficult to know what to do for him.”

“Unrepresented defendant. In my opinion poor choice of not guilty plea to driving offences – hard to argue with being on police car camera speeding and allegedly telling police officer he didn’t stop as he had cannabis on him.”

One woman representing herself repeatedly stated that she didn’t understand what was happening in the hearing. The prosecutor in her case did not have the evidence required and so suggested that the case be discontinued. The judge gave the defendant the choice “to accept the discontinuance (with the remote prospect that the prosecution could be reopened were the evidence to be found) or to push for the trial to go ahead (in which case no evidence would be offered). Despite the judge’s attempts to explain, she did not understand and chose the second option, which did not appear to be in her best interests.”

The shotgun trial

This case highlights why people are unrepresented and how the courts adapt. A woman was accused of four offences – driving without insurance, possession of cannabis and a class B drug and obstructing a stop and search by the police. Being convicted of just one of these could have landed her in prison. She arrived at court for her trial expecting to be represented by legal aid lawyers but was then told (due to some breakdown in communication), they would not be coming. She hadn’t had access to her own case papers since she thought she had a lawyer. She was on benefits, neurodivergent and with mental health problems.

Despite this, she was encouraged by the judge to get it over with by defending herself – the case could be dealt with by the end of the day. Given this pressure, the defendant agreed to proceed. During the trial she herself had to cross examine a police officer. The courtwatcher felt the judge and particularly the prosecutor did their best to support the woman. The charge of possession of class B (in fact ADHD medication) was dropped, she was acquitted of the cannabis possession charge, given a conditional discharge for obstructing the stop and search, and fined for driving without insurance.

In another case, the defendant had travelled down to London from Salford for the hearing and, given the expense of doing so, was reluctant to repeat the journey for a trial, even though he disagreed with the witness statement. He therefore pleaded guilty.

“While the magistrates were absent, the court clerk explained to him more than once that if he disputed the facts then he should plead not guilty and then there would be a trial. No one suggested that he could have a trial and give evidence by video (I don’t know if this is permissible) but it all felt a bit unsatisfactory (he did not help himself by trying to talk at the wrong moments, not speaking clearly, etc).”

Google Translate and hand gestures: the need for interpreters

Every defendant has a right to an interpreter if they cannot understand or speak the language used in court. This should be arranged and paid for by the court in advance. Based on our courtwatchers’ observations, this fundamental right was not always being fulfilled.

Courtwatchers reported that over a fifth (230 out of 1,059) of hearings involved a defendant who did not speak English as a first language. In approximately half (104) of those cases an interpreter was not provided. While some of those defendants appeared fluent enough in English not to require an interpreter, courtwatchers observed many others struggling to understand what was happening, to read court documents or to complete legal aid forms.

“Although it was clear that the defendant’s first language was not English, as he struggled to answer basic questions such as his name and address, there was no mention of an interpreter being available.”

“Clear that defendant could not properly understand English (despite chief mag speaking loudly! LOL).”

Cases were often delayed or adjourned due to a lack of interpreter (see page 35 for courtwatcher views on court efficiency), which may have encouraged courts to press on without one in some cases. One defence lawyer was overheard telling their client that getting an interpreter would take so long that it was better to proceed without one. Some courts tried workarounds, not always to good effect.

“The judge attempted to communicate with the defendant by typing up a transcript on google translate and using the text-to-speech feature, but the audio on her laptop would not work, and the client did not understand the written transcript, meaning he likely had little understanding of what happened during the hearing.”

Some judges and lawyers didn’t even attempt to accommodate people struggling with language barriers – they spoke quickly and asked complex questions – although this was sometimes kept in check by others.

“I was surprised at the volume of questions the district judge asked. Both advocates and the judge struggled to keep their questions simple or intelligible, especially given the witnesses’ levels of English, and I felt that the leading questions asked in cross-examination were inappropriate given the evident difficulty of the witness to understand or respond fully in the situation.”

“The defending counsel did ask the prosecutor to slow down during the bail application (he was indeed speaking extremely quickly) and then gestured to the defendant to see if he could hear. He also requested that an interpreter be present for the scheduled trials.”



The right to an interpreter includes the right to receive translated versions of court documents and evidence.³ One courtwatcher reported what appeared to be a flagrant breach of this: “The court ended up printing some of the evidence + court documents and giving these to the defendant. However, these were in English - with the bench stating that it was the defendant’s duty to get these translated - this seems odd and unfair (what if the defendant can’t afford a translator?)”

When an interpreter was present, we heard some examples of this working well, with lawyers and magistrates speaking slowly, with regular pauses, to allow time for the interpreter to translate everything that was said to the defendant, and checking to make sure the defendant understood properly.

“There was an interpreter for one case - she seemed to be very good and patient, standing alongside defendant and translating and explaining in (I think Arabic??) to defendant when he was unclear and had questions. Seemed to be more aware of defendant being a human being than anyone else in the court!”

However some individual lawyers were impatient or unaccommodating to interpreters and the defendants who relied on them.

“Prosecutor was reading charges and reasons for refusing bail so quickly that the interpreter had to ask 5 times for the prosecutor to slow down/repeat so they could accurately translate to the defendants in the dock.”

³ The right to a fair trial (Article 6 of the European Convention on Human Rights) includes the right to the free assistance of an interpreter for translation or interpretation of all documents or statements in the proceedings which it is necessary for the accused to understand in order to have the benefit of a fair trial https://www.echr.coe.int/documents/d/echr/guide_art_6_criminal_eng

“It really seemed like counsel for both sides disregarded the difficulties of having to translate every sentence for the interpreter, and the judge noticed at the end and remedied this to the extent he could.”

At one remove: defendants on video

Video links have been used for magistrates’ courts hearings since 2000, usually for cases where the defendant is in prison, to save the time and hassle of a journey to court. The use of video links for all sorts of cases increased significantly during the pandemic to allow the wheels of justice to keep turning while remaining covid-safe.

The image shows a portion of a court form with several rows of checkboxes. The visible text includes: 'Sentencing ', 'Trial ', 'No ', 'Courtroom Video link ', 'Defence CPS Clerk Wit', 'No Unsure If yes,'.

Only a small proportion of defendants in the cases observed by our courtwatchers appeared on video (6%). Most were doing so from prison, or in a few cases from police custody or a secure hospital. One defendant was unable to physically attend court due to a broken ankle, and another lived in another city. Video links were used most frequently for bail/remand hearings (defendants appeared by video 10% of the time) and there were instances where defendants appeared by video for sentencing (4% of hearings) and even trials (6% of hearings). A very small number of court professionals appeared by video (in 3% of hearings observed), usually defence lawyers.

There were sometimes technical difficulties with video links meaning the hearing was delayed or adjourned or occasionally ended up proceeding without the defendant.

Courtwatchers were frustrated on behalf of defendants in prison who appeared on video as the defendants had very little information about what was happening.

“It’s not the first hearing today where D [defendant] is already in prison for other convictions and he appears on video link at the last minute without being notified of the charges nor about the hearing itself...I think about people that are awaiting in prison to be heard and perhaps they have long to wait while nothing really happens in Highbury and Islington magistrates’ court on a daily basis.”

Courtwatchers observed video links which impeded defendants from participating. Defendants on video were not always fully visible to others in the court, or the sound was so poor that they couldn’t be heard properly. One defendant struggled to follow what was happening in the courtroom: **“Several times the defendant who was appearing by video link interrupted proceedings to clarify a point or answer a question. These questions were not directed at**

the defendant, but it was hard for the defendant to know who these questions from the magistrates were directed at.”

Another time a judge demanded the defendant appear by video from the court cells, despite court staff suggesting they were unfit to appear.

“Before the hearing began, the court custody manager appeared from the dock to apply for the defendant not to be produced in court. He was concerned that the defendant was not complying with officers or answering basic questions and, having been spoken to by the local NHS mental health team, he was worried that he was not fit to come to court or to enter his plea. He also refused to speak to (or instruct) the duty solicitor. At the judge’s insistence, the defendant eventually appeared over video link – he was completely unresponsive to the judge.”

The invisible defendant

“The defendant sat there for a good 15 minutes, whilst the staff in the courtroom (CPS, solicitors, probation) were chatting about their weekends, laughing, gossiping etc. The defendant looked very anxious and uncomfortable and it felt quite humiliating and isolating to me. Like he was invisible.”

Courtwatchers were struck by how isolated defendants were from the court proceedings. They felt defendants were sometimes ignored, with those working in the court not making eye contact, not addressing the defendant until the very end of the hearing, being “cold” or “impersonal” towards defendants, or speaking about defendants as if they weren’t there.

This was evident when the court was not in session too. Lawyers and other court staff discussed other cases, or their weekends, while the defendant was waiting in the dock wondering what was going on.

“I was struck by the fact that the defendant sat in the dock for approximately 45 minutes, whilst the various legal parties discussed the issues, possible dates for rescheduling, and various other matters – without once being spoken to by his defence lawyer to offer any explanation as to what was going on.”

“Whilst the judges were out of the room discussing a decision, I experienced the courtroom professionals discussing in very casual terms a previous case and how the person should have received a tougher penalty. There was a defendant in the dock at the time (for the present case) – I assume he could not hear this discussion (microphone switched off?) but it did not feel very appropriate.”

One contributing factor here is the use of the secure dock – a small “room” with Perspex panels which physically separates the defendant from everyone else in the courtroom (except the custody officers who escort them). It is up to the bench to decide whether the defendant needs to sit in the secure dock.



Campaigners, including Transform Justice, argue that use of the secure dock should be limited to cases where there is legitimate concern that the defendant poses a security risk, but in reality its use is now the default.

Courtwatchers reported that the defendant was in the secure dock for 78% of observed cases. Volunteers observed defendants appearing to find it difficult to hear what was happening from the dock, or be heard themselves. A further 6% of defendants appeared on video link (see ‘Defendants on video’ section), with the remaining 16% of defendants sat in the main courtroom. Given these physical barriers, it’s not surprising that courtwatchers sometimes felt defendants were excluded from properly participating in proceedings. When defendants did try and engage they were sometimes ignored or even told to “shut up.”

“Defendant had hand up on the video link on two occasions for approx. 5 mins but nobody in the court room noticed or acknowledged this.”

“Defendant was told to shut up by one of magistrates when he disagreed with something the prosecution said (what defendant said was correct – it was not the victim’s blood at scene but his own as per police report).”

“During the hearing the defendant also seemed quite agitated and requested to speak to his solicitor particularly while the magistrates were deliberating the outcome of the hearing but was not really able to do so.”

There was some good practice. Occasionally defendants were allowed to move from the dock to the well of the court. Some courtwatchers observed magistrates apologising to defendants when their case was delayed, or taking the time to explain what was happening clearly to the defendant and checking they understood.

“While magistrates were out of court discussing, defence lawyer and police officer talked to defendant in quite a reassuring way ‘we’ll sort something out.’”

“It was good to hear the lead magistrate formally apologise to the defendant for having to adjourn the case due to no PSR [pre-sentence report] being completed.”

Magistrates and judges usually did a good job of clarifying the outcome to the defendant at the end of the hearing, spelling out next steps, checking they understood and responding to questions.

“The judge did explain the decisions very clearly to the defendant and went through each step and dates. He also explained clearly why the conditions for bail had been imposed.”

“The defendant asked whether he could appeal against the sentence (£225 in total to be deducted from his benefits) and the judge explained how he could appeal.”

A couple of courtwatchers wondered whether the court could do more to make sure the defendant understood.

“Although the DJ didn’t address the defendant at all during the hearing, she did ask him at the end if there was anything he’d not understood or if he had any questions. I think leaving this right to the end makes it very unlikely anyone would raise anything!”

“The judge was speaking very fast while explaining, considering the defendant spoke English as a second language. I quite often think about the idea of a receipt given at the end of the hearing. It would be useful for defendants to know in writing what they are supposed to do next.”

There were some examples of brusque treatment from the court when a defendant didn’t seem to understand what was happening.

“In response to the question from the judge ‘do you understand’ the defendant said No. The judge brushed him off and replied ‘Your lawyer will explain.’”

“The duty [solicitor] seemed very exasperated that they [the defendant and his family] were asking questions, because they didn’t know what was expected or what was going to happen next.”

“I believe the defendant could not read very well. I would have liked to have seen someone read the pre sentence report to her, as I think she did not understand it.”

“Why are we even here?” Defendants with mental health problems

Some defendants were visibly unwell; shaking, distressed, suffering significant mental health conditions, or experiencing the effects of drug withdrawal. Courtwatchers were alarmed when their state went unacknowledged by the court, and felt uncomfortable when these hearings proceeded without additional support for the defendant.

“This young woman could barely stand upon entering the dock. No apparent concern for her dignity, her hair was a mess and she was shaking uncontrollably initially. I wasn’t aware of any practical support for her physical/mental state... Why is it tolerable for people to turn up in such distress and for that not to be addressed?”

“The defendant had spent all day in cells banging some part of his body against a structure below with force enough for it to be heard in court and initially thought to be building works. No questions were asked about his mental health [though] the DJ did ascertain he used drugs/alcohol.”

“Defendant was unwell and didn’t appear to be aware of what was going on. The judge pointed out that the defendant was unwell but the case continued.”

Courtwatchers questioned the sense of pressing on with hearings where the defendant was seriously ill, but otherwise usually reported kindness, empathy and patience from judges towards people who were frightened, distressed or unwell:

“The defendant had appeared in court the day before, but wasn’t well enough to stand in the dock. He was kept in remand overnight and was really agitated. The judge apologised several times to the defendant that he had been kept waiting for a long time.”

In one case where the defendant had a mental health condition that the court was not previously aware of, the judge adjourned for a report. In another case, the judge agreed to add a hearing to the day’s court list because the defendant was particularly vulnerable and would be negatively impacted by delays. One courtwatcher suggested creating a space in the court for people who feel distressed to take time out: “Defendant had an outburst of bellowing emotion, all directed at DJ [district judge]. This was uncomfortable to hear and watch. Is there provision onsite for anyone needing a safe space to recover or talk through their feelings after being involved in such incidents?”

Some courtwatchers wondered why cases involving vulnerable defendants were being prosecuted in the first place. They were concerned that the court process would just make matters worse.

“I suspect that the defendant’s offence of ‘threatening behaviour with intent to cause fear of/provoke unlawful violence’ is quite a typical one for someone with her MH [mental health] issues, i.e. relatively minor and maybe more related to her becoming provoked to anger as much as her wanting to provoke others. I wonder how much time is spent by courts in dealing with cases such as this? Maybe it’s a way of getting people help but (when a relatively minor offence) does it really have to involve the formal court process; isn’t this likely to exacerbate the defendant’s MH issues and increase their anxiety and low-self esteem??”

In another case a vulnerable young man (he had been sectioned more than once, had several different diagnoses of mental health conditions, and was in care from an early age) was prosecuted for interfering with motor vehicles: “Nothing stolen and no damage done, why are we even here? what is the point of prosecuting this?”

Conclusion

People cannot have a fair trial without being able to effectively participate in the court process. This means defendants must have a clear understanding of what they are accused of, the court process and its implications, and what is being said in court. Defendants must also be able to understand the prosecution’s case against them, and be able to challenge that case themselves or via their own lawyer.

Our courtwatchers observed magistrates’ courts regularly falling short of these expectations. The frequent use of the secure dock, which physically isolates defendants from everyone else in the room, reflects a courtroom which has fallen into the habit of ignoring defendants for the majority of the hearing. Judges ask at the end if the defendant understood but, as one courtwatcher reflected, is this enough?

A significant minority of defendants appeared without a lawyer, and although court staff and judges made efforts to explain things, courtwatchers thought unrepresented defendants were nevertheless severely disadvantaged by their lack of legal advice. Some had not received information and evidence about their case in advance of their court date, making it impossible for them to understand and respond to the nature of the charges and the case against them.



Defendants who needed interpreters were some of the worst served by the court. Courtwatchers reported many occasions where they felt an interpreter was needed but not provided. Some examples of courts’ attempts to proceed in the absence of an interpreter – through Google Translate and ‘speaking loudly’ – would be laughable if they did not represent a serious breach of someone’s basic right to understand what was happening at such a life-changing moment.

Finally, courtwatchers were alarmed to see hearings proceeding despite some defendants being clearly unwell. Courts behaved kindly towards defendants in these circumstances, but rarely did the wheels of justice stop turning, and people seemed to be processed through the system whether in a fit state or not.

“A reasonable decision in the circumstances”: courtwatchers on court outcomes

Do magistrates’ courts make fair, informed, high quality decisions? Magistrates and district judges yield great power over people’s lives. They decide whether someone is guilty or not guilty, they can send someone to prison for six months for one offence, and they can detain people who may well be innocent while they await their trial (remand).

Courtwatchers recorded information on the make-up of the magistrates or district judges, details of the hearing outcome, the reasons for remand (where relevant), as well as their own reflections on the quality and fairness of the decision-making.

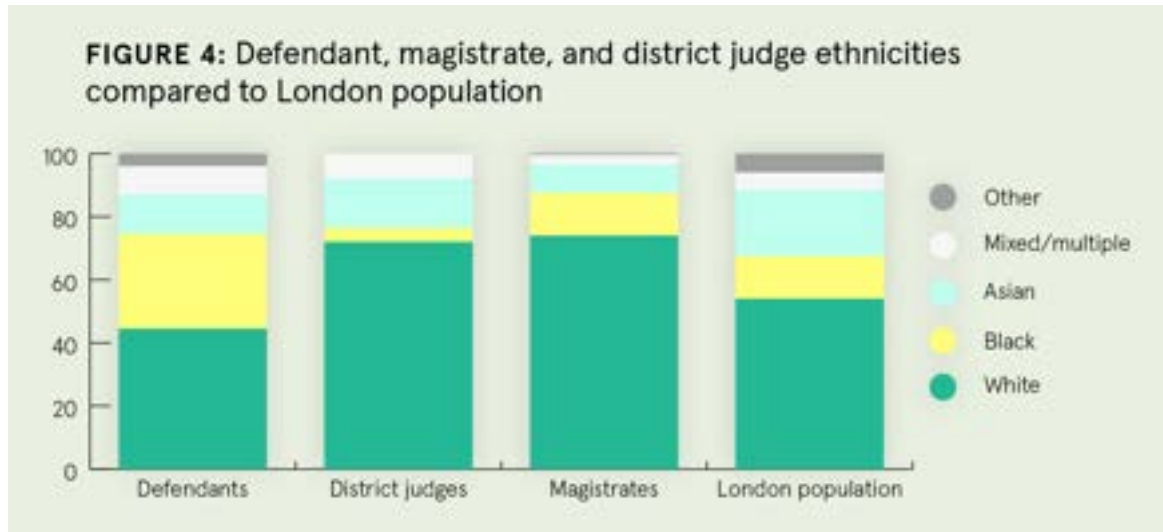
It is difficult for anyone to determine what is a fair and just decision – especially given the challenges (mentioned in our other report) with hearing and understanding what was happening in court. Very few of our courtwatchers were legally trained and we did not brief them on how to judge whether decisions were fair. So courtwatchers’ reflections are based on their own experiences and opinions about what a fair and effective justice response should be.

The magistrates and district judges

Courtwatchers recorded details about the magistrates or district judges in each hearing. They noted whether a district judge or magistrates were sitting (and if magistrates, how many), along with their perceptions of the age group, gender and ethnicity of each magistrate or judge.

Half of the 1,103 hearings observed by courtwatchers (where magistrate or judge details were recorded) were presided over by a district judge. A third had a three-magistrate bench, with the remaining hearings presided over by a bench of two magistrates. Based on courtwatcher perceptions, there was an even split of male and female district judges and magistrates. The majority of district judges and magistrates were White (72% of hearings with district judges had a White district judge, and 74% of magistrates) and the most common age group was 50-64 (53% for magistrates, 40% for district judges).

The demographic data shows marked differences in the age and ethnicities of magistrates and district judges compared to defendants, who on average were much younger and more likely to be from racially minoritised communities. The disparity between the proportion of Black defendants and proportion of Black district judges was particularly stark: 30% of defendants were Black, compared to 14% of magistrates and only 4% of district judges.



Productive, pragmatic, thorough

Courtwatchers had many more positive than negative things to say about the behaviour and decision-making of the magistrates and district judges they observed. Volunteers liked seeing magistrates and judges who “did not think black and white” and instead took the time to seek solutions that would be most sensible for the community. This included avoiding punitive criminal justice sanctions where possible: “The magistrates seemed consistent in their policy of not applying a custodial sentence and of looking hard for alternatives.” Or avoiding court sanctions entirely, for example a case where magistrates referred a 19-year-old charged with possession of cannabis back to the police for a potential caution instead: “I thought that the situation was well handled. Possession of cannabis seems to me like a very minor offence, and it would be unfair for the defendant to have a criminal record at age 19 because of it” (our courtwatcher was likely unaware that a police caution comes with a criminal record too).

Courtwatchers observed magistrates and district judges doing their best to avoid pulling defendants up on technical breaches. In one case magistrates decided not to invoke the breach of a suspended sentence for a defendant found in possession of cannabis “because this offence was of different nature to that of suspended sentence, and because that order was being complied with...that seemed reasonable.”

In another, magistrates were sympathetic towards a man in court for breach of bail conditions: “The magistrate stated that [the] Crown Court don’t know how close E14 and E1 are, and how easy it would be to accidentally step into E1 from E14. Magistrate considered this difficult situation and suggested defendant aim to be home half an hour before his curfew begins” allowing him to continue on conditional bail.

Courtwatchers also appreciated magistrates and judges taking opportunities to remove superfluous conditions so that defendants weren't “set up to fail.” For example, in one case the district judge removed the requirement for the defendant to report to his local police station three times a week: “The judge contended it was unnecessary as there was already a residence condition in place. I found this to be reasonable.”

Courtwatchers were pleased to see magistrates and judges consider the impact of their decisions on defendants' ability to work, undertake training, stay in housing or look after dependents – one got a reduced sentence because “it was taken into account that he's a carer to someone who's disabled.”

“The lead magistrate asked the defendant what the effect on his mechanic training would be if he was disqualified and whether the defendant anticipated being offered a job at the firm upon completion of his training. I thought these were very pertinent questions.”

“If he was given a prison sentence, he would have lost both his job and his accommodation. In light of this, the judge gave him a suspended sentence plus an extension to his driving ban, making 18 months in total. I think she made a reasonable decision given the circumstances.”

Courtwatchers also praised “thorough” magistrates and judges who considered all factors in a case, asked relevant questions, took time to deliberate, and adjourned to wait for more information.

“Judge seemed really set on being very clear and even went off for about 10' to consult records/notes she'd made when she had previously seen defendant...Unravelling detail of offences took some time (about 25') but judge seemed to allow this as much time as was necessary, without showing any frustration or need to rush she might have felt.”

“I was impressed (and had to smile) at the thoroughness of the judge in googling and checking address for himself so thoroughly.”

Sometimes courtwatchers agreed with the magistrates or judges' decision to give a prison sentence, although prison sentences were rare. In one case, a man with a long history of offending was given a custodial sentence “to allow time to arrange residential treatment for alcohol addiction.” The courtwatcher thought this seemed reasonable (in reality, the likelihood of such treatment being arranged is not guaranteed). More often than not, courtwatchers also agreed with magistrates' decisions to remand people, either in the interests of public safety or because they saw it as in the defendant's best interests (see views on remand decision-making below).

Of course our courtwatchers did not all think alike. While most agreed with the decisions of the court, a few felt their judgments were either too harsh or too lenient. Concerns about leniency often arose in cases where the person had a long history of offending. A few others believed sentences were overly punitive, particularly for what they felt were small scale offences.

“I was surprised at the light sentence but when you think of the cost of him being sent to prison then it makes sense.”

“It is clear that the system is failing somewhere as this person keeps committing the same crimes again and again even on bail, so probably a stronger sentence should have been imposed from the beginning, I don’t see a solution to it otherwise.”

“I wondered if the judge might have been a bit lenient given previous offences of drink driving - but then thought judge maybe trying not to overload already overcrowded prison system and also considered social circumstances of defendant???”

“Pretty harsh sentence for stealing a phone” (defendant was given a 20-week prison sentence for committing this offence while on a community order).

“This seems harsh as she only broke a window” (defendant remanded while awaiting trial for criminal damage to her neighbour’s flat).

“Seemed logical”: views on court remands

The court can remand (hold in prison pending trial and/or sentence) someone if there are “substantial grounds” to believe that they will not come back to court to attend future hearings, that they are likely to commit an offence on bail, and/or that they may interfere with a witness or obstruct justice if allowed out into the community. The court can also choose to remand someone “for their own protection.”

Courtwatchers on the whole agreed with the court’s decisions to remand people to custody.

“The prosecutor pointed to multiple thefts by a ‘professional thief’ including one occurring since his last bail had been set a week previously. The judge felt, not-unreasonably I think, that he was at risk of reoffending again while on bail.”

“I felt the magistrates made the right decision by refusing him bail, as it was felt that he would return to the family home and intimidate witnesses.”

“The defendant had missed multiple trials so it seemed logical for him to be remanded.”

“The defendant appears to need help and support but has not complied with the probation services interviews to let them do a report on her. Therefore I saw it as a good call to keep her in custody in order for the probation service to do the necessary report which may help her in the future.”

There were some remand decisions which courtwatchers questioned, usually because they felt there wasn’t enough evidence to justify concerns about releasing defendants on bail.

“The defendant was of previous good character and is not a flight risk as he no longer has access to his passport. So to deny bail on basis of flight risk and no community ties seemed a bit harsh.”

“The prosecution did not make clear why they thought the defendant would commit another crime while on bail – the bench didn’t ask either.”

The reasons for remand were not always clear to our volunteers, as in this hearing where a defendant was remanded overnight: “The hearing was adjourned until tomorrow with the defendant remanded into custody. The judge said this was because he was ‘unwell’ and ‘not in a good place’, but without specifying what this actually meant and what treatment was needed.”

One courtwatcher reflected on the consequences of imprisoning someone on remand before trial: “It raised for me the problem of those remanded for sometimes not insignificant periods of time, who are subsequently found not guilty. They are then simply released without apology or any measures to compensate them for the damage to their lives or for their wasted weeks or months.”

“The lack of curiosity is disheartening”: judges behaving badly

While courtwatchers were mostly complimentary about the decision-making of magistrates and judges, we did receive reports of poor practice. Courtwatchers were frustrated by what they perceived as disinterest from some magistrates and judges. Some observed magistrates and judges lacking curiosity about the situation of defendants, rushing through hearings or appearing to just be going through the motions when the courtwatchers felt more care and attention were needed.

“Question I had – why was he driving whilst disqualified – the lack of curiosity as ever is disheartening. What is the point of one final chance if none the wiser as to why [he] breached then shoplifted. £200 fine 14 days to pay. Definition of insanity repeating the same process without relevant inquiry to enable change within the person and their own role in society.”

“I would like the whole story. If he was of good character and not known to the complainant, why did he beat them up?”

“I felt the judge could have made a better effort to understand the defendant’s behaviour to then consider rehabilitation opportunities.”

“All morning [the judge] had been quite cold, just wanting to get through, not sharing his thinking systematically with the court. Observing his cases this morning has been very challenging – I wanted to remind him he’s dealing/working with human beings and needs to be more respectful and listen more.”

Occasionally courtwatchers felt judges or magistrates were dismissive of defendants’ circumstances or patronising towards them.

“Of all the cases I watched, this was the case where the judge was the most dismissive and irritable. All submissions put forward by the defence describing mitigating factors were quickly dismissed. Judge also didn’t seem to care that he [defendant] was still in college.”

“The defendant said he didn’t miss other appointments which were made by phone or text but he lived over a shop and didn’t always get his post. I was rather concerned that the court ignored this while emphasising the importance of attending appointments, because there have been news reports of severe postal delays in central and north Croydon and I have experienced them myself.”

“Chief mag sounded very condescending to the def ‘Time for you to reflect on what you have done. You know you should have been in touch with probation.’”

A few courtwatchers noted some judges and magistrates acting rudely towards other court professionals, particularly defence lawyers, included “sighing,” “rolling her eyes” and “getting annoyed with the defence lawyer, I’m not sure why”: “The judge was notably very frustrated with the defending solicitor, and kept interrupting and cutting him off while speaking – which felt unwarranted to me.”

“What is the purpose?” Frustration with fines

Magistrates’ courts have a range of sanctions at their disposal for someone found guilty of a crime. The most common by far is a fine, but courts can also give a community sentence, (which could include doing unpaid work in the community), or impose a ban, for example from driving. Judges and magistrates must follow sentencing guidelines except in unusual circumstances. Magistrates’ courts can send someone to prison for up to six months, or 12 if for more than one offence.

Courtwatchers did not think all decisions by the court were logical. They were frustrated by decisions which they felt would not address the root cause of the problem, or would make matters worse. Fines made courtwatchers cross when it was obvious the defendant would find it difficult to pay.

“A fine given to an unemployed person appears nonsensical to me.”

“He stole food as he had a problem with his benefits being reduced (now sorted out), but in order to pay the court surcharge and defence costs of £239, his benefits would be reduced by £20/month until the fine is paid. Therefore he will likely run out of money again, thus look to shoplift food again etc.”

"Defendant owes a lot of money, that caused him to carry out the theft offence in desperation, so it's unclear how he would be able to pay the fine."



Magistrates did sometimes adjust fine amounts in light of the defendant's circumstances: "the magistrates were very lenient with the sentencing due to the woman's financial situation. They took a substantial amount of money off the fine and gave her a community order and a rehabilitation programme." Or allow payment plans for defendants who would struggle to pay: "At first he was given two weeks to pay it all off, then after he asked for that to be extended until the end of the month after he gets his wages, the magistrates relented which I thought was impressive." But even when a payment plan was introduced, courtwatchers were not convinced these were feasible: "The fine placed on this woman is £20 per month, a fortune out of her meagre Universal Credit. What is the true purpose of such a punishment? Has it really been thought through?"

Besides fines, courts can also require convicted people to pay other costs including compensation to the victim, a surcharge which funds victims' services, and a contribution to prosecution costs. Courtwatchers were surprised by this: "The judge appeared to recognise that the defendant had no income, yet still went ahead and told him that along with a six-week sentence suspended for 18 months, and being disqualified from driving for 2 years, he would still have to pay £239 costs @ £20 per month - or he would face custody. I couldn't see the logic or fairness in that - or is it simply obligatory that all guilty defendants have to pay costs??"

Courtwatchers were also frustrated by sentences which did not appear to tackle underlying issues.

"It appeared to me that the defendant needed support and intervention to manage his drug misuse rather than being locked up in prison."

"No one in the room mentioned that he should be receiving structured support and engage with homelessness services."

Although some felt that the solutions were often outside of magistrates' powers.

"Judge stressed wanting to be helpful, but realistically what options are there actually in the current climate; my concern is response to mental health issues may simply be increasing her medication, rather than anything which will enable 'recovery'."

“Having attended three mornings of hearings now it seems that many of the defendants have addiction issues, and the magistrates have limited options to help them given how big a societal problem this is.”

“There was one gentleman with mental health problems. He was aggressive to other people in the home that he was in. They didn’t want him back. I kept thinking, well, what could be done for him? There’s so few options.”

“I felt it was racism”: racial bias in the courtroom

Courtwatchers observing hearings over several visits sometimes noticed discrepancies in the decisions made by individual judges and magistrates, or by the same judges for different defendants.

A few courtwatchers perceived different treatment of defendants based on their ethnicity. For example one courtwatcher observed the same judge deal with similar cases, one with a Black defendant and one with a White defendant. The White defendant was in court for breach of a community order for a sexual offence. The judge stated that he “wanted to go the extra mile” and fined him instead of sentencing him to prison, which the judge said was not normally done. The courtwatcher compared this with a hearing they observed that same morning with a Black defendant. He had breached his stalking protection order by going to an excluded area to collect his belongings and had called the police twice to inform them that he was going to do this. Nevertheless he was found in breach of his order by the same judge and was remanded to custody while awaiting sentence.

The courtwatcher said: “I found it unfair, this case being more ‘dangerous’ compared to [the other] case, in fact he had called 101 to inform them that he was going to the locker, but I can only observe the difference in treatment because one is a white man and one is black.”

Another courtwatcher commented that a White young adult defendant in court for a bail hearing was “treated more sympathetically than the other young adults – possibly because he is white and middle class” and given conditional bail.

Another courtwatcher observed a hearing with a Black 18-year-old defendant who “looked and sounded particularly vulnerable.” The courtwatcher felt that his ethnicity may have contributed to him being treated with less care than other defendants: “His reason for location

breach appeared to be dismissed quickly and not mentioned to the judge. [The court agreed] that a breach of boundary ‘probably’ had taken place. I don’t feel he was treated correctly based on his age and perhaps his ethnicity – he was largely ignored.”

One courtwatcher reported differences in magistrates’ tone with defendants of different ethnicities: “I spent all day in this room, three of the defendants were White, the others were Black. The latter were spoken to by the magistrate with disdain, I felt. None were offered support, one was told to go find support. The first [White] defendant was offered support for his problems. The lack of equality was disheartening, and obviously unjust.”

Looking back at their experience over the course of the project, one volunteer picked up on differences in how defendants of different nationalities were referred to:

“There were two different district judges and I really felt the difference – the second one, I really felt that they had a bias against non British defendants. For example, when they were calling defendants that were British, they were calling them by their name, like their family name, Mr. Smith or whatever. And then for someone else it was like ‘the two Bulgarians’... Yeah, it was like they were not even naming the defendants. They were just calling them by their nationality or identity, it was in implicit comments and behaviour where I could really feel that there was a bias towards certain defendants.”

Courtwatchers flagged to us concerns about behaviour outside of hearings, too. One volunteer, who was Muslim, normally wore a headscarf on her court visits. One morning it was difficult to hear in the public gallery, so she asked to move to the main courtroom, which the legal advisor allowed. When the district judge came in she stared at the courtwatcher repeatedly, “looking at her strangely” and making the volunteer feel uncomfortable: “She was looking at me, I was thinking she should look at her notes, focus on her own thing. She didn’t say anything. It was just the way she was looking at me, saying everything with her eyes. I felt it was racism. So I didn’t wear my scarf to court again.” The courtwatcher felt so uncomfortable that she left to observe another courtroom.

Another courtwatcher was shocked by a discussion between prosecution and defence lawyers, overheard from the public gallery while waiting for a case to resume.

“All of the counsel for prosecution and defence were chatting amongst themselves and the conversation got onto the topic of illegal immigration. Some of their opinions were a little bit shocking. They were talking about how many people who are housed in hotels who come over on dinghies go to court for assaulting hotel staff and criminal damage. The implication [was] that they were all from criminal gangs. One said that it’s intimidating to walk around groups of immigrant men because they are raised to see women as theirs for the taking, whilst local groups of men wouldn’t do this because they’ve been raised to behave themselves with women. I know that they see the ugly side of it all...but a lot of it was bordering on racism, especially the assumptions that the culture of men from unspecified foreign parts was somehow inferior to tolerant British culture. It may be nothing, but if this really does reflect racist attitudes... then the system really has issues. Would be very interested to hear why they thought it would be a good idea to have such a discussion when they knew a total stranger was watching them. They had even asked who I was to make sure I wasn’t a witness to the case!”

Other inconsistencies

Other inconsistencies observed by courtwatchers included a worry that defendants with higher “social standing” were being treated more favourably.

“The defence lawyer brought up that his client had a successful business which employed 89 people so should be bailed and would accept strict conditions (which is what he ended up with). While I could see that this might be a reasonable outcome, I did think that it was in effect his class that prevented him from ending up on remand and that it meant someone’s higher employment/social status could mean they end up with a favourable outcome when someone disadvantaged in other ways might more likely have been remanded.”

Differences between judges and magistrates were also remarked on.

“I am rather surprised (and a bit concerned) as to how different the judges I have observed so far have been. I wonder how they are allocated to each case – is it just pot luck who the defendant gets? Sounds a bit worrying to me.”

“There’s certainly a difference in the way that magistrates treat people. Some of them really show empathy towards the situation to the defendants and others are very different. It almost feels like some of the magistrates are here to judge people in a bit of an old school kind of way, as in you’ve been bad and you need to be punished.”

Another felt a young man in court for possession of a knife was given a particularly harsh sentence (three months in prison) because of when he was arrested: “because this incident happened at the Notting Hill Carnival the magistrate felt a custodial sentence had to be given for possession of a knife. He was a young 18 year old due to return back to St Lucia in November, he had no previous convictions. Therefore I felt if he had been stopped and searched at any other weekend he may just have had a warning.”

A mixed bag – perceptions of defence and prosecution lawyers

“Both the defending and prosecution lawyers gave very detailed submissions. They came across as well prepared which was a nice change.”

“Good defence lawyer – sadly in my opinion the first one I’ve seen, many appear not to be aware of facts and only seem to go through the motions.”

“I think the solicitor put up a strong and passionate defence. He was really well prepared and argued clearly. You noticed that the magistrates were paying careful attention, perhaps as a result of his rhetorical skill.”



In our adversarial criminal justice system, the quality of a criminal defence lawyer (if defendants have one) can make a huge difference to their experience of the criminal justice system and the outcome they receive. Likewise, prosecutors are crucial to the efficiency of the court system and can have a significant impact on magistrates' and judges' view of a case. Courtwatchers observed defence and prosecution lawyers addressing the bench, and also heard them talking to other lawyers and court staff in the long gaps between hearings.

Courtwatchers rated defence lawyers who were well prepared, who cared about their clients and were persuasive in advocating for them. One defence lawyer was praised for her care for a vulnerable woman client charged with assault.

“It seemed she had been speaking to and keeping a protective eye on her [client] all morning and also kept popping in and out of the court trying to find out what delay re hearing her client's case was all about. She also stressed to magistrates how defendant had a history of anxiety, depression, self-harm and ?bipolar. And how she had committed offence in self-defence.”

Another courtwatcher noted a defence lawyer's “tireless efforts” to get the case of her defendant with serious mental health issues expedited. In another case the solicitor used information about her client's mental health condition and willingness to engage with social services to argue against refusal of bail: **“It was good to see defence counsel go to the effort of preparing and having proper material to back up her case against remand to the magistrates.”**

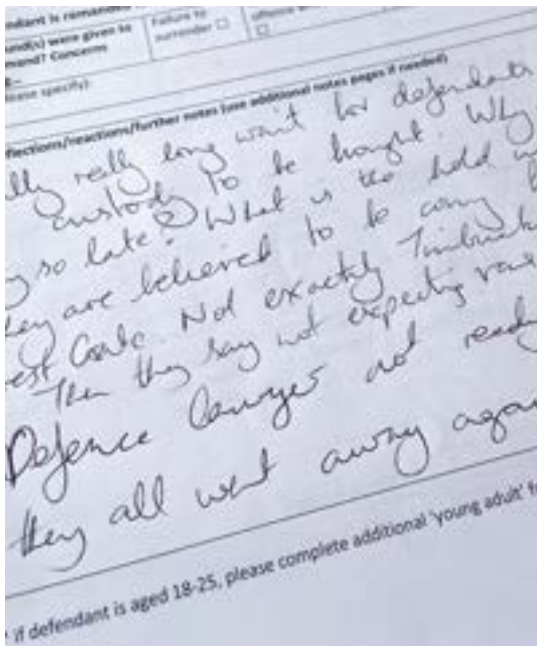
Courtwatchers observed how a good understanding of the crime and the client could make a huge difference to the outcome. One young man was being sentenced for the theft of cigarettes and alcohol, a crime committed while on licence.

“The district judge said she was considering a custodial sentence - she said because of previous convictions it crossed the [custodial] threshold. This would have been hard to argue against, but instead the defence lawyer focussed on ‘personal mitigation’ based on the fact that there had been a delay of 3 yrs and 4 months between the offence and the summons and that, had the case been heard earlier when he was serving sentence for other offences, he would have just had some time added and would have already served this time and come back out into the world. He argued that, instead, the delay meant that while he was actively trying to get his life back together (he'd got accommodation, reconciled with his family and was planning to start a course) he would be put back with a new sentence. This convinced the judge who gave him a community order and fine.”

Courtwatchers were critical of defence lawyers who did not seem prepared. But they understood that this was often beyond the lawyer’s control.

“The case was delayed by 3 hours because there was confusion about whether or not the defendant needed an interpreter. Because her first solicitor couldn’t wait, her case was passed on to a colleague, who came in rather ill-prepared and last minute.”

“The defence solicitor (who I think was covering for a colleague) was unprepared and very unconvincing, he basically agreed with everything that the prosecution said, stuttered a lot, and it did not feel that he was doing the defendant justice”.



One defence lawyer “had not read mental health report pre-trial,” another hadn’t seen the CCTV footage pre-hearing and another “was reading from the laptop screen as he went along with the case.”

Other lawyers appeared to courtwatchers not to have their heart in the job: “Defence solicitor said ‘those are the instructions’ - felt like he was not really defending or helping his client”; “the duty solicitor didn’t seem to care - huffing and puffing about how he was getting late.”

Courtwatchers were perhaps most critical of defence lawyers when they appeared to be denigrating the legal process or their clients. A man was accused of indecent exposure and at risk of a prison sentence.

“Before the defendant or judge entered the court, the defence solicitor took the opportunity for humour at the expense of his client, and in particular his [client’s] initial defence in police interview that his trousers and underwear repeatedly fell down whilst following a woman around in Muswell Hill, leading to a joke from the probation officer as to whether he had purchased his clothing from Primark and whether it was elasticated.”

Another courtwatcher felt one courtroom was a “serious joke, the duty solicitor could not be bothered, he didn’t even speak to his clients and wasn’t really taking instructions from them. He told his client to go and sit in the public gallery, he didn’t want him in court only after he had been there quite a long time, he told him again only solicitors were allowed in court room.” Another defence lawyer described his client as “strange.” Courtwatchers also had mixed views of prosecutors. Their principal criticism was of prosecutors’ lack of preparation.

“Had any statements been read? CPS just gave incoherent recitation of some facts and was concentrating on trying to have defendant committed to crown court for sentencing despite probation being opposed to custody and recommending something else.”

“Prosecution was not up to speed with details of the case. As an example, prosecution thought that the ‘grinder’ that was found by police was part of drug paraphernalia, but was in fact an angle grinder (a tool) – which was pointed out to him by the court legal advisor.”

Courtwatchers often excused prosecutors’ lack of preparation as due to overwork. But they did not excuse what they perceived as prejudice against some defendants. In one case a young man was accused of burglary having taken the phone and bag of someone with whom he was angry: “Despite defendant having no previous convictions, being 18, and not having been charged with anything else, CPS went on and on to try and get him remanded – talking about him being investigated about ‘possible other offences’ and that he wasn’t at the address when the police called... Even court’s legal adviser realised it was pointless and that she [prosecutor] was wasting court time. Took 38 minutes and no legal arguments were presented to say that defendant would fail to attend court on 7/11. Def was released with doorstep condition and curfew.”

“I thought the prosecution exaggerated in mentioning the defendant’s drug use at least 6 times in a short amount of time, relying on it to convict the defendant more than relying on his actual actions...It felt more like a personal attack against the defendant than a useful method of proving their case.”

“Prosecution was very nasty to defendant. She kept asking the defendant questions and not waiting for a reply.”

Courtwatchers also had some examples of good practice from prosecutors. One cooperated with the defence to find hotel accommodation for the defendant in Kent. Another went out of his way to argue that the court should take into account the immaturity of the defendant: “The prosecutor used a report on the precarious position of young adults in society, especially emphasising the ineffectiveness of viewing them as adults as soon as they turn 18. Using the research, he emphasised the growth still needed and urged leniency.”

Conclusion

Courtwatchers overall felt hearing outcomes were fair, reasoned and practical. What they liked most was when magistrates and judges took the time to get to the bottom of things and find the most productive solution for the person in front of them. On the flip side, courtwatchers were most frustrated by courts doling out what they saw as ineffective or counterproductive sanctions. This included fines and other court costs imposed on people of severely limited means, or punitive sentences given to people with serious drug or mental health problems which did nothing to address those issues.

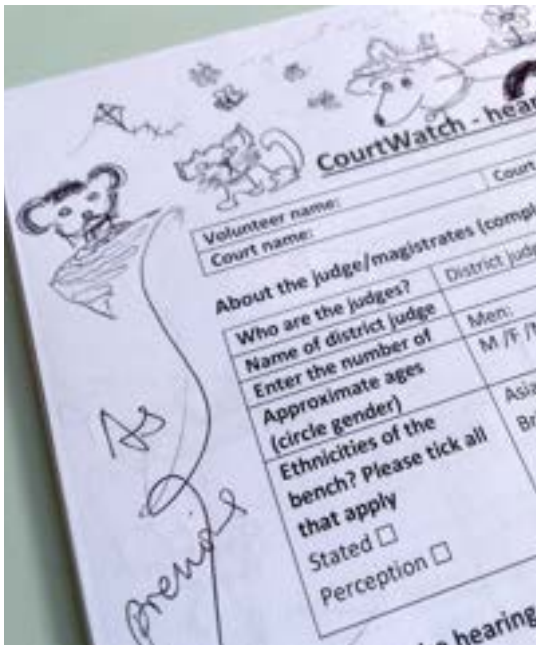
Courtwatchers usually agreed with the court’s decision to remand people, although their reports highlighted some examples of remand being used by the court where bail might have been more appropriate. A few regular courtwatchers noticed inconsistencies in how defendants were dealt with which they saw as evidence of racial bias in the courtroom.

“Not impressed”: courtwatchers on court efficiency

“It was a frustrating day...One closed court in the morning, then just sitting around waiting. No cases until the afternoon. Having worked in successful, corporate businesses my first impression of a magistrate’s court was not great. A great deal of time wasted and, to be honest, a bit of a casual attitude.”

“What a day! It starts to become frustrating going into court and looking at how the system has gone down, and it seems that no one complains about it, they all put up with it, although you could see the judge getting frustrated, but that’s it.”

“Magistrates out of court for a much longer period than usual. Members of staff played around in a rather infantile manner. Not impressed.”



Courtwatchers had few preconceptions about the magistrates’ court process but all were surprised by what they perceived to be its inefficiency. They were shocked that hearings seldom started at 10am as advertised, that there were many delays even after courts did get going and that lawyers often did not seem prepared for cases. And in some instances they questioned why the case was in the court at all.

The courts were beset with delays and cases were often adjourned – postponed to later that day or another day entirely. Of the 1,055 hearings where a hearing outcome was recorded, over a fifth (22%) ended in adjournment. Courtwatchers struggled to work out what caused the delays, partly because they were not informed. Courtwatchers told us that delays were explained in only 22% of cases. One courtwatcher showed us the extensive doodles

they had drawn to pass the time during delays.

“When long delays in court, not really explained to court as a whole or to public gallery as to why, although individuals within court did discuss this between themselves.”

"Lots of sitting around from 10 to 11.05. Legal clerk was clearly busy inputting stuff into system and CPS were also busy, but I didn't know what was going on."

"Ages are spent waiting for something to happen. The temptation is to leave but, if you do, then when things do start you will miss relevant parts of the procedure."

Sometimes a judge would explain a delay to a defendant who was waiting. But there were often significant gaps between hearings with no defendant or judge in the courtroom. The reasons for delay were many and various.

Lawyers juggling too many plates

"The magistrates/ legal advisers had no papers in regards to the case, and therefore the case could not move forward. The defendant had taken the day off work to attend and was frustrated."

Many delays were due to lawyers or others not having the information they needed or being faced with conflicting information: "Confusion between two defendants [with similar names], one of whom the CPS thought might be dead! Lots of chattering between lawyers, probation and legal advisor." The start of hearings were delayed to get the right information, hearings took longer than they might have as information was sought or checked in the court, and cases were delayed until later in the day or adjourned to another day to get the information needed.

Courtwatchers appreciated the need for the information, but frequently felt it should have been obtained before 10.00am on the day of the hearing: "There was about an hour's delay while there was an investigation into whether the defendant was disqualified from driving or not as the DVLA and the PNC info differed. I was surprised that court time was used to determine this." They felt lawyers were often unprepared, particularly prosecutors.

Prosecutors in the court are either directly employed by the Crown Prosecution Service or contracted by them. Courtwatchers observed that prosecutors sometimes didn't have the right papers, or received them just before the hearing. Because of this, they often needed to seek instructions or to review whether the charge was correct.

"Wastage of court resources solely due to the CPS not reviewing the charges on time. Defendant's family members had attended the hearing to support the defendant and had taken time off work. During the morning the CPS prosecutor seemed unable to confirm if anyone was reviewing the charges for this case. Just 5 mins before defendant took to the dock, the prosecutor informed the defence that a senior CPS prosecutor was going to review the charges but they could not say with any certainty when that would be and that hopefully it would be today...Case started at 12:30pm, while defendant and family members had been waiting at the court since 9:30am that morning for a case listed for 10am. The case was adjourned for three days as the charges were a mess and prosecution needed more time to review the case."

“This case took a while to get underway as the CPS lawyer was waiting on information from the reviewing lawyer. It was noted by the legal adviser that reviewing lawyers typically do not reply until the next working day as it is not a major concern for them. I felt that this is something that should be known and accounted for by the CPS lawyer, or at least something that could have an alternative solution.”

Courtwatchers felt that much of prosecutors’ inefficiency derived from having to deal with too many cases: “It became clear that the strain on the CPS representative was adversely affecting the proceedings. The prosecutor was handling case after case alone and was underprepared for this one. The district judge and legal advisor both stepped up to resolve the situation. I was alarmed by the burden one prosecutor is meant to shoulder and how this may adversely affect the defendant or justice.”

But judges were not always so sympathetic: “The hearing was delayed as prosecution didn’t have the paperwork ready. Magistrate was annoyed at the wasted time and said this was unacceptable.”

Defence lawyers’ caseload also caused delays, particularly if the duty solicitor had a lot of clients.

“Defence lawyer was late due to three hearings at the same time.”

“Very quiet today...Nothing much happening in custody courts. Interpreters not available. Duty solicitors not available or not ready.”

Late or no disclosure of evidence by the prosecution was another key cause of delay, adjournment or the abandonment of cases. Defence lawyers (usually solicitors but sometimes barristers) often asked for extra time or for an adjournment because they hadn’t received prosecution papers in sufficient time, or needed time to see a piece of evidence: “The duty solicitor asked for an adjournment because there was video evidence that he hadn’t seen, but the clerk did not see why this case couldn’t reach the plea stage today.”

Often both sets of lawyers contributed to delays: “The hearing was adjourned as the CPS and defence lawyers had not had, they claimed, sufficient time to read through and consider many hundreds of pages of WhatsApp messages.” Courtwatchers appreciated that the delays “caused” by lawyers were frequently outside their control.

Court technology – “some weird over reliance on computer systems”?

In theory, technology should make courts more efficient. But courtwatchers felt that the tech available to courts was often not fit for purpose – that it only worked effectively half the time. In their view, staff, lawyers and judges spent too much time trying to make the technology work, or dealing with breakdowns.

"Nobody knows what is going on! Court staff cannot access info about cases. Case records duplicated. Defendant with multiple cases at different courts causing headaches for police, solicitor, court staff and judge - seems like the IT systems are not good plus people not well trained in their use."

When this project began, court staff had only recently started using a new digital case file system - the Common Platform. In some courts they were using this and the old system at the same time. Staff had problems entering and retrieving digital information particularly on the new system.

"An enormous amount of time spent trying to navigate admin and computer systems - things that hadn't worked online, virtual 'sessions' not activating, duplicates on common platform, individuals having individual problems with common platform and having to ask others to resolve. The legal adviser seemed to have to spend a lot of time dealing with tech problems and admin issues and she coped with all of this pretty calmly I thought, but I was amazed how much she had to deal with that didn't seem like legal advice!"

"There was a lot of discussion about how they would run the trial, how long was needed for pros/def witnesses, who needed screens etc - it took a long time for the magistrate who had to enter a lot of details into an online system he was obviously struggling to use."

Sometimes the information on the Common Platform did not tally with that on the CPS system, for instance on what the charge was: "Judge said 'This is the 2nd or 3rd time this has happened today!' Amendments have to be made but the judge was 'timed out' while she was waiting for the page to load...There was a massive hold up - the defendant was just sitting there for ages."

Charge <input type="checkbox"/>	<input type="checkbox"/>	bail <input type="checkbox"/>	below <input type="checkbox"/>
Admitted to Crown <input type="checkbox"/>	Adjournment <input type="checkbox"/>	Unclear <input type="checkbox"/>	Other <input type="checkbox"/>
Brought to custody:			
Failure to surrender <input type="checkbox"/>	Committing an offence while on bail <input checked="" type="checkbox"/>	Obstructing justice/witness interference <input type="checkbox"/>	
Further notes (use additional notes pages if needed)			
<p><i>video link was on mute. but they did after with mackete - it for defence lawyer says had <u>no</u> knowledge of</i></p>			

And often the Common Platform just didn't seem to work: "There was lots of chaos ...'Common Platform' wasn't working properly and so mags could not access info, nor could some other users," "continual problems with Common Platform. This does not seem to be aiding court efficiency."

Other tech could also cause delays, particularly the setting up of video links: "The district judge commented in court 7 on the delay in setting up a laptop at a police station for a videolink to court - in the end he dealt with the matter in the absence of the defendant (deemed present through his solicitor)," "case with appearance by video took a lot of faffing to set up - court staff had to call in IT person who spent some time crawling under desks."

Courtwatchers were not generally impressed by the tech savviness of those in court: "The judge said she had no attachments coming through on her computer!" The "magistrates had difficulty accessing reports on their laptops," "TV monitors were used to show police body-cam footage, the staff struggled to get the sound working and did not appear to be confident users of the technology." A courtwatcher concluded "what is driving the courts is some weird over reliance on computer systems and 'efficiency' rather than the administration of justice."

"Not exactly Timbuktu is it?" Missing people

Many hearings were delayed or adjourned because a key person was missing or late – usually the interpreter, the defendant or their lawyer.

Interpreters were often missing. Sometimes the need for an interpreter had not been understood or had not filtered through the system: "The defendant had not requested an interpreter, probably not realising that he had to. This seems inefficient and frustrating for the courts. There is no way that the need for interpretation was not obvious from arrest to appearance." Other times the booking system went wrong: "An interpreter arrived but the defendant was not present! The interpreter was told he might be needed the next day, another case couldn't proceed because there was no interpreter. To me these are examples of poor preparation, coordination."

"The court official somewhat harangued the defence lawyer for the repeated non-appearances of various defendants, saying openly to the court that the JPs were volunteers and shouldn't have their time wasted in this way."

Hearings should not usually go ahead in the absence of a defendant. Some defendants came to court under their own steam having (hopefully) received a letter or been told by their lawyer about the court date. Other defendants were brought in from police custody or prison and had to wait in the court cells until their hearing. However they got to court, defendants were often late, or did not appear at all.

Clearly defendants in custody had no control over their timeliness, as in this report from Thames magistrates' court: "Really, really long wait for the defendants in custody to be brought. Why are they so late? What is the hold up? They are believed to be coming from Forest Gate [police station, 13 minutes away by car]. Not exactly Timbuktu is it? Then they say they are not expecting the vans until 12.30! And then the defence lawyer was not ready, so the defendant was taken away and the lawyers all went away. What a waste of time." "Major issue on this visit was the amount of time spent waiting for the defendants to arrive from Brixton. Everyone was present in the court by 10am ready to go but proceedings didn't actually begin until 11.35. Apparently there was delay in Serco bringing overnight defendants from Brixton to Croydon. Everyone in court getting very frustrated."

Sometimes defendants were in court cells but it took a long time for them to be brought up to the court by security staff: "Yet again there was a delay in getting an individual up to his court. Minimum of 6 adults in court doing nothing."

Other times it was not clear why defendants were not there: "The judge started the morning by going through the list. There seem to be numerous excuses why no defendants were present. Hung around till 11.15 then asked the clerk if there were going to be any cases and she said 'unlikely but better chance after lunch.'" In general, the hearings were adjourned rather than going ahead without the defendant. However, courts have a right to deal with cases, including trials, in the absence of the defendant if they have had no valid excuse. Defendants who don't turn up often subsequently give reasonable explanations such as not having received the letter (the courts service only uses letters, not texts or emails) or being ill.

Many defendants also have mental health issues, learning difficulties and/or addictions which may lead to them forgetting or missing appointments.

Delays happened when unrepresented defendants were (rightly) encouraged to use the duty solicitor. That involved an initial court hearing, then going off to find and have a consultation with the duty solicitor, then another court hearing to progress the case.

In a couple of cases there was only one magistrate in the courtroom, when there should be a minimum of two for decision-making: "It was going to be adjourned because only one magistrate was present and so unable to pass judgment. However, they went and got another magistrate to come from the retiring room."

Why is this in court at all?

In a number of cases courtwatchers questioned the wisdom of prosecuting the case, whether because of the (lack of) seriousness of the case or the amount of time that had passed since the offence was alleged to have taken place.

In one example of where the courtwatcher felt the prosecution was disproportionate to the crime, a drunk man had rung 999, swore and racially abused the call handler. But the latter said he did not take the insults personally. The defendant spent three weeks on remand for this, and was fined on conviction: "A lot of time and money wasted for petty crimes."

In another case the judge himself said the case should not have been brought to court: "It appears that the defendant was found not guilty by a panel of magistrates last week but then the CPS brought it back for a retrial today in front of a district judge, as apparently crucial audio evidence was omitted last week. The judge dealt with this extremely well, first by clarifying with all parties exactly when the evidence in question had been available to them, and then explaining calmly to the prosecution that it was their fault that it was omitted from last week's hearing, not the defendant's! ...He restated the not guilty verdict and apologised to the defendant that she had been required to attend again today, which was shown to have been entirely unnecessary."

Courtwatchers were particularly critical of prosecutions for minor offences which happened a long time ago – for instance someone who committed criminal damage in 2020 being arrested, detained in police custody and brought to court for non-payment of the fine. Or in another case the defendant had breached a restraining order in December 2022.

The relationship with his partner was now good: “The law is so slow that some cases are no longer relevant as in this case or in others victims are exhausted with the waiting.”

But perhaps the record for delay belongs to a case involving a defendant who had attempted to steal a bicycle and trespassed in 2018 when he was 18. He was sentenced – fined – in September 2023: “Curious as to why it took so long for this case to come for sentencing.”

In one case, the courtwatcher felt that the pressure for speed was at the expense of justice. The defence lawyer, appearing by video, was a freelancer filling in for the defendant’s chosen solicitors’ firm in a holiday period. The court was adjourned at 10.30am while the video link was set up. By the time the link was ready, the defendant had left the court building, to the exasperation of the judge: “I think the judge was getting increasingly irritated at the number of delays, non-appearances, etc that he’d had to put up with all morning...so dealt with the defence’s (quite reasonable, so it seemed to me) request for a simple adjournment to a date when the case solicitors could attend court with the defendant, by simply rejecting it and issuing a warrant for the defendant’s arrest – which if and when enacted may not be particularly conducive to assisting his mental ill-health condition.”

Conclusion

Courtwatchers were shocked by what they perceived to be the inefficiency of courts. They expected hearings to start on time and to run continuously throughout the day. They felt their own valuable volunteering time was wasted, particularly if they only went for the morning session and hardly observed any hearings.



It was hard for courtwatchers to work out why so little was happening since court staff and judges seldom explained the delays. As courtwatchers gained experience, they gradually discerned the reasons – prosecution and defence advocates who didn’t have the right information in advance of, nor the time to, prepare for hearings, technology which didn’t work well and crucial participants not turning up.

Defendants were not brought to court on time, or did not arrive and lawyers were sometimes held up by other cases. Our courtwatchers also felt some court time was wasted on hearings which should not have happened at all – either because too much time had elapsed since the original offence or because the offence was too trivial to be worth dealing with in a court.

Conclusion

This project set out to explore two things - the potential of courtwatching, and public perceptions of our magistrates' courts. We wanted to find out: would the public voluntarily visit courts and report on what they see? Would they be able to gather meaningful data on what they observe? What were their reflections on what they saw?

The answer to the first question is overwhelmingly yes. There was a high level of interest from Londoners keen to learn about the reality of the magistrates' courts and contribute to making our justice system fairer and more effective. It was surprisingly easy to sign up over 600 people to our volunteer mailing list, of whom 170 attended our training. Most training sessions were oversubscribed; we could have delivered more if our resources and timescales allowed it. Our experience shows that there is appetite and capacity amongst Londoners (and likely the wider public) to visit and scrutinise their local courts.

Would volunteer courtwatchers be able to gather meaningful data on what's happening in the courts? We hope this report demonstrates that they certainly can, despite sometimes being severely hampered by a court system that has deprioritised public access to the courts (detailed in our report "Why are you here?" on open justice in the magistrates' courts). We also asked a lot from our courtwatchers: to capture, in real-time, detailed information about judges, defendants, offences, defence and prosecution arguments, and outcomes. All the while writing their own reflections on what they saw and on their experiences of accessing the courts. Their efforts resulted in an incredibly rich data set of over 1,100 hearings.

What were courtwatchers' reflections on the justice administered in their local magistrates' courts? Unsurprisingly, a court process that is not intelligible to public observers rarely works well for defendants either. Courtwatchers were unsettled by the 'invisibility' of defendants, tucked away in the secure dock (or on video), ignored for much of the hearing. They saw defendants without lawyers struggle to comprehend what was happening to them, and even those with lawyers sometimes poorly served by harried defence representatives picking up cases last minute. Particularly shocking was courtwatcher testimony on the treatment of defendants who required interpreters but were not always given one. Yes, courts were mostly kind to defendants, but where the defendant's right to effectively participate in the hearing faced off against the system's desire to get through the caseload for the day, the latter often triumphed.

Despite these concerns, courtwatchers more often than not agreed with the judgments meted out by the court. What mattered most to courtwatchers was that sentences were sensible and considered, and for the most part they felt magistrates and judges delivered this.

What irked them most were sanctions that seemed counter-productive, for example fines (the most common magistrates' court outcome) given to people who were already in dire financial straits. For many courtwatchers a sensible outcome usually meant avoiding prison, so we were surprised by volunteers' support for decisions to remand. To us, remanding someone to prison is usually counterproductive, especially as so many people on remand do not, if convicted, receive an immediate prison sentence. Perhaps the brevity of most remand hearings, where little is shared about the defendant or the evidence, meant courtwatchers were more inclined to err on the side of caution (remand) than in a trial or sentencing hearing?

This project shows that citizens bring something unique and valuable to the scrutiny of our court system, beyond what we hear from the media and politicians. Our courtwatchers' interest lay in whether our courts are fair, accessible and effective. The experience of courtwatching prompted citizens to change their view of our justice system: one volunteer told us "I will start scrutinising court hearings differently and not assume that just because they say it is a 'fair' trial with 'open' justice that it is." Others said courtwatching encouraged them to "ask more questions - don't take things for granted or at face value," to "try (don't know if I shall succeed) to be more open-minded and less judgemental" and to "not take sides or judge anyone until I hear the full story from all parties involved."

Who knows? Our courtwatchers' presence may also have encouraged fairer behaviour from the courts. As one volunteer said: "I hope that having an observer made people do their best."



Recommendations

Ministry of Justice (including Legal Aid Agency)

- 1 Commission an independent inquiry into the impact of video hearings and pause the use of video links for defendants for all hearings (apart from case management hearings) until the inquiry commences.
- 2 Pilot the provision in magistrates' courts of the [Support Through Court](#) service (currently available in family and civil courts) in which volunteers give defendants practical support and information about the court process.
- 3 Increase the number of duty lawyers so each one has a lower caseload.
- 4 Commission research into the main causes of court delays and consult widely on how they might be addressed.
- 5 Abolish the means test in the magistrates' court for all those charged with an imprisonable offence, so they have the right to a legally aided lawyer throughout their case.
- 6 Ensure prisoner transport contractors get defendants to court on time.

Judiciary and the Sentencing Council

- 7 Make it the default for defendants to sit in the main courtroom rather than in the secure dock.
- 8 Increase representation of younger people and those from racially minoritised communities amongst district judges and magistrates.
- 9 Introduce 360° appraisals for magistrates and district judges and/or more regular observation of practice by judges/magistrates from a different court.
- 10 Amend sentencing guidelines to discourage use of court fines for defendants of low means and encourage rehabilitative sanctions (for example out of court resolutions) instead.

HMCTS

- 11 Provide better online and printed information for unrepresented defendants on how they can prepare for and conduct their case, including contact details for further support or advice.
- 12 Investigate why an interpreter is not always requested or provided when needed and take action to address this.
- 13 Where video links are used, use subtitling and improve the quality and position of the screen and camera so those in the public gallery can easily see the screen and so that the defendant can easily see the court.
- 14 Message defendants via text, email or WhatsApp to inform and remind them of forthcoming court dates and how to get a legally aided lawyer.
- 15 Improve the reliability of court technology and ensure that staff and judges are trained in how to use it.

Crown Prosecution Service

- 16 Ensure prosecutors get case papers to unrepresented defendants according to the same timelines as represented defendants. Allow unrepresented defendants to access their case papers digitally.
- 17 Reduce the cases listed by discontinuing some very old cases (over a year) and encouraging the police to offer more out of court resolutions for lower-level cases.

System wide

- 18 Review and communicate core principles for effective defendant participation to prosecutors, ushers, legal advisors, magistrates and judges and appraise their performance in adhering to these principles.
- 19 Simplify court proceedings and language so that they are intelligible to a layperson.

Appendices

Appendix 1: CourtWatch London project advisory group

The primary role of the advisory group was to advise, challenge and support Transform Justice for the purpose of making the project as effective as possible. Their involvement in the advisory group does not necessarily indicate endorsement of all the report's recommendations.

Advisory group members

Becky Clarke, Manchester Metropolitan University

Emma Snell, JUSTICE

Dr Helen Taylor, Spotlight on Corruption

Dr Lucy Welsh, University of Sussex

Marcus Keppel-Palmer, University of the West of England Bristol

Naima Sakande (chair), freelance researcher & solicitor

Natalia Schiffrin, magistrate

Dr Sally Reardon, University of the West of England Bristol

Dr Shaun S. Yates, London Metropolitan University

Suzanne Smith, Centre for Justice Innovation

Dr Thomas Smith, University of the West of England Bristol

Appendix 2. Hearing observation form

CourtWatch - hearing observation form

Please complete one form for each hearing.

Volunteer name:	Date:
Court name:	Court room no.:
Case start time:	

About the judge/magistrates (complete once for each courtroom)

Who are the judges?	District judge <input type="checkbox"/>	Two magistrates <input type="checkbox"/>	Three magistrates <input type="checkbox"/>
Name of district judge			
Enter the number of	Men:	Women:	Other/unclear:
Approximate ages (circle gender)	M /F /NK :	M /F /NK :	M /F /NK :
Ethnicities of the bench? Please tick all that apply Stated <input type="checkbox"/> Perception <input type="checkbox"/>	White British <input type="checkbox"/>	Black (British, Caribbean or African) <input type="checkbox"/>	White Other <input type="checkbox"/>
	Asian or Asian British <input type="checkbox"/>	Mixed/ Multiple ethnicities <input type="checkbox"/>	Gypsy, Roma, Irish Traveller <input type="checkbox"/>
	Other (please specify):		

About the hearing

Type of hearing	Bail/remand <input type="checkbox"/>	Sentencing <input type="checkbox"/>	Trial <input type="checkbox"/>	Plea entry <input type="checkbox"/>
	Other please specify:			
Is the defendant legally represented?	Yes <input type="checkbox"/> No <input type="checkbox"/>			
Where is the defendant?	Dock <input type="checkbox"/> Main courtroom <input type="checkbox"/> Video link <input type="checkbox"/>			
Who (else) is on video link?	Judge/mag <input type="checkbox"/> Defence <input type="checkbox"/> CPS <input type="checkbox"/> Clerk <input type="checkbox"/> Witness <input type="checkbox"/> Other <input type="checkbox"/>			
Reason(s) for appearing by video link:				
Is probation or any support services present?	Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure <input type="checkbox"/> If yes, who?			

About the defendant

Name				
Year of birth*:				
Gender	Male <input type="checkbox"/>	Female <input type="checkbox"/>	Other/unclear <input type="checkbox"/>	
What is the ethnicity of the defendant? Stated <input type="checkbox"/> Perception <input type="checkbox"/>	White British <input type="checkbox"/>	Black (British, Caribbean or African) <input type="checkbox"/>	White Other <input type="checkbox"/>	Other (please specify):
	Asian or Asian British <input type="checkbox"/>	Mixed/Multiple ethnicities <input type="checkbox"/>	Gypsy, Roma, Irish Traveller <input type="checkbox"/>	
First language English? Stated <input type="checkbox"/> Perception <input type="checkbox"/>	Yes <input type="checkbox"/> If no: No <input type="checkbox"/>	What is first language?	Was an interpreter provided?	Yes <input type="checkbox"/> No <input type="checkbox"/>

About the offence

Offence				
Offence date			Offence location	
Plea	Guilty <input type="checkbox"/>	Not guilty <input type="checkbox"/>	No plea entered <input type="checkbox"/>	Unsure <input type="checkbox"/>

Mentioned by prosecution/defence (mark as many as apply - P for pros and D for def)		
Care leaver <input type="checkbox"/>	History of family/domestic abuse <input type="checkbox"/>	Mental health conditions <input type="checkbox"/>
Drug/alcohol use <input type="checkbox"/>	Physical disabilities <input type="checkbox"/>	Neurodivergence <input type="checkbox"/>
Maturity* <input type="checkbox"/>	Excluded from education <input type="checkbox"/>	No fixed abode <input type="checkbox"/>
Benefits <input type="checkbox"/>	Unemployment <input type="checkbox"/>	Responsibilities <input type="checkbox"/>
Financial difficulties <input type="checkbox"/>	Victim of violence <input type="checkbox"/>	Hate crime <input type="checkbox"/>
Other (please specify):		

Decision/outcome

What was the outcome of the hearing?	Not guilty <input type="checkbox"/>	Adjournment <input type="checkbox"/> (Reason for):		
	Prison sentence <input type="checkbox"/> Sentence length:	Suspended Sentence <input type="checkbox"/>	Community order <input type="checkbox"/>	Fine <input type="checkbox"/>
	Condit/absolute discharge <input type="checkbox"/>	Conditional bail <input type="checkbox"/>	Unconditional bail <input type="checkbox"/>	Remand (see below) <input type="checkbox"/>
	Moved to Crown <input type="checkbox"/>	Adjournment <input type="checkbox"/>	Unclear <input type="checkbox"/>	Other <input type="checkbox"/>

If the defendant is remanded to custody:

What ground(s) were given to justify remand? Concerns regarding...	Failure to surrender <input type="checkbox"/>	Committing an offence while on bail <input type="checkbox"/>	Obstructing justice/witness interference <input type="checkbox"/>
Other/further details:			

Your reflections/reactions/further notes (use additional notes pages if needed)

* if defendant is aged 18-25, please complete additional 'young adult' form

Appendix 3. Environment form

CourtWatch - environment form

Please complete once per court visit.

Volunteer name:	Date:
Court name:	

Please respond to the following statements:

The court is accessible for everybody, with wheelchair access clearly signposted.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not sure <input type="checkbox"/>	
Security screenings are carried out respectfully.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not sure <input type="checkbox"/>	
Timings for court cases are clearly displayed and/or explained to court users.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not sure <input type="checkbox"/>	
Courtroom rules are clearly displayed and communicated to court users.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not sure <input type="checkbox"/>	
The information helpdesk provided clear and useful information.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A / Not sure <input type="checkbox"/>	
Public facilities in the building (including toilets and waiting areas) are well-maintained and clean.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not sure <input type="checkbox"/>	
Delays to hearings are explained clearly to court users.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Not sure <input type="checkbox"/>	
Court proceedings can be heard clearly from the public gallery.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Some-times <input type="checkbox"/>	Not sure <input type="checkbox"/>
Any courtroom technology (e.g. video links) works properly and efficiently	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Some-times <input type="checkbox"/>	N/A/Not sure <input type="checkbox"/>

Use this space to note anything of interest in relation to the questions above:

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Courtroom questions

Were you asked why you were in court?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Were you asked who you were there with?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Were you asked if you needed any assistance?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Were you asked to leave any courtrooms?	Yes <input type="checkbox"/>	No <input type="checkbox"/>

If yes to the above question, please explain why and what happened next.

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Appendix 4. CourtWatch London training outline

CourtWatch London training

Session 1: in person

Time	Session
9.15	Team arrive, setup
9.45	Volunteers arrive, refreshments, hand out training pack
10.00	Welcome, introductions
10.10	Run through agenda for today and session 2
10.15	About CourtWatch London <ul style="list-style-type: none"> • About Transform Justice • Project funders • Issues we're interested in – plus, what are you interested in? • Project outputs • Questions
10.40	Overview of magistrates' courts in England and Wales Q&A with defence lawyer / criminal justice academic
11.10	Break
11.30	About the courtwatching role <ul style="list-style-type: none"> • Your responsibilities • Target courts • Flexibility • Questions
11.45	Navigating the magistrates' court. <ul style="list-style-type: none"> • Court timings • Security • Court lists • Rules for the public gallery • Reporting restrictions • Engaging with other people in the court • Questions
12.10	Volunteer wellbeing <ul style="list-style-type: none"> • Taking care of yourself

Time	Session
	<ul style="list-style-type: none"> • Volunteer support • Contacting us • Questions
12.20	Courtwatch London comms <ul style="list-style-type: none"> • Purpose of our comms activities • What we'll be doing to promote project/findings/stories • How you can get involved • Guidance around personal social media posting • Questions
12.30	Next steps – second training session, additional reading
12.35	Finish and lunch, vacate by 13.00

Session 2: online

Time	Agenda item
11.00	Welcome, reminder of session 1, agenda
11.05	Introduction to notetaking as a courtwatcher
11.10	Filling in the standard hearing observation form
11.40	Filling in the young adult form
11.55	Filling in the court environment form
12.05	How to upload notes
12.15	A few other things: <ul style="list-style-type: none"> • Expenses • CourtWatch London WhatsApp community • Volunteer survey • Fortnightly check ins
12.30	Close

Appendix 5. Transform Justice reports on the magistrates' court

[Close to home: the case for localising criminal justice services](#)

[Defendants on video: conveyor belt justice or a revolution in access?](#)

[Deflect and divert: a common sense approach to dealing with low level crime](#)

[Fit for purpose? Do magistrates get the training and development they need?](#)

[Justice denied? The experience of unrepresented defendants in criminal courts](#)

[Magistrates' courts and Covid-19: magistrates' experience in criminal courts during the pandemic](#)

[Magistrates: representatives of the people?](#)

[Managing magistrates' courts](#)

[Presumed innocent but behind bars: is remand overused in England and Wales?](#)

[Rethinking judicial independence](#)

[The criminal defender in the age of austerity: zealous advocate or cog in a machine?](#)

[The Sentencing Council and criminal justice: leading role or bit part player?](#)

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The photos in this report feature courtwatchers from the CourtWatch London project and were taken in Thames, Croydon and Highbury Corner magistrates' courts with permission from HM Courts and Tribunal Service.