Study of Defendants in Magistrates’ Courts

A report by:

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Study completed in February 2009
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Executive Summary

Background and Aims of Study
This report presents the aims, method, and findings of the small-scale feasibility study conducted on Defendants in Magistrates’ Courts. The study assessed the feasibility of collecting data from first hearings in the magistrates’ courts via observations and surveys of defendants. The study also aimed to glean information on defendants’ experiences with legal representation and in court.

Method
The study was conducted in two adult magistrates’ courts in London. Data was collected in each courthouse. Two trained fieldworkers used a structured coding scheme to record observational data from court hearings. In addition, an interviewer-administered survey was used to collect data from defendants in court. Fieldworkers also took notes that provided qualitative feedback on data collection methods and procedures.

Main Findings
The observational coding scheme was generally user-friendly and useful for effectively recording observational data. However, items that could not be confirmed through observation alone (i.e., type of solicitor, type of magistrate, and defendants’ disability) could be modified or removed from the coding scheme, while additional information that was not included in the coding scheme (i.e., previous adjournments and the court bail decision (including the bail conditions)) could be added.

Although the number of main surveys completed was relatively low for each magistrates’ court (i.e., from 19.6% for Court One to 32.4% for Court Two), this may partly be due to the fact that overall a relatively high proportion (27.4%) of defendants were not eligible to complete the main survey based on the screener questionnaire. The low rate of surveys completed may also be due to the fact that many of the cases dealt with in these ‘streamlined’ courts were summary offences. By extending the period of data collection, this could increase the survey completion rate. Nevertheless, it is feasible to collect data from surveys of defendants in court.

The fieldworkers reported some challenges to interviewing defendants in terms of keeping track of defendants and the method of approaching defendants. In addition, defendants expressed concern about the amount of time it took to complete the survey. Thus, data collection procedures could be amended to resolve these issues.

The majority of defendants surveyed in both magistrates’ courts were unrepresented (54.6% in Court One and 66.0% in Court Two). The most highly cited reason that defendants gave for not having a solicitor in court was that they “did not need one.”

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1 For reasons of anonymity the courts are referred to as ‘Court One’ and ‘Court Two’.
Just under half of represented defendants (47.6%) had completed a legal aid means test. Their estimated annual income after tax was £12,528 on average, which is slightly above the means testing threshold (although the majority of represented defendants’ income actually falls below the means testing threshold). However, without further information on the proportion of defendants who actually passed the means test, we can not comment on the precise impact that means testing had.

The highest proportion (33.3%) of represented defendants were charged with ‘violence against a person’, whereas main offences for unrepresented defendants were distributed fairly evenly across offences related to driving (13.8%), drugs (10.8%), and theft and handling (10.8%). Moreover, a substantially higher percentage of unrepresented defendants had pled guilty (70.3%) compared to represented defendants (47.6%). In turn, a relatively higher proportion of unrepresented defendants were convicted and sentenced at their hearing than represented defendants (35.1% and 19.1%, respectively).

Finally, of the defendants who were convicted and sentenced at their hearing, those who were unrepresented perceived their sentence as relatively more fair than those who were represented. However, both represented and unrepresented defendants were only ‘somewhat satisfied’ with the justice process. This indicates a need to further examine the factors that affect defendants’ experiences in court.

Conclusions and Recommendations
Overall, the study demonstrated the feasibility of collecting data from observations and surveys of defendants in court. The recommendations below will ensure that the effectiveness and efficiency of data collection are further enhanced:

- Revise the observational coding scheme (e.g., modify or remove items for which information could not be confirmed through observation)
- Extend the period of data collection
- Amend the data collection procedures by:
  o obtaining a copy of the court list to cross-reference the cases with the defendants
  o requesting interviews with defendants at the outset
  o reducing the amount of time it takes for defendants to complete the main survey (e.g., by filling out as much information as possible beforehand that can be gleaned through observation)
1. Introduction

The goal of the Study of Defendants in Magistrates’ Courts is to provide information on defendants’ experiences with legal representation and in court. This report presents the aims, method, and findings of the small-scale feasibility study conducted to assess the extent of information that can be gleaned from the observational method and surveys of defendants in court.

Chapter 2 of this report provides the background to the study. Chapter 3 provides a description of the aims and methodology of the feasibility study with particular reference to the sampled courts and interviews, data collection instruments, and data collection procedures. Chapter 4 presents the findings of the feasibility study. Here, data collection from observations is considered in relation to the usefulness of the observational coding scheme and the information that can be confirmed through observation alone. Data collection from surveys is discussed in terms of the survey completion rate and challenges to interviewing defendants. Finally, findings pertaining to defendants’ experiences with legal representation and in court are presented. Chapter 5 provides a summary of the main findings together with a list of recommendations drawn from these findings that can be used to further improve the effectiveness and efficiency of data collection.
2. Overview

Background to the Study

Following the Criminal Defence Service (CDS) Act 2006, means testing was re-introduced in the magistrates’ courts as a requirement of criminal legal aid. The purpose of means testing is to identify defendants who can afford to pay for their defence costs, thus reserving legal aid for those who lack sufficient means to pay for representation. However, the new provisions present a dramatic shift in eligibility that may now deem a large proportion of the general population of those employed ineligible for legal aid (Kenway, 2006). This raises the question as to whether current legal aid provisions cater primarily to individuals who are unemployed or on a considerably low income. As such, while legal aid is central to the functioning of due process, it may not be easily and readily available to the majority who need it. In addition, the process of acquiring legal aid can be “complicated to administer and confusing for the applicant” (Buck & Stark, 2003). Therefore, insight to the service users’ perspective on their experience of obtaining representation can highlight aspects that need improvement.

Furthermore, the Post Implementation Review (PIR) indicated that 90% of legal aid applications are successful (Ministry of Justice, 2006). However, this does not take into account defendants who intended or wanted to apply for legal aid but were presented with barriers that prevented them from doing so. This figure also does not differentiate instances where legal aid was granted after a defendants’ first hearing had already taken place. Thus, these issues require further exploration.

To date, there is a dearth of research on the service-users perspective of the impact of policies such as means testing. This study was conducted to ascertain the feasibility of conducting a full-scale study on defendants’ experiences of obtaining legal representation, and the impact of this on their experience in court. As such, the issues that arise from this small-scale study are not presented as ‘findings’ but as relevant factors that might require further exploration.
3. Aims and Method

Aims

The main goal of this study was to assess the feasibility of conducting a full-scale study and determine any improvements that could be made to the methodology to facilitate data collection. The study also aimed to glean information on defendants’ experiences with legal representation and in court.

Specifically, the study aimed to: (1) assess the feasibility of collecting data via the observational method; (2) assess the feasibility of collecting data from surveys of defendants in court; (3) identify some of the barriers that defendants face when obtaining legal representation; and (4) explore the impact of means testing on obtaining legal representation.

1. Collecting data via the observational method. The objectives were to assess the:
   - information that is available through observation;
   - usefulness of the structured observational coding scheme.

2. Collecting data from surveys of defendants. The objective was to:
   - assess the survey completion rate;
   - identify challenges to interviewing defendants.

The objectives of aims 3 and 4 were exploratory in nature.

Sample

Courts

The study was conducted in two adult magistrates’ courts in London (referred to as Court One and Court Two) that operate under the provisions of the ‘Streamlined Process’ as part of the Criminal Justice Simple, Speedy, Summary (CJSSS) reform in the magistrates’ courts aimed at increasing the effectiveness and efficiency of the criminal justice system in bringing offences to justice.

Interviews

It was estimated that a total of 180 surveys would be completed over 20 days allocated to data collection (i.e., 9 surveys per day). However, as will be discussed in more detail in Chapter 4, there were some challenges to interviewing defendants which resulted in a total sample of 58 surveys completed, comprising 11 surveys in Court One and 47 surveys in Court Two.
Data Collection Instruments

In order to fulfil the aims of the study, quantitative and qualitative data was collected from several sources including (1) a structured observational coding scheme, (2) a screener questionnaire, (3) the main survey, and (4) fieldworkers’ notes.

Observational Coding Scheme and Fieldworkers’ Notes
To employ the observational method in a more systematic and quantitative manner, a structured coding scheme was used to record observational data from first hearings in the magistrates’ courts (see Appendix 1). Specifically, observational data on characteristics of the defendant, case, legal representation, and sentencer were recorded.

In addition, the fieldworkers took qualitative notes on any other relevant information that was not in the coding scheme to allow us to determine whether any variables need to be modified, added or removed. The fieldworkers also took notes on any difficulties they experienced in conducting observations and interviews.

Screener Questionnaire
The purpose of the screener questionnaire was to determine a defendant’s eligibility for completing the main survey (see Appendix 2). The questionnaire comprised six questions. Defendants were not eligible to complete the main survey if they had either funded their defence privately without having been refused legal aid, or automatically satisfied the means test because they were receiving benefits (i.e., Income Support, Income-Based Jobseekers Allowance, Guaranteed State Pension Credit). In addition, defendants who were charged with minor road traffic offences (e.g., driving without a licence and/or insurance) were also not eligible to complete the main survey.

Main Survey
The main survey comprised four sections (see Appendix 3). Section 1 contained questions on the defendants’ demographic and personal information. Section 2 contained questions about the case, solicitor, and the defendants’ understanding of the court proceedings. Section 3 contained questions on previous convictions, the outcome of the hearing, and the defendants’ experience in court. Finally, Section 4 contained questions about the defendants’ legal representation.

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2 This is because the study aimed to identify some of the barriers that defendants faced when obtaining representation.

3 Minor motoring offences do not pass the Interest of Justice test.
Data Collection Procedures

Data was collected by two fieldworkers over a total of 20 days divided evenly between the two magistrates’ courts (i.e., 10 days allocated to each court).4

Part 1: Observations
Observations of first hearings were conducted from the public gallery in the courtroom. The court usher was informed about the fieldwork at the outset to avoid problems of access to information.

The two fieldworkers were paired up and observed the same hearings in each court. The two fieldworkers collected observational data on specified variables from first hearings for all types of offences in the magistrates’ courts. Data was recorded on paper copies of the structured coding scheme. Each fieldworker also took notes on other relevant information that was not contained in the coding scheme to help determine whether certain variables need to be modified, added or removed.

At the end of each day, the fieldworkers made notes on any problems they had with access and data collection.

Part 2: Interviews
One fieldworker approached defendants immediately after their hearing and introduced the study to them. Defendants were invited to complete the screener questionnaire to determine their eligibility for completing the main survey. Defendants who were eligible were offered a £25 cash incentive to complete the main survey. The main survey was interviewer-administered.

In the event that defendants could not complete the survey after their hearing, the fieldworker would request their contact details and ask to conduct the survey by telephone at a later date. However, this was not necessary during the study.

Data from the screener questionnaires and main surveys were entered into a computerized database, and paper copies of the questionnaires and surveys were stored in a locked filing cabinet.

4 Data collection took place from December 2008 to February 2009. The proposed timeframe for data collection (six weeks) was disrupted due to the Christmas and New Year holiday period. In addition, data collection was delayed for one week in February due to extreme weather conditions that prevented travel to the courts.
4. Findings

Collecting Data via the Observational Method

One of the main aims of the study was to assess the feasibility of collecting data via the observational method. In particular, the objectives were to assess the information that is available through observation and the usefulness of the structured coding scheme.

Overall, the structured coding scheme was useful for collecting observational data. The coding scheme was user-friendly in that the response categories for each item were complete and the order of the items facilitated data collection.

However, information that could not be confirmed through observation were type of solicitor (i.e., duty or own) and type of magistrate (i.e., lay magistrate or District Judge). Although the variable in the coding scheme on the number of magistrates presiding may be a useful indicator of the type of magistrate. Finally, information on the defendants’ disabilities was not always disclosed.

Additional information that could be recorded through observation but was not included in the coding scheme is previous adjournments (although this was rare because observations were conducted on first hearings), and the court bail decision (including the bail conditions).

Collecting Data from Surveys of Defendants

Survey Completion Rate

The survey completion rate impacts the amount and nature of data that can be collected. Thus, the second main aim of the study was to assess the feasibility of collecting data from surveys of defendants in court. In addition to calculating the number of main surveys completed, the number of surveys that were not completed was also recorded (see Table 4.1).

Although the number of main surveys completed was relatively low for each magistrates’ court (i.e., from 19.6% (11 out of 56) for Court One to 32.4% (47 out of 145) for Court Two), this may partly be due to the fact that overall a relatively high proportion (27.4%) of defendants were not eligible to complete the main survey based on the screener questionnaire. This comprised 58.2% \( (N = 32) \) who had a summary offence; 32.7% \( (N = 18) \) who were on benefits, and 9.1% \( (N = 5) \) who had funded their defence privately without having been refused legal aid.

In some instances, the survey could not be conducted because the defendant was not available after their hearing (6.0%); the case was not seen because it was transferred to another courtroom (10.4%); and the defendant did not appear at their hearing (15.9%).

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5 Typically, District Judges sit alone, and lay magistrates sit in benches of two or three.
Finally, some defendants could not be interviewed because they were remanded in custody after their hearing (7.5%).

The relatively small number of defendants who refused to be interviewed (8 out of 121\(^6\)) indicates that it is feasible to collect data from surveys of defendants in court.

Overall, the actual number of main surveys completed was lower than originally estimated, particularly in the Court One. As mentioned above, this may partly be due to the fact that almost one-third of defendants were not eligible to complete the main survey. Furthermore, both Court One and Court Two are ‘streamlined’ courts, and as such, the low rate of surveys completed may also be due to the fact that many of the cases dealt with in these courts were summary offences.

**Challenges to Interviewing Defendants**

The fieldworkers’ qualitative notes provided specific information on challenges to interviewing defendants. These comments are summarized below.

There were often many people entering and leaving the courtroom at different times, and so it was difficult for the fieldworkers to keep track of defendants. To make this process easier, the fieldworkers made a copy of the court list posted outside the courtroom so that they could cross-reference the cases with the defendants, and also keep track of the cases that had been heard.

The fieldworkers had to be tactful when approaching defendants for interview as some defendants were quite tense or irritated after their hearing. In some instances, the fieldworker felt it was inappropriate to approach defendants immediately after their hearing because they were either occupied with their solicitors or arranging meetings with probation. Thus, it may be helpful to ask defendants at the outset if they could be interviewed after their hearing.

With regard to the main survey, defendants were mostly concerned about the amount of time it took to complete it. However, the £25 cash incentive mitigated their concern. To overcome this issue, it may be useful to reduce the amount of time it takes to complete the survey, for example by having the fieldworker fill out as much information as possible beforehand that can be gleaned through observation. Nevertheless, surveys of defendants are necessary to gain insight to issues that are relevant to their experience in court including their understanding of the court proceedings, their perceptions of fairness in the hearing decisions, and their satisfaction with the justice process.

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\(^6\) This figure represents the number of defendants that were asked to complete the questionnaire and/or survey.
Defendants’ Experiences with Legal Representation and Court

The study also aimed to glean information on defendants’ experiences of obtaining legal representation and in court.

Barriers to Obtaining Representation
Table 4.2 shows the number of interviewed defendants who were unrepresented and represented in each court. Overall, a relatively higher percentage of defendants across both courts were unrepresented (63.8%; \(N = 37\)) than represented (36.2%; \(N = 21\)) at their hearings.

Unrepresented Defendants
The most highly cited reason that unrepresented defendants gave for not having a solicitor in court was that they “did not need one,” stating either that their offence (e.g., drink driving) was too minor to warrant representation, or that they “didn’t want to bother with the hassle.” Nearly one-fifth of unrepresented defendants indicated that they had sought representation but “could not find a solicitor.” Thus, insight to the method and sources of their search in seeking legal advice and assistance can help clarify this barrier to obtaining representation. Finally, 10.8% of unrepresented defendants stated that they had wanted a solicitor but could not afford one.

Represented Defendants
In terms of types of representation, 1 (out of 5) of the represented defendants in Court One used a duty solicitor, in comparison to 14 (out of 16) in Court Two (see Table 4.2). In addition, 4 (out of 5) represented defendants in Court One were represented by a solicitor paid from public funds (i.e. legal aid), in comparison to 2 (out of 16) in Court Two.

Of the defendants who applied for legal aid, 83.3% completed the application with their solicitors. The remaining 16.7% completed the legal aid application on their own and found this process ‘somewhat difficult.’ The only problem mentioned was that they had difficulty understanding the forms.

Impact of Means Testing on Obtaining Representation
Just under half of represented defendants (47.6%) had completed a means test. Their estimated annual income after tax was £12,528 on average, which is slightly above the lower limit of the means testing threshold. Table 4.3 presents the distribution of income for represented defendants which shows that in fact, the majority of represented defendants’ income actually falls below the means testing threshold. However, without further information on the proportion of defendants who actually passed the means test, we can not comment on the precise impact that means testing had.

Case Characteristics and Outcome
Table 4.4 presents the case characteristics and outcome across defendants. The highest proportion (33.3%) of represented defendants were charged with ‘violence against a person’, whereas main offences for unrepresented defendants were
distributed fairly evenly across offences related to driving (13.8%), drugs (10.8%), and theft and handling (10.8%). Moreover, a substantially higher percentage of unrepresented defendants had pled guilty (70.3%) compared to represented defendants (47.6%). In turn, a relatively higher proportion of unrepresented defendants were convicted and sentenced at their hearing than represented defendants (35.1% and 19.1%, respectively).

Defendants’ Perceptions of the Justice Process and Outcome
There were three questions in the main survey pertaining to defendants’ experiences in court. Table 4.5 shows that on average both represented and unrepresented defendants ‘understood most of what was going on’ in court. Further, of the defendants who were convicted and sentenced at their hearing, those who were unrepresented perceived their sentence as relatively more fair than those who were represented. Finally, both represented and unrepresented defendants were only ‘somewhat satisfied’ with the justice process. This indicates a need to further examine the factors that affect defendants’ experiences in court.

Fieldworkers’ General Comments
Finally, the fieldworkers’ qualitative notes provided some general comments on the court environment, processing of cases, and observations of defendants. These comments are summarized below.

Court Environment
The fieldworkers reported that Court One had a more administrative atmosphere than Court Two. In Court Two, the court staff were generally more friendly and helpful, in terms of explaining court procedures and clarifying legal terminology (on one occasion, the magistrates even invited fieldworkers into their private chambers for discussion). As such, some courts may be more conducive to fieldwork than others. Nevertheless, the court staff in both courts were generally cooperative.

Case Processing
The fieldworkers noted a significantly high rate of motoring offences in both magistrates’ courts. However, in Court One, hearings for motoring offences were held in a different courtroom than all other types of offences. This seemed to aid in the efficiency of case processing in that court.

The fieldworkers noted a few instances in which defendants had not received the outcome of their legal aid application before their first hearing and so appeared unrepresented. This calls into question the effectiveness and efficiency of the processing of legal aid applications. These cases were adjourned on the magistrates’ instruction to allow defendants the opportunity to seek legal advice. The magistrates’ reason for adjournment was the potential severity of the penalty that could be sanctioned (i.e., imprisonment). (Table 4.4 shows the range of offences committed by unrepresented defendants.)
The fieldworkers had informal discussions with several duty solicitors in both magistrates’ courts, and asked them about their case preparation process and any challenges that they faced. The duty solicitors reported that they spent an average of 30 minutes interviewing defendants before their hearing, with the bulk of this time spent completing administrative paperwork. The issues that they raised pertained to considerations of having to turn down clients (particularly those who were unlikely to be granted legal aid), and frustrations with their workload as a result of the perceived inefficiency of the legal aid process.

Observations of Defendants
The fieldworkers observed that the complexity of the court proceedings and legal jargon was difficult for some defendants to follow, particularly those who were unrepresented and those who were not fluent in English. This was evident for example when the magistrates had to repeatedly reiterate information to defendants. These defendants were often marginalized from the proceedings, while the magistrates and court clerk discussed the case amongst themselves.

Moreover, unrepresented defendants’ were often unprepared at their hearing and/or uncertain on how to proceed. For example, in many cases, the defendant had not filled out a court means form and so was asked to do so during their hearing. Many defendants in motoring offence cases had not brought the required documents to court (e.g., driving licence). Finally, a number of defendants who received a fine thought that they had to pay the full amount straight away, and were unaware that they could negotiate to pay the fine in instalments. The magistrates typically demanded the highest payment possible at the outset, regardless of the defendants’ stated financial difficulties.
Table 4.1  Number of surveys completed and not completed with reasons by court

<table>
<thead>
<tr>
<th></th>
<th>Court One</th>
<th>Court Two</th>
<th>Overall</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completed</td>
<td>11</td>
<td>47</td>
<td>58</td>
</tr>
<tr>
<td>Not completed</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ineligible</td>
<td>11</td>
<td>44</td>
<td>55</td>
</tr>
<tr>
<td>Refused</td>
<td>5</td>
<td>3</td>
<td>8</td>
</tr>
<tr>
<td>Unavailable</td>
<td>4</td>
<td>8</td>
<td>12</td>
</tr>
<tr>
<td>Not seen</td>
<td>2</td>
<td>19</td>
<td>21</td>
</tr>
<tr>
<td>No appearance</td>
<td>9</td>
<td>23</td>
<td>32</td>
</tr>
<tr>
<td>In custody</td>
<td>14</td>
<td>1</td>
<td>15</td>
</tr>
<tr>
<td>Total</td>
<td>56</td>
<td>145</td>
<td>201</td>
</tr>
</tbody>
</table>
**Table 4.2** Number of interviewed defendants unrepresented and represented by court

<table>
<thead>
<tr>
<th>Magistrates’ court</th>
<th>Unrepresented</th>
<th>Represented</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Duty solicitor</td>
<td>Legal aid</td>
</tr>
<tr>
<td>Court One</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>Court Two</td>
<td>28</td>
<td>14</td>
</tr>
</tbody>
</table>

*Note.* One defendant in Court One and three defendants in Court Two had a solicitor, but their solicitor did not attend the hearing.
Table 4.3  Distribution of income for represented defendants ($N = 16$)

<table>
<thead>
<tr>
<th>Income</th>
<th>Percent (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than £12,475</td>
<td>50.0</td>
</tr>
<tr>
<td>Between £12,476 and £22,324</td>
<td>31.3</td>
</tr>
<tr>
<td>More than £22,325</td>
<td>18.7</td>
</tr>
</tbody>
</table>

*Note.* The lower and upper income values are based on actual means testing thresholds. In addition, five defendants did not provide information on their income, hence $N = 16$. 
Table 4.4 Case characteristics and outcome by representation^7

<table>
<thead>
<tr>
<th>Case characteristics and outcome</th>
<th>Unrepresented (N = 37)</th>
<th>Represented (N = 21)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Percent (%): Mean: SD</td>
<td>Percent (%): Mean: SD</td>
</tr>
<tr>
<td><strong>Main offence type</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Violence against a person</td>
<td>18.9: 33.3</td>
<td></td>
</tr>
<tr>
<td>Sexual offence</td>
<td>--: --</td>
<td></td>
</tr>
<tr>
<td>Burglary</td>
<td>--: --</td>
<td></td>
</tr>
<tr>
<td>Robbery</td>
<td>--: --</td>
<td></td>
</tr>
<tr>
<td>Theft and handling</td>
<td>10.8: 9.5</td>
<td></td>
</tr>
<tr>
<td>Fraud and forgery</td>
<td>8.1: 9.5</td>
<td></td>
</tr>
<tr>
<td>Criminal damage</td>
<td>2.7: 9.5</td>
<td></td>
</tr>
<tr>
<td>Drugs offence</td>
<td>10.8: 4.8</td>
<td></td>
</tr>
<tr>
<td>Driving offence</td>
<td>13.5: --</td>
<td></td>
</tr>
<tr>
<td>Breach of current court order</td>
<td>2.7: --</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>32.4: 33.3</td>
<td></td>
</tr>
<tr>
<td><strong>Plea</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Guilty</td>
<td>70.3: 47.6</td>
<td></td>
</tr>
<tr>
<td>Not guilty</td>
<td>24.3: 38.1</td>
<td></td>
</tr>
<tr>
<td>No plea given</td>
<td>5.4: 14.3</td>
<td></td>
</tr>
<tr>
<td><strong>Hearing decision</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Convicted</td>
<td>8.1: 4.8</td>
<td></td>
</tr>
<tr>
<td>Convicted and sentenced</td>
<td>27.0: 14.3</td>
<td></td>
</tr>
<tr>
<td>Adjourner</td>
<td>37.8: 42.9</td>
<td></td>
</tr>
<tr>
<td>Committed to Crown court</td>
<td>0.0: 28.6</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>2.7: 9.5</td>
<td></td>
</tr>
<tr>
<td><strong>Number of days case adjourned for</strong></td>
<td>21.40: 36.81</td>
<td>40.86: 46.76</td>
</tr>
</tbody>
</table>

^7 Table 4.4 is based on defendants who were surveyed. In addition, the observational data revealed that of the 201 cases observed, 52% of defendants were represented. However, this included a number of summary offence cases that were unlikely to have passed the ‘interests of justice’ test. When these cases were removed, this resulted in 136 cases in which 60% of defendants were represented. Of those who were represented, 49% pled guilty compared to 86% of those who were unrepresented. A relatively higher proportion of represented defendants pled not guilty compared to those unrepresented (43% and 12%, respectively). Finally, 8% of represented defendants and 2% unrepresented defendants did not enter a plea. Forty-three percent of unrepresented defendants were convicted and sentenced at their hearing, compared to 18% of represented defendants.
Table 4.5  Means and standard deviations for quantitative data from main survey on defendants’ experiences in court by representation

<table>
<thead>
<tr>
<th></th>
<th>Unrepresented</th>
<th>Represented</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>M (SD)</td>
<td>M (SD)</td>
</tr>
<tr>
<td>How much did you understand what was happening in court</td>
<td>3.30 (.88)</td>
<td>3.10 (.91)</td>
</tr>
<tr>
<td>How fair do you think your sentence was</td>
<td>3.16 (.83)</td>
<td>2.67 (1.03)</td>
</tr>
<tr>
<td>How satisfied are you with the justice process</td>
<td>2.61 (.92)</td>
<td>2.80 (.63)</td>
</tr>
</tbody>
</table>

*Note.* The response scales ranges from:

- 1 = did not understand what was going on at all, 2 = understood some of what was going on, 3 = understood most of what was going on, and 4 = understood exactly what was going on
- 1 = not fair at all, 2 = somewhat fair, 3 = very fair, and 4 = completely fair
- 1 = not satisfied at all, 2 = somewhat satisfied, 3 = very satisfied, and 4 = completely satisfied
5. Conclusions and Recommendations

Data Collection Methods

The observational coding scheme was generally user-friendly and useful for effectively recording observational data. However, some items could be modified or removed from the coding scheme (i.e., type of solicitor, type of magistrate, and defendants’ disability), while additional information could be added (i.e., previous adjournments and court bail decision).

Although the number of main surveys completed was relatively low for each magistrates’ court, extending the data collection period could increase the survey completion rate. Nevertheless, it is feasible to collect data from surveys of defendants in court.

There were some challenges to interviewing defendants in terms of keeping track of defendants and the method of approaching defendants. In addition, defendants expressed concern about the amount of time it took to complete the survey. Thus, data collection procedures could be amended to resolve these issues.

Defendants’ Experiences with Legal Representation and Court

The majority of defendants in both magistrates’ courts were unrepresented. The most highly cited reason that defendants gave for not having a solicitor in court was that they “did not need one.”

Just under half of represented defendants had completed a means test. The majority of represented defendants’ income falls below the means testing threshold, which indicates that would likely pass the means test. However, without further information on the proportion of defendants who actually passed the means test, we can not comment on the precise impact that means testing had.

The highest proportion of represented defendants were charged with ‘violence against a person’, whereas the main offences for unrepresented defendants was distributed fairly evenly across offences related to driving, drugs, and theft and handling. A relatively higher rate of unrepresented defendants were convicted and sentenced at their hearing than represented defendants (35.1% and 19.1%, respectively), which corresponds with their respective rates of guilty pleas.

Finally, of the defendants who were convicted and sentenced at their hearing, those who were unrepresented perceived their sentence as relatively more fair than those who were represented. The finding that both represented and unrepresented defendants were only ‘somewhat satisfied’ with the justice process indicates a need to further examine the factors that affect defendants’ experiences in court.
Recommendations

These findings lead to recommendations for improvements to the methodology for a full-scale study in terms of collecting data from observations and surveys of defendants in court. These revisions to the methodology can increase the effectiveness and efficiency of data collection. The specific recommendations are as follows:

- Revise the observational coding scheme (e.g., exclude items for which information could not be confirmed through observation)
- Extend the period of data collection
- Amend the data collection procedures by:
  - obtaining a copy of the court list to cross-reference the cases with the defendants
  - requesting interviews with defendants at the outset
  - reducing the amount of time it takes for defendants to complete the main survey (e.g., by filling out as much information as possible beforehand that can be gleaned through observation)

Overall, the study demonstrated the feasibility of conducting a large-scale study of defendants in the magistrates’ court.
Appendix 1: Observational coding scheme

UNREPRESENTED DEFENDANTS IN MAGISTRATES’ COURTS
OBSERVATIONAL CODING SCHEME

<table>
<thead>
<tr>
<th>COURT:</th>
<th>CASE NO:</th>
<th>DATE:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

DURATION OF HEARING (mins): STREAMLINED? YES/ NO

Characteristics of Magistrates

<table>
<thead>
<tr>
<th>NUMBER OF MAGISTRATES ON BENCH:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>TYPE OF MAGISTRATE</th>
<th>GENDER</th>
<th>ETHNICITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Lay</td>
<td>1. All male</td>
<td>1. All White/European</td>
</tr>
<tr>
<td>2. District judge</td>
<td>2. All female</td>
<td>2. Other:</td>
</tr>
<tr>
<td>3. Male and female</td>
<td></td>
<td>2. Other:</td>
</tr>
</tbody>
</table>

Characteristics of Defendant

<table>
<thead>
<tr>
<th>DEFENDANT PRESENT IN COURT</th>
<th>INTERPRETER REQUIRED</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Yes</td>
<td>1. Yes</td>
</tr>
<tr>
<td>2. No (other representative)</td>
<td>2. No</td>
</tr>
<tr>
<td>3. Failed to appear</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DATE OF BIRTH:</th>
<th>GENDER</th>
<th>ETHNICITY</th>
<th>DISABILITY</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1. Male</td>
<td>1. White</td>
<td>1. None</td>
</tr>
<tr>
<td></td>
<td>2. Female</td>
<td>2. Other:</td>
<td>2. Yes, physical</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3. Yes, mental</td>
<td>3. Yes, physical and mental</td>
</tr>
</tbody>
</table>

Representation

<table>
<thead>
<tr>
<th>DEFENCE REPRESENTATION</th>
<th>PROSECUTORS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Not represented</td>
<td>1. CPS</td>
</tr>
<tr>
<td>2. Duty solicitor</td>
<td>2. Other:</td>
</tr>
<tr>
<td>3. Own solicitor</td>
<td></td>
</tr>
</tbody>
</table>

Characteristics of Case

<table>
<thead>
<tr>
<th>INITIATION OF PROCEEDINGS</th>
<th>DATE OF CHARGE:</th>
<th>NUMBER OF OFFENCES:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Summons</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Charge</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Other:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
SOLE INVOLVEMENT IN OFFENCE
1. Yes
2. No

PLEA
1. Guilty
2. Not guilty
3. No plea

CATEGORY OF OFFENCE(S)
1. Violence against person
2. Sexual offences
3. Burglary
4. Robbery
5. Theft and handling
6. Fraud and forgery
7. Criminal damage
8. Drugs offences
9. Driving offences
10. Other:

PREVIOUS CONVICTIONS
1. None
2. Yes, similar
3. Yes, dissimilar:

HEARING DECISION
1. Convicted and sentenced
2. Adjournment for trial
3. Adjournment for sentence
4. Appeal against court’s decision
5. Other:

ADJOURNMENT REQUESTED BY
1. Defence
2. Prosecution
3. Judge
5. Other:

DATE OF ADJOURNMENT:

NUMBER OF PREVIOUS ADJOURNMENTS:

SENTENCE (IF CONVICTED)
1. Custodial - Length of sentence:
2. Community order - Specify:
3. Fine/compensation - Amount:
4. Disqualification (driving offence) - Period of disqualification:
5. Other:

DECISION COMMUNICATED TO DEFENDANT
1. No
2. No because defendant not in court
3. Yes, verbal
4. Yes, verbal and document

REASONS FOR DECISION GIVEN
1. None given
2. Yes (specify):
Appendix 2: Screener questionnaire

Screener Questionnaire

Q1 Did you have a solicitor in court?
   Yes..................................................
   No..................................................
   I have a solicitor, but he/she did not come to this hearing.....................

Q2 If you have a solicitor, was this:
   Obtained through legal aid ............
   Paid privately..............................

Q3 If you paid privately for your solicitor, was this because you were refused legal aid?
   Yes..................................................
   No..................................................

Q4 In getting your solicitor, did you have to complete a means test (i.e., provide details of wage slips and expenses to your solicitor)?
   Yes..................................................
   No..................................................

Q5 If you received legal aid, were you passported on benefits (i.e., Income Support, Jobseekers Allowance, State Pension)
   Yes..................................................
   No..................................................

Q6 Were you charged with any of the following offences? (Tick all that apply)
   Minor road traffic offence (e.g., no driving licence, no insurance, failing to stop) ........................................
   Drunk and disorderly ......................
   Littering .......................................
Consuming alcohol in a public place
No TV licence
Prostitution/soliciting
Vagrancy
Stealing electricity
I was not charged with any of these offences.
Appendix 3: Main survey

Survey of Defendants in Magistrates' Courts

Demographic Information

Q1 What is your gender?
  Male ............................................................
  Female ........................................................

Q2 What is your age?  

Q3 What is your ethnic background?
  White British................................................
  White Other.................................................
  Black ...........................................................
  Asian ...........................................................
  Mixed background........................................
  Other ................................................................

Q4 Is English your first language?
  Yes ..................................................................
  No ..................................................................

Q5 Did you need an interpreter in court?
  Yes ..................................................................
  No (skip to question 7) ....................................

Q6 If you needed an interpreter in court, did you get one?
  Yes ..................................................................
  No ..................................................................

Q7 Do you have any of the following?  
  (Tick all that apply)
  Physical disability (e.g., blindness, deafness, in a wheelchair)
  Learning disability (e.g., dyslexia)........................
  Mental health condition (e.g., depression, schizophrenia) ..........................................
  Cognitive impairment (e.g., autism, head injury) ..................................................

Case Information

Q8 What was the date of your arrest?  
  (dd/mm/yy) (If you do not know the actual date, please provide the approximate date.)

Q9 What is the main offence that you were charged with?
  Violence against a person ............................
  Sexual offence ............................................
  Burglary ....................................................
  Robbery .....................................................
  Theft and handling .....................................
  Fraud and forgery .....................................
  Criminal damage ......................................
  Drugs offence ..........................................  
  Driving offence ........................................
  Other ........................................................
  Breach of bail ...........................................
  Breach of court order ................................

Q10 How many offences were you charged with in total?  

Q11 Did you understand the main charge?
  Yes ..............................................................
  No ..................................................................

Q12 What was the date of your first hearing?  
  (dd/mm/yy) (If you do not know the actual date, please provide the approximate date.)

Q13 How many other hearings have you had for this case?  

Q14 For the main offence, how did you plead?
  Guilty ..........................................................
  Not guilty ....................................................
  No plea given yet ........................................

Q15 Did you have a solicitor in court?
  Yes - duty solicitor ......................................
  Yes - my own solicitor (legal aid)..................
  Yes - my own solicitor (paid privately)..........
  No (skip to question 17) .............................

Q16 If you had your own solicitor, how did you find them?  
  (Tick all that apply)
  Local Citizens Advice Bureau ........................
  Legal Services Commission ........................
  Community Legal Services Directory ........
Q17 If you did not have a solicitor in court, why not?

Did not need / want one .........................
Could not find a solicitor ..........................
Had a duty solicitor at first, but no longer eligible ..................................................
Could not get one on legal aid .....................
Could not afford one ...............................  
Other (please state)

Q18 Please indicate how much you understood what was happening in court by circling one of the four options:

1. Did not understand what was going on at all
2. Understood some of what was going on
3. Understood most of what was going on
4. Understood exactly what was going on

Q19 What was the decision of the hearing?

Convicted and sentenced ............................
Sentenced .................................................
Adjourned ................................................
Committed to the Crown court ........................
Other (please state)

Q20 If the case was adjourned, why was it adjourned? (Tick all that apply)

CPS did not have all the evidence ................
I/my solicitor needed to look at my documents ............................................................
A document or report was needed ................
The court didn't have time to hear the case
My interpreter did not turn up ....................
I don't know .............................................  
Other (please state)

Q21 If the case was adjourned because a document or report was needed, please specify what this was.

________________________________________
________________________________________
________________________________________
________________________________________
________________________________________

Q22 What is the date of your next hearing? (dd/mm/yy) Write '0' if this was the last hearing.

____________

Q23 If you were sentenced, please state what your sentence was:

________________________________________
________________________________________
________________________________________
________________________________________
________________________________________

Q24 Please indicate how fair you think your sentence is by circling one of the four options:

1. Not fair at all
2. Somewhat fair
3. Very fair
4. Completely fair

Q25 Please indicate, overall, how satisfied you are with the justice process by circling one of the four options:

1. Not satisfied at all
2. Somewhat satisfied
3. Very satisfied
4. Completely satisfied

Q26 Do you have any previous convictions?

Yes - similar to current offence .................
Yes - different than current offence ...........
No ..........................................................

Q27 How many previous convictions do you have?

_________
Information on Legal Representation

Answer questions 28 – 34 if you did not have a solicitor.

Q28 Did you submit an application for legal aid?
   Yes..............................................................
   No (skip to question 34)..............................

Q29 If you submitted an application, did you fail to get legal aid?
   Yes..............................................................
   No ...............................................................
   I was not informed about this (complete question 30)…………………………

Q30 Did you contact anyone (e.g., a solicitor, the court) to find out about your application?
   Yes..............................................................
   No ...............................................................

Q31 Did a solicitor help you with the legal aid application?
   Yes..............................................................
   No ...............................................................

Q32 If you completed the forms yourself, did you have any problems with it? (Tick all that apply)
   I couldn’t find the forms..............................
   I had difficulty understanding the forms......
   I couldn’t find a solicitor to help me.......... Other (please specify)
   __________________________________________
   __________________________________________
   __________________________________________

Q33 Please indicate how difficult you found completing the application by circling one of the four options:

1  Not difficult at all
2  Somewhat difficult
3  Very difficult
4  Completely difficult

Q34 If you had received legal aid, would you have obtained a solicitor?
   Yes..............................................................
   No ...............................................................

Q35 In getting your solicitor, did you have to complete a means test? (i.e., provide details of wage slips and expenses to your solicitor)
   Yes..............................................................
   No ....................................................................
   I don’t know................................................

Q36 To help us understand whether you would qualify for a means test, please tell us what your annual income is after taxes?
   £____________________

Q37 Did your solicitor complete your legal aid forms for you?
   Yes..............................................................
   No ....................................................................

Q38 If your solicitor did not complete your forms, did someone else help you with this?
   Yes..............................................................
   No ....................................................................

Q39 If you completed the forms yourself, did you have any problems with it? (Tick all that apply)
   I couldn’t find the forms
   I had difficulty understanding the forms
   I couldn’t find a solicitor to help me
   Other (please specify)
   __________________________________________
   __________________________________________
   __________________________________________

Q40 Please indicate how difficult you found completing the application by circling one of the four options:

1  Not difficult at all
2  Somewhat difficult
3  Very difficult
4  Completely difficult

Answer questions 35 – 40 if you had a solicitor.
References

