Presentation to Police Regional Leads and Stakeholders for Domestic Abuse, 28th April 2021.

Project Update
Domestic Abuse: Responding to the Shadow Pandemic (ESRC grant Ref: ES/V00476X/1) led by Professor Sandra Walklate, Professor Barry Godfrey, and Dr. Jane Richardson. University of Liverpool.

Focusing on the courts and managing the backlog
This phase of our research has focused on secondary analysis of available data from HMCTS and in-depth work with 5 police case study areas where we have interviewed criminal justice leads, PCCs, witness support leads, senior police officers alongside DA leads.

Current Context
At the one-year anniversary of the first COVID lockdown, the backlog in the Magistrates’ Courts stood at 476,932 together with a further 56,875 outstanding cases waiting to be dealt with in the Crown Courts.¹

In September 2020 Robert Buckland and Lord Burnett of Maldon, Lord Chief Justice of England and Wales, stated that “There is still a great deal of ground to recover, and we are doing everything that we can to hear more cases as quickly and safely as possible” in order to re-establish pre-COVID caseload levels.² They announced four pillars to the recovery effort:

- Maximising the use of HMCTS’ existing estate
- Providing additional capacity through Nightingale Courts
- Using technology (remote or video hearings)
- Considering adopting different operating hours (opening the courts on evenings/weekends)

However over the last ten years, austerity measures have bitten hard into the court system:
• A sustained court closure programme closed approximately a third of all magistrates’ courts in England and Wales
• reduced the number of magistrates from 25,710 in 2012 to 14,348 in 2021
• cuts to the Crown Court system severely restricted the number of days available for judges to sit long before COVID struck
• Treasury statistics show a decrease in funding of over 20% between 2010/11 and 2014/15 continuing through to 2019

One answer to reducing the backlog is to backfill austerity measures with a sustained period of financial investment. The Institute for Government recently calculated that the government would need to spend an extra £55m to £110m a year for at least two years.

HMCPSI noted that £142m had already been committed to enlarge capacity in more than 100 courts and that an additional £20m has also been announced for improving prison videoconferencing facilities. However, they also concluded that this “may not be sufficient given historic underinvestment in the criminal justice system”.

The CPS and HMCTS have been optimistic about their ability to manage the crisis and are very positive about their strategies for recovery using more radical measures. This contrasts dramatically with the views of police officers interviewed as part of the Shadow Pandemic project where there were multiple complaints about ‘bottlenecks’, ‘the sausage machine’ being broken, poor relationships between the CPS and police, and virtually non-existent communication between the police and HMCTS about delivery of services.

In the words of one police officer: ‘the courts are in a bit of a pickle’.

**Conclusion**
Some of the above creates space for greater use of practices so far largely resisted, for example:

• Out of court disposals
• Digital pre-hearings
• Remote hearings
• Either-way offences to be heard by a panel of two magistrates and one judge

Courts are not delivering speedy justice for victims, particularly for domestic abuse. It is not likely that sufficient public investment will be made available to
improve the situation soon. For that reason, we recommend more significant structural changes to the system.

Further information.

Working papers and policy recommendations all free to download are available here:

https://www.liverpool.ac.uk/law-and-social-justice/research/coronavirus-research/the-shadow-pandemic/working-papers/

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Thank you


viii https://www.liverpool.ac.uk/law-and-social-justice/research/coronavirus-research/the-shadow-pandemic/