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Participation is hindered by the informality of magistrates' courts.

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A B S T R A C T

The criminal justice system in England and Wales relies on magistrates' courts. The parties must work together as a unified network in order for these courts to efficiently handle their heavy caseloads. Despite the fact that processes are subject to sophisticated uses of procedural and legal provisions, such cooperation relies on a culture of perceived informality among courtroom staff. The workgroup's apparently casual approach to keeping magistrates' courts operational so that they can handle large volume caseloads masks these intricacies. Defendants' capacities to engage in processes are undermined by the cloak of informality that falls over magistrates' court proceedings, I suggest here. Evidence from interviews with attorneys and observations of judges' court procedures shows that the courtroom team works together as a network that encourages cooperative behaviors. According to the statistics, defendants are unable to fully engage as the processes are both oversimplified and made too casual due to the prevalent culture of workgroup cooperation.

1. Introduction

Since they hear and decide on about 95% of all criminal cases in the UK, magistrates' courts are essentially the backbone of the criminal justice system in England and Wales. From summary cases¹ until their completion, magistrates' courts decide if either way cases² are within their jurisdiction or should be sent to the Crown court for disposition, and from indictable only³ cases, they handle the cases. The number of cases received by magistrates' courts in the first half of 2021 was 590,065 (Ministry of Justice, 2021a). According to the Ministry of Justice (2021b), 51,512 cases were received by crown courts during that time. Despite the astronomical number of cases handled summarily annually, half of England and Wales' magistrates' courts were

shut down between the years 2010 and 2020 (Sturge, 2020). Adisa (2018) said that the closure of magistrates' courts in Suffolk had a detrimental effect on defendants' access to the courts and on diversity among judges, while Ward (2015) concluded that these closures harmed the idea of local justice. A quarter of the Ministry of Justice's budget was slashed in the ten years beginning in 2010, which led to court closures (Bellis et al., 2019). Magistrates' court closing and sale The buildings

also managed to generate around £220 million in public funding over that time (Sturge, 2020), which might be seen as a broader effort to streamline and reduce the expenses associated with summary justice. There have been consistent calls for magistrates' courts to handle cases at an ever-increasing pace since the beginning of this decade. So, the pressure is on for magistrates' courts to handle over a million cases annually in the most efficient and cost-effective way feasible. The "essence of summary justice is a speedy procedure, uncluttered with elaborate judicial rituals," as pointed out by Welsh et al. (2021). Without many of the procedures necessary by common law, a matter may be tried hastily in the magistrates' courts. However, this does not imply that the cases dealt with or fines given out are simple (p390). I contend that this method of processing cases is only possible with the help of a professional team that is well-versed in the formal legal regulations and processes, allowing for a more casual and informal approach to putting those laws into practice. Therefore, magistrates' courts rely on a less formal method of case advancement to effectively apply specific legal rules, even when legal formalities may need such rules. There is no clear-cut formal/informal dichotomy since many



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workgroup procedures and behaviors are responsible for implementing each rule. The degree to which regulations are enforced might fluctuate between more and less casual settings, indicating a dynamic link between the two. Rapid case processing has changed the way magistrates' courts practice informality, which this essay explains has (even more) hidden the complicated and formal character of summary justice. The report continues by stating that defendants' capacity to adequately engage in proceedings against them is being further undermined by this trend of informalizing legal processes. Formal application of laws and procedures has long been thought to influence Western court processes (Dressel et al., 2018). However, the significance of emotions in judicial reasoning is becoming more recognized (Roach Anleu and Mack, 2021). Comparatively, the Secret Barrister (2018) characterized magistrates' courts as the "Wild West" of the English and Welsh court system, where cases are triaged with relative informality compared to the Crown and higher courts, particularly in terms of attire and language used. In these courts, non-legally qualified magistrates typically make decisions with the help of a legally qualified adviser. According to McBarnet (1981a), the magistrates' court's administration of summary justice is devoid of many of the formalities demanded by conventional legal theory. In light of the workgroup's games to manage the process's legal obligations while upholding the philosophy of swift justice, she went on to say that the absence of written norms may cripple defense participation. It should not be overlooked that individuals are still obligated to adhere to the intricate legal processes that govern the criminal justice system in magistrates' courts, despite the fact that governments have put a high emphasis on lay magistrates' capacity to reach reasonable conclusions regarding cases (Department for Constitutional Affairs, 2005). Defendants in magistrates' courts have long been marginalized due to the epistemic community's role in maintaining the wheels of justice turning, and the courts' emphasis on rhetoric rather than performance has added fuel to the fire (Carlen, 1976; McBarnet, 1981). I contend that the capacity of defendants to comprehend and engage in the process of summary criminal justice is further diminished by the relentless pursuit of efficiency. It is not my contention that the magistrates' court culture encourages or promotes an air of informality that makes it difficult for defendants to comprehend and participate; rather, I contend that this is an unintended consequence of the way the court operates. Justice must be delivered in a way that allows the defendant to participate in the criminal process, and everyone agrees on that (Jacobson, 2020). However, the definition of participation has not been subject to much examination recently (Owusu-Bempah, 2018). However, as noted by Owusu-Bempah (2018), defendants are expected to "maintain a level of general un-derstanding and active engagement

throughout the trial" (p325). This study contends that the defendant is unable to comprehend and participate in summary court hearings due to the informality of the proceedings, which is worsened by efficiency motives and the culture of the workgroup. Ethnographic data regarding the processes of magistrates' courts, gathered via interviews with both defense and prosecuting attorneys and observation of cases from the public galleries of court buildings, is the basis of the argument. Defendants' capacity to comprehend and engage with the process is weakened by the informality of magistrates' courts, according to the four-part thesis. The article begins by discussing the research strategy that was employed to perform the ethnographic work. Secondly, to put the magistrates' court workgroup's operations into perspective, we talk about the ways that quick case advancement has been supported.⁵ The members of the workgroup in this article include defense attorneys, magistrates' court legal advisors, and, to a lesser degree, the judges themselves.⁶ These players are crucial in creating an informal atmosphere in the courtroom because they are most visible in the process of implementing legal norms, which involves ongoing performance and negotiation. The third part of the article explains how summary justice processes use informality by analyzing important aspects of the current magistrates' court workplace. To expand on that idea, we'll look at how two aspects of summary criminal justice—case management and plea negotiations—are affected by informality. Finally, I draw the conclusion that, while informality isn't always an operational goal of magistrates' courts, it is deeply embedded in the organizational culture of summary justice, which makes defendants feel excluded and makes it hard to understand the processes.

Lawyers and judges in Crown courts wear veils and bewigs. All parties involved are required to wear business clothing in magistrates' courts, excluding any adornments. Magistrates' courts are where defendants are "put" with charges. "Arraignment" on the "indictment" takes place in the Crown court. In their 2015 research, Jacobson et al. provided a superb analysis of Crown courts. ⁵ As stated by Kozlowski and Bell (2003, quoted in Ingram et al., 2013), members in a workgroup rely on one another to complete tasks and reach objectives within the parameters set by the organization and their specific function within it. ⁶ Due to their lay position, judges do not seem to have full membership in the organizational workgroup, yet they are part of the aforementioned workgroup. They don't seem to be really committed to the same body of knowledge as the members who have the legal right to be there.

2. Method

Here, we provide an argument supported by ethnographic data collected for a case study of magistrates' courts in one Southern English local justice region.⁷ Eleven businesses offered legally assisted criminal defense counsel in the region while the study was being conducted. There was only one prosecutor's office that dealt with all five courts in the area. According to Bryman (2012), "an intensive examination of a single case" is the goal of case studies, which center on a particular community. Case studies provide light on legal issues and enable us to question presumptions about the operation of the law in practice (Allen and Blackham, 2018). Although case studies can only ever look at one community at a time, there are recurring patterns that show that there are underlying themes (Young, 2013; Newman, 2013; Carlen, 1976). It would seem that the results of this investigation are consistent with the practice of contemporary summary justice. As a practitioner who has represented clients in magistrates' courts, my personal experiences corroborated the results. I took on the stance of an observer-participant during my investigation.⁸ It would be unfair to say that my own opinions and experiences did not influence my work as an insider entering the sector. The study process made me reevaluate my convictions and, on occasion, strengthened them. Even while my personal experiences enriched the research in certain ways, it is important to note that this is not an autoethnographic study (Adams et al., 2017). Insider information may not be "more truthful or more accurate" than information from the outside (Adams et al., 2017, p.3), but it may add depth and dimension to a tale. Moreover, I was able to "articulate tacit knowledge that has become deeply segmented because of socialisation in an organisational system and reframe it as theoretical knowledge" (Brannick and Coghlan, 2007, p60) because to my personal experience with summary criminal justice. Four weeks of observation⁹ and nineteen semi-structured interviews made up the empirical investigation. The social order of the magistrates' court is "an outcome of agreed-upon patterns of action that were themselves products of negotiations between the different parties involved" (Bryman, 2012, p19), and observations provided insight into the

nature of relationships between court personnel and patterns of workgroup behavior (Baldwin, 2000). With this knowledge in hand, we can see how defendants' perceptions of the proceedings are shaped by the culture of their workplace. I sat in the public galleries and used an observation form to take notes while the local magistrates' courts went about their everyday business. I believe the members of the workgroup were less likely to react negatively since I was a participatory observer. According to Brannick & Coghlan (2007), I could "participate freely without drawing attention" (p. 69). Just as in Flood's (2005) case, participants said they wouldn't act appropriately if a stranger had been there, but they didn't feel pressured to be kind when they observed me performing court observations.¹⁰ As an observer, it seemed that my more typical role as a team member reduced the reactive impact. Over the course of my visits to the five magistrates' courts, I saw 183 proceedings. I was a witness at every single hearing that took place, from administrative plea hearings to case management hearings, trials, sentence, and hearings about bond violations. In the fieldnotes, we used a template form to document the case's essentials and supplemented it with free-form notes that were later analyzed thematically. Pleas of guilt were entered in 41% of the instances that were observed. A quarter of the cases were resolved with not guilty pleas. Thirteen percent of cases did not have pleas filed because, for instance, the defendant was absent, the case was scheduled for a pre-trial administrative or procedural hearing, or the hearing was about the seizure of property. In the remaining cases, mixed pleas were entered (different pleas were entered to separate charges on the same charge sheet). Having conducted courtroom observation, I conducted semi-structured interviews with 19 members of the courtroom workgroup; seven prosecutors and 12 defence lawyers. Given my position, I felt compelled to investigate how advocates on both sides of the adversarial process saw summary criminal justice. To better handle matters in court, it is helpful to comprehend "interactions between different legal agencies, particularly between prosecutors and defence solicitors" (p. 15), according to Kemp (2010). Unfortunately, HM Courts and Tribunals Service refused permission to

interview court legal advisers. I sampled every practising defence solicitor¹¹ and every prosecutor in the relevant area, hoping to achieve a broad range of opinion across the case study and avoid the pitfall of assuming that answers or perspectives were already known to me. I interviewed all lawyers who responded positively to my enquiry. Due to the voluntary nature of participation, the data had the potential to be affected by self-selection bias. For example, the participants could have been drawn from a particularly motivated sub-section of the profession. Triangulating the interview data with courtroom observations, alongside interviewing both prosecutors and defence lawyers, minimised this risk. I conducted a thematic analysis of the data (Lange, 2005) via “recurring motifs in the text” (Bryman, 2012, p554). Themes that became apparent were the effect of changes to public funding, the ways law was used, matters related to speed/efficiency, and the use of documents in proceedings. One benefit of interview research is its ability to provide deep insights into participants’ perceptions about how procedures operate in practice. However, it must also be remembered “that all accounts from interview can only be understood in the context of the interview and any information given cannot be taken to mean the ‘truth’” (Bano, 2005, p103) because they reflect self-reported, post-incident behaviour, which may or may not match actual behaviour (Sommerlad, 1999). Again, that limitation is mitigated by combining the interview data with observation of actual behaviour, alongside analysis of studies (conducted by non-participant observers) which uncovered comparable data and reached similar conclusions.

3. Efficiency in magistrates’ courts

The efficiency of the criminal justice system’s workhorse, the magistrates’ courts, has long been a top priority. Demands for magistrates’ courts to be more efficient have grown in the last few decades, mirroring certain features of the larger neoliberal shift in public services (Bell, 2011). From 1997 to 2010, the New Labour administration prioritized auditing and goal setting in criminal justice, putting efficiency and case management demands ahead of defendants’ interests (Sommerlad, 2008; Cape, 2006). Defendants’ capacity to participate in discussions regarding the criminal justice system is hindered by the fact that neoliberal governments’

inclination toward decentralization, privatization, performance contracts in public services, and output measurements has resulted in the marginalization of welfare citizens. This exclusion has been documented by Sommerlad (2008). Cost and efficiency considerations have so far overshadowed discussions about defendant participation in the process. Since their introduction in 2005, the Criminal Procedure Rules (Cr.PR) have imposed strict deadlines on judges, requiring them to prevent unnecessary delays and allowing postponements. The court must actively oversee the handling of cases throughout the summary criminal procedure in accordance with these standards. The courtroom workgroup members were also explicitly obligated to cooperate and identify the case’s issues under 12 Cr.PR 3.3 of the Cr.PR 2020. This put an emphasis on cooperative, efficient working practices rather than adversarial principles, which would normally just give the defense the chance to prove their case. A new system called Criminal Justice: Simple Speedy Summary (CJ:SSS) was implemented in 2006 and 2007 with the aim of expediting processes in magistrates’ courts. According to the government’s official statement, “a platform from which we deliver simpler, speedier justice for our communities” should be the goal of the magistrates’ courts (Department for Constitutional Affairs, 2005, p4). The number of court sessions each case seems to have been reduced by CJ:SSS. For instance, defense attorney D informed me that CJ:SSS had a beneficial impact “in terms of focusing people’s minds at an early stage” of the case and decreased the number of hearings each case. Case management procedures introduced by CJ:SSS were helpful in focusing the concerns in cases, according to many respondents. The results indicated that professionals’ actions have changed as a result of pressure to be more efficient. The Stop Delaying Justice policy was adopted in 2012 by the Ministry of Justice, building on CJ:SSS. Transforming Summary Justice was implemented in 2015. Once again, the goal of both programs was to get the parties to work together more and get the cases through the magistrates’ courts faster. For Ashworth (2012), “the appearance of haste quickly becomes the appearance of unfairness, and of summary justice’ at its worst” (p. 31) becomes all too real. A potential erosion of justice principles might have resulted from the pressure on attorneys to handle matters as swiftly as feasible (Jones, 1993). How the group’s members, who are essentially “street level bureaucrats” (Lipsky, 1980), put policies into action will determine whether or not efficiency needs are met (Barton and Johns, 2012). To promote rapid case management, I propose that efficiency needs have depended on workgroup cooperation to be implemented, with a value placed on cooperative working relationships. The defendant may become even more marginalized if the workgroup becomes more cooperative. Defendants’ individual stories may take a back seat to the group’s emphasis on efficiency, which prioritizes streamlined case processing, professional relationship maintenance, and conflict avoidance (Tata, 2019). Standardized replies show how demands for more efficiency have impacted the informality of magistrates’ court, as will be described at 4.2 below. Defendants’ ability to comprehend the subtleties of courtroom conduct and, by extension, to play a unique part in the proceedings, has been



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weakened as a result of standardization and conflict avoidance.

Recently, demands for efficiency have given credence to the idea that defendants know their guilt or innocence regardless of the formalities and technicalities of the criminal process. This has led three of the defense attorneys I spoke with to believe that the court is overly rigid in its pursuit of expedited case resolutions. Carlen (1976), McConville et al. (1994), Jacobson (2020), and Welsh (2022) all provide evidence that defendants are frequently confused by the procedure and the legal requirements behind it, and that they tend to play a passive role in court. This contradicts the assumption that defendants know they are guilty. However, the introduction of efficiency drives has been based on political narratives about meritorious offenders, which may indicate a disregard for the demands of defendants, such as the need for their active involvement. Another measure that has been implemented to promote efficiency is the Criminal Justice and Courts Act of 2015, which has the effect of completely eliminating the need for magistrates' courts. The Single Justice Procedure (SJP), established by that Act, eliminates the need for adults to appear in court when entering pleas for non-imprisonable offenses. After a guilty or no-confidence plea has been entered, Without attorneys representing either side, the matter will be handled by a single magistrate and legal advisor. A notification informing the defendant of the process and their alternatives should be provided to them by the prosecuting authorities, who determine whether cases are appropriate for that procedure (Welsh et al., 2021). Although it may be considered the apex of information-malized processes, removing cases from courtrooms does not seem to promote active involvement from defendants. Assuming defendants get and comprehend the SJP, the process is reduced to a string of paperwork and checkboxes. According to Transform Justice (2019), more than 80% of those who were served with an SJP notice did not enter a plea. It is important to note that the magistrates' court workgroup uses legal provisions in a way that can further marginalize defendants and reinforce their status as "outsiders" to proceedings (Carlen, 1976), rather than trivializing summary court cases in this way. The proliferation of "virtual" hearings is another mechanism by which defendants are (even) more cut off from the actual setting of magistrates' courts. These cases include defendants who have been remanded into police custody after being charged. Instead of being physically carried to the court building, they appear in court via a TV live connection between the court and the jail or, in some instances, the police custody area. The defendant's attorney, if present, may meet with the client in a separate consultation room via video connection or at the police station. The goal of the HM Courts and Tribunal Service's summary criminal justice system is to reduce costs and increase efficiency via the use of virtual court sessions (Ward, 2017). This aligns with the overall goal of 'improving efficiency,' even if it is often described as a method of modernising the summary court procedure. However, it is more difficult to attain meaningful involvement and participation in virtual courts, and processes are also informalized (Rossner, 2021; Rowden, 2018; Welsh et al., 2021; Welsh, 2022). During the COVID-19 epidemic, the use of virtual magistrates' courts was enhanced. Part 12 of the Police, Crime, Sentencing and Courts

Act 2022 includes provisions to permanently increase the use of live connections in criminal prosecutions. One of the purported advantages of virtual courts is the acceleration of case processing times (Ward, 2017). Some defendants have reported having trouble communicating with their attorneys and not feeling able to adequately participate in proceedings when appearing via video-link, while defense attorneys have complained that it is more difficult to take instructions and establish rapport with a client who appears via video-link (Ward, 2015; Fielding et al., 2020). "That opportunities to identify impairments and make adjustments are lost or reduced when a defendant appears in court by video-link rather than in person," the Equality and Human Rights Commission (2020) said. More "surreality [of proceedings] which atrophies defendants' abilities to participate in them" is added by this method of carrying out judicial proceedings (Carlen, 1976, p19). Consequently, it seems that defendant marginalization is worsened by efficiency measures.

4. Working culture in magistrates' courts

The formation of mutually convenient, cooperative groups by lawyers to promote quick case development is a key factor in efficiency (Young, 2013; Newman, 2013). Lawyers represent around 70% of defendants in magistrates' courts (Welsh, 2022). The participants in a court case "are from different institutions, have different goals and are formally arranged in an adversarial relationship, but they often bind together in mutually convenient informal networks," as pointed out by Snipes and Maguire (2007), on page 30.13 Also, as Young (2013) points out, when people on a team are already acquainted with one another, it's easier for them to build stable networks that can negotiate formal case results informally. Both McBarnet (1981) and Carlen (1976) made reference to the games that professionals in magistrates' courts play to negotiate results, which leads to defendants being marginalized. "Outsiders do not function in the legal system," Newman (2013) said. "The world of lawyers and jurists is a member's only club," (p. 10). Examining how people act in groups at work sheds light on how defendants' experiences with the criminal justice system are shaped by a complex web of structural and cultural factors. the courtroom workgroup's actions determine whether efficiency-enhancing proposals are really put into action. Since the 1980s, when the workgroup began to feel more pressure to conduct more efficiently, courtroom players have changed the atmosphere to make group negotiations easier, further isolating defendants from the process (Welsh, 2022). One prosecutor, for instance, mentioned wanting to bargain more often and actively once CJ:SSS was implemented since it helped with statistics, which were seen as crucial for proving efficiency. My own research and that of Newman (2013) both point to the persistence of a culture of cooperation among magistrates' court

staff, which keeps defendants on the periphery of proceedings.

4.1. Working efficiently and expeditiously (and obscuring legal formalities)

The goal of the workgroup is "to progress through the work of the day with minimum levels of confrontation and maximum levels of speed" (Leverick and Duff, 2002, p. 44) due to the high amount of cases that go through the magistrates' courts, as mentioned before. According to Johnston (2020), a number of the defense attorneys he spoke with have welcomed the increased expectations for cooperation that have been introduced by the neoliberal management style, which seeks ever-increasing efficiency from the magistrates' court workgroup. Simultaneously, increasingly intricate legal restrictions, such as evolving regulations regarding the Criminal Justice Act of 2003's provisions regarding the admitting of hearsay and character evidence, as well as the introduction of the Cr. PR. Someone who isn't part of the court workgroup will have a hard time understanding what the requirements include, much alone being able to engage effectively, due to the nuances with which those rules are implemented. Examining such activities in magistrates' courts might be challenging due to the pervasive notion of triviality (McBarnet, 1981a). Perhaps more pressure is on defendants to engage now than in the 1970s due to more complicated legal requirements put in place at the turn of the millennium and ever-increasing expectations for speed.¹⁴ The defendants, however, lack the resources necessary to fully engage in the increased demands for involvement brought about by efficiency drives (see 4.2 below) due to the habitual informalization that the workgroup has adopted. But it's very unlikely that anybody on the team would question the established wisdom in their field of expertise. Lawyers who bring up "spurious legal issues" are not welcome in magistrates' courts, says Darbyshire (2011), since they undermine the "uncomfortable compromise" that Carlen (1976) said characterizes the interactions among court workgroup members. It is often believed that legal matters do not belong in magistrates' court proceedings because of this, according to McConville et al. (1994) et al. (p225). Someone informed Carlen (2018) that magistrates' courts deal with "rubbish" (p.178) and wouldn't notice any law in her previous research. But as Darbyshire (2011) points out, just because legal arguments aren't used very often doesn't imply they aren't utilized routinely in summary proceedings. Consistent with the negotiated culture of quick justice is the practice of applying the law in a routine manner; yet, this routine may obscure complicated decision-making and even obscure the law

itself. More than half of the advocates surveyed said that hearings involving unrepresented defendants took longer to conduct due to the necessity to explain the legal requirements and courtroom etiquette involved, highlighting the significance of specialized expertise. The defendants without attorneys were characterized by defense attorney F as "a loose cannon," prosecutor J as worried about the defendants "stitch[ing] themselves up," and defense attorney A as experiencing "agony" while seeing the deposed defendants in court. From around 18% to about 30% of defendants have shown up in magistrates' courts without legal assistance since 2010 (Welsh, 2022). Less access to publicly financed legal counsel seems to be associated with this shift. Defendants are required to participate in case management hearings (as will be discussed at 4.2), therefore it becomes even more problematic for unrepresented defendants when processes are informalized in a manner that makes them less clear to those outside of the workgroup. Accordingly, the magistrates' courts exemplify "the paradox of a legal system which requires knowledge of procedural propriety in making a case, and a legal system that denies access to it." (p. 124 in Mc Garnet, 1981). Performance and operation of the paradox have evolved since the 1980s due to rising efficiency needs (see 4.2, below). An epistemic community of informalized legal rules that hinder laypeople's capacity to participate in the process is reinforced by the co-option of attorneys into efficiency drives through the negotiated application of procedural and legal principles. Because of these performance-based features, magistrates' courts are "fully accessible only to those duly consecrated" (p63), according to Smejkalov'a (2017). Based on what I've seen, summary procedures often include both overt and covert allusions to certain areas of law (Welsh, 2013). Out of the twelve defense attorneys and seven prosecutors polled, ten said they often make inferences based on general concepts rather than citing specific statutes or cases. Prosecutor Q offered an illustration of this problem when he said: "So, for example, when a suspended [prison] sentence is to be triggered I would say 'you should do that unless it is unjust to do so.'" (Quoting the legislation to illustrate his point). Do you understand what I mean by "that statute"? I don't know the exact name of it. My goal is to be as precise as possible. This lent credence to my prior observation that, when discussing legal matters, people often utilize informal, implicit language while still making use of formal, specialized legal terminology (Welsh, 2013). These methods are on display in the arguments that advocates deliver in court. Such actions lend credence to the theory that, although seeming casual (via subtle allusions to the law), magistrates' court sessions are really subject to intricate legal processes that

prevent defendants from fully participating in the proceedings. The defendants may struggle to grasp the significance of arguments presented during their proceedings due to the lack of accessibility to the provisions of law caused by their informalization. The possibility of defendants being further excluded from the process grows as a result of the increasing complexity of legal rules in the twenty-first century and the pressure on attorneys to work more efficiently. Because of their expertise in case management procedures and their ability to negotiate case outcomes, specialist practitioners are able to move cases forward more quickly. A loose standardization of casework was fostered by this. For Leader (2020), one of the most important aspects of professional identity is the way in which organizations, including the legal system, standardize their practices. This is because it prevents inexperienced individuals from learning the nuances of their responsibilities via observation and experience. Workgroups may further standardize processes via the use of outcome-specific repetitive negotiation (Castellano, 2009). Furthermore, standardization of techniques is likely to occur when members of a workgroup are acquainted with one another and cooperate with one another (Young, 2013). The criminal justice system relies on these procedures to standardize and convert case data into specific forms of knowledge (Tata, 2020). Although practitioners may find it easier to navigate company culture as they grow more proficient at it, ordinary participants and defendants may find it more confusing. Everyone in the team is competent enough to

The power imbalance between those with the means to understand and negotiate rules and those without is reflected in the informalization of legal norms via implementation methods. The prosecutors who were interviewed all agreed that the court, the defense attorneys, and the crown prosecutors frequently work together in a cooperative fashion, resolving conflicts and issues through casual conversation rather than the more adversarial methods that necessitate drawn-out legal arguments and rulings. Actors, it seems, want to keep things casual on the job and stay away from anything that may be seen as controversial. According to Prosecutor M, "we've probably fallen into, not deliberately but accidentally, some sort of compromised way of working." The defense attorney's role is not to mediate the proceedings, but there appears to be a lot of room for discussion and finding the best outcome, so the interviewee, A, did admit that this is a difficult position to be in. It seems like there has been a shift in perspective among the group members, since these remarks suggest that contentious matters are being addressed earlier in the

proceedings compared to when the group was formed in the mid-2000s. According to Newman and Welsh (2019), attorneys already have a hard time fitting everything into their schedules, and this might further divert attention from the requirements of the defendant. Extrinsic drive for more efficiency may have disrupted the behavior of the judges' court workgroup, but negotiating tendencies seem to have a significant impact on summary processes. Considerations such as case management processes and plea discussions highlight the growing informality of cooperative workgroup activities.

4.2. Case management

It was proposed that pre-trial review hearings may reduce the number of unsuccessful trial listings in magistrates' courts; this idea eventually developed into case management hearings (Narey, 1997). When it comes to managing cases, Auld (2001) thinks that prosecutors and defendants/their attorneys should work together more closely. With the implementation of Transforming Summary Justice and the Criminal Procedure Rule (Cr.PR) (see above), magistrates' courts began to anticipate that all parties would be able to handle the case at the first hearing. A standardized form known as the Preparation for Effective Trial form is used to complete case management (Welsh and Howard, 2019). In an effort to make the most efficient use of the court's time, the forms were first introduced in the 2000s and ask the parties to specify which evidence problems as well as which factual and legal subjects are at issue during trial. According to Welsh (2022) and Smejkalov'a (2017), the form explains and classifies an issue into certain legal categories. Forms are procedural legal artifacts that depict formalization processes (Riles, 2006), but the group's operations are based on socially negotiated practices that are more casual. Forms are a formalizing measure that forces group members to interact with specific legal provisions and procedures; however, when the document is filled out, it becomes just another socially negotiated practice, rather than an implementation of the measure. As the form is used to meet the perceived requirement for efficiency, the application of legal principles is standardized, leading to the routinization and informalization of legal standards. Through standardization, formal case management processes are transformed into a process that is both familiar and easy to conduct. As a result of questions being reduced to a succession of checkbox responses with limited room to discuss the difficulties, case management forms undergo standardization in the sake of efficiency (Welsh and Howard, 2019; Welsh, 2022). Consequently, we are able to get an idea of the kind of thing that Brenneis called "frameworks for guided response" in 2006 (p.49). Case management was deemed beneficial by six out of seven prosecutors questioned, but by only three out of twelve defense attorneys. 'The system truly is being rushed through... for the purpose of expediency as opposed to fairness,' defence counsel G stated. It seems that the magistrates' court workforce has recently adopted a more standardized approach to form filling, which might be seen as a sort of

informalization in proceedings. As far as anybody can see, this procedure only adds to the defendant's marginalization. In spite of their informalized implementation, the processes administered via case management forms remain extremely formal, since specialized legal knowledge is essential to complete the form effectively (Johnston, 2020; Welsh, 2022). Half of the people surveyed in this study agreed that filling out a case management form correctly requires expert legal knowledge; for example, defense attorney C said that one needs "specialist legal skill on dealing with witness requirements," while prosecutor Q said that seasoned attorneys can fill them out in no time at all. "I don't think that defendants themselves would be terribly well equipped either to fill out case management forms, to fill out forms asking to adduce hearsay, or to fill out forms asking to introduce a co-defendant's or a complainant's bad character..." went on defence counsel F to explain. As mentioned earlier, the defendants' capacity to appropriately interact with technical procedural and legal problems is limited, and the essence of legal procedures is informalized due to the reduction of specialized knowledge necessary for case management to standardized responses. There is a danger of oversimplifying legal matters while using case management forms, as prosecutor H admitted. This is particularly troubling since defendants are compelled to cooperate with the prosecution process in order to fulfill some components of case management, such as stating that they would depend on character evidence or a "no comment" interview. Their statements being used against them in court or evidence being admitted (Owusu-Bempah, 2017; Welsh, 2022).¹⁶ The forms address complex legal matters that are meant to be formal and sophisticated. In practice, nevertheless, the forms quickly become second nature and a tool for moving cases forward quickly; in doing so, they reduce complex legal requirements to a familiar form of checking out boxes (for the workgroup members). Forms may be formal tools to guarantee efficient practices, but the way the team uses them makes them less formal and makes their significance harder to see. Therefore, their intricacy is concealed by the presentational standardized informality of the events. Because defendants are required to complete legal requirements by referring to a form instead of arguing them in open court, the process becomes more casual among workgroup members but, perhaps, more distant for defendants. Meanwhile, attorneys may maintain their independence and professional identity by using their specific expertise in form completion. Despite evidence from earlier studies indicating that defendants would have been marginalized regardless of open adjudication, defendants are compelled to participate in case management, often via their legal counsel. Consequently, the defendant is simultaneously compelled to participate in this efficiency-enhancing strategy, even if they are not provided with the necessary resources to do so. With more and more defendants showing up in magistrates' courts without attorneys, this might become a major issue. These problems seem to be either a worsening of preexisting ones or a new degree of defendant marginalization. It seems to further expand the manner in which procedures are informalized. Thus, case management processes are a great illustration of the conflict that exists in the workplace between too formal and too casual approaches. The efficiency of the court system takes precedence above the

defendants' capacity to be actively involved in case management processes. Evidenced above, case management is heavily dependent on the specialised knowledge of cooperative lawyers. However, as a result of standardization, case management has become a process in and of itself, shrouded in an air of informality that makes it harder to grasp the full impact of summary criminal procedures. Case management hearings, as pointed out by Welsh et al. (2021), "do not merely legitimize a pre-existing practice of furtive negotiation as standard practice, but rather enable it to take place on a wider basis." The standardized case management forms expressly encourage the parties to engage in plea bargaining, similar to how attorneys are requested to verify that their clients are aware of the credit that may be earned for pleading guilty early (p373). Thus, case management includes aggressively encouraging parties to engage in plea bargains in order to preserve efficiency, despite the fact that plea bargains have historically proven problematic in criminal cases. These kinds of discussions highlight how vital the workgroup culture is to the judges' court.

4.3. Plea negotiations

In contrast to their American counterparts, magistrate courts in England and Wales do not formally use plea negotiating, sometimes called bargaining. Although plea bargains are common in summary criminal cases, they always begin with informal pre-court discussions between the prosecution and defense. Plea bargaining has long been a part of the hectic magistrates' courts, where Carlen (1976) pointed out that the police may propose a lesser charge in order to get a guilty plea sooner rather than later. For the sake of case administration and the ever-increasing efficiency requirements placed on magistrates' courts, it is customary to require defendants to be able to enter their plea during the first court appearance. Nearly half of the attorneys surveyed agreed that plea bargains occur much too early in the process, sometimes before all of the relevant evidence is at hand. The idea of letting offenders postpone entering pleas until a better-informed choice might be seen by some defense attorneys as having long-term advantages. G, the defense attorney, said Plea negotiations are a powerful weapon for advocates in magistrates' courts due to the expectation of quick pleas, often before all evidence is given. Courts and its workgroups rely on plea bargains since the system may collapse if enough defendants filed not guilty pleas (Helm et al., 2021). Consequently, the parties understand the need of working together. The cooperative workgroup culture that is evident in a busy magistrates' court is further emphasized and strengthened during plea discussions (Welsh, 2022). It is possible that defense attorneys might plead not guilty as a means of avoiding efficiency demands when they believed due process rights were being overstepped (Welsh, 2022). A further relationship between efficiency, plea negotiations, and standardization or, as Hamani (2014) might say, a kind of ordered informality, is highlighted by McConville and Marsh (2016), who explained that plea negotiations increase "control over output through consistency of production methods" (p. 102). Plea bargains were ultimately regarded favourably by the questioned prosecutors and defense attorneys. Everyone agreed that plea bargains helped get things moving forward faster, which cut down on wasteful spending, and that they may enhance results for both sides. Victims

and offenders alike might stand to gain from a fair plea bargain, according to both the prosecution and the defense attorneys. During the plea discussions, both the defense and prosecution were very conscious of the need to treat victims with dignity. Soubise (2015) emphasizes that prosecutors are worried with recording expedited guilty pleas in cases, which has to be considered in light of these findings. When faced with cases involving vulnerable victims or witnesses who refuse to testify, prosecutor P made it clear that they would not be the kind to reject a grounds, lesser plea, or combination of pleas. As long as the new verdict accurately represents the crime, I don't see it as a terrible thing if it results in the same sentence or one that is quite close.17 It is common practice for defense attorneys to confer with prosecutors on their clients' cases before to meeting with them, illustrating the significance of the network and facilitating plea talks (Newman, 2013; Welsh, 2022). The magistrates' court's culture may take precedence over defendants' capacity to participate fully in the process if the workgroup is prioritized in this manner. Defendants may feel excessive pressure to plead guilty if plea talks are the result of informal pre-court conversations (McConville et al., 1994). The likelihood of guilty pleas being "not always or even typically consensual admissions of guilt, but rather tactical decisions based on forecasting the probability of conviction at trial and the likely outcomes of trial, and evaluating potential discounts in exchange for pleading guilty" (Helm, 2019, p162) is higher in these types of plea negotiations.

Magistrates' courts have a lot of cases, which leads to routine work and plea bargaining (Mulcahy, 1994). However, this could put management priorities ahead of defendants' requirements. It seems that defendants are influenced to make early guilty pleas by the informal incentives of time and expense, particularly considering the reduction to legal aid funding (Welsh, 2022; Helm et al., 2021). According to Sudnow (1965), defendants are left out of the process when plea bargaining takes place, and the result is "a set of unstated recipes for reducing original charges to lesser offences" (p262) (Baldwin and McConville, 1977). As a result, efficiency takes precedence above the requirements of individual defendants, and defendants may be unable to contribute to the plea bargaining process because they lack knowledge of key information. The procedures in place serve to solidify the workgroup's informal cooperative but closed character inside the summary criminal court. Informally negotiated plea deals have the potential drawback of leading to (an incorrect) guilty pleas in situations with inadequate evidence, as pointed out by McConville et al. (1991). According to McConville et al. (1991, p. 167), defense attorneys often end up becoming "part of, rather than challenger to, the apparatus of criminal justice," which can lead to the submission of an incorrectly negotiated guilty plea. Lawyers in magistrates' courts seem to have formed a practice of avoiding engaging in "legal manoeuvres that would aggravate other members of the workgroup" due to the informal nature of the negotiations that take place in these cases (Young, 2013, p232). Participants in the research acknowledged that informal plea bargaining had some significant advantages, regardless of whether they were trying to avoid the negative connotations associated with the practice or not. "The defendants themselves like to feel as though they've got something," prosecutor M stated. They would have felt like they had won something, even if it was just a tiny movement, and would have been more receptive to appealing for anything, no matter how little they received in the end. Both the defense and prosecution attorneys who participated in the interviews had positive things to say about the plea bargaining

process, demonstrating the value of informal cooperation and negotiation to the judges' court team. The defendants' limited involvement with summary criminal procedures, however, makes it seem doubtful that they will be able to take an active role in them. Therefore, it seems that magistrates' courts are being pushed to function under an air of informality that masks the technical aspects and intricacies of summary criminal justice, due to the familiarity with courtroom workgroup behavior and the increasing expectations for rapid case management. Defining summary criminal justice in a way that defendants cannot comprehend weakens their agency by preventing them from making well-informed judgments.

5. Conclusion

When it comes to criminal cases in England and Wales, the courts that handle the most cases are the magistrates' courts. These courts are known for their localized and practical approach to justice (House of Commons, 2019; Welsh, 2022). Along with more severe cases like assaults, thefts, and burglaries, they handle a large number of lesser offenses. One strength of magistrates' courts is their seeming informality, which is based on common sense. However, this strength is being threatened by the rise of virtual court procedures. Be that as it may, more people have voiced their disapproval of the virtual courts' lack of formality in connection with proceedings in the Crown court than with those in the magistrates' courts. Maybe this shows how people think magistrates' courts can get by without the same degree of formality as is customary for the handling of more grave matters by the legally competent judges of the Crown courts. One prevalent misconception is that magistrates' courts do not need as much formality as Crown courts. This misconception is borne up by the fact that these courts really follow regular case management processes and engage in casual plea discussions. By analyzing the procedures of case management and plea bargains, we may see how various players in the courtroom are constantly acting out and negotiating the level of formality. The appearance of casualness in magistrates' courts tends to make these procedures inaccessible to anyone outside of the workgroup, thus common sense in that setting does not serve us well here. Even though they are meant to be more approachable than higher criminal courts, the informality of magistrates' courts actually makes them less so. This erroneous impression of casualness seems to stem from the rapidity of the proceedings, which is enabled by effective workgroup procedures in the courtroom. Magistrates' courts rely on informal social interactions inside workgroups to put formal legal norms into practice, which (even more) disempowers ordinary participation. Therefore, we may learn a lot about the formality-informality continuum in summary criminal processes from the examples given by magistrates' courts. We may learn about the existence of power imbalances in magistrates' courts by looking at

these procedures. So, as said earlier, the idea that summary criminal courts benefit from informality is a complicated and problematic one. It is significant how informality shows up. Carlen (1976) expressed worry that "the judicial rhetoric of an adversary justice" (p46) is ludicrous in summary criminal trials, and the current informality in magistrates' courts further supports this view. While the criminal justice system in England and Wales is structured to be adversarial, cooperation was seen as essential to getting a "good" outcome in these magistrates' courts... The informality that arises from the high rate of case processing and the high degree of cooperation among workgroup members continues to limit defendants' chances of understanding and being involved in the process. The defendant's active involvement is acknowledged as a crucial component of due process in criminal justice, but this is likely to lead to a decrease in such engagement. Furthermore, it seems that the solution to this issue does not lie in making magistrates' courts more formal. According to Jacobson et al. (2015), defendants and witnesses have just as much of a chance to comprehend and take part in proceedings in the Crown court, which is known for its more formal setting. Excessive formality, when mishandled, may be just as alienating as too casual. More active engagement of defendants and other parties, active verification of correct understanding of procedures, and increased awareness of the parties' roles in maintaining practices that alienate non-workgroup participants could make magistrates' court proceedings more accessible and, therefore, potentially solve these problems. Although many attorneys probably resist the urge to skimp on courtroom procedures due to budget cuts (Welsh, 2017; Newman, 2013; Thornton, 2019), it is important for lawyers to brief participants on the workgroup's procedures before the courtroom even opens. Once proceedings begin, lawyers should also be mindful of how their words might exclude other parties. Reducing the pressure for swift justice by slowing down proceedings is not likely to be a politically popular suggestion, but it might give participants more time to reflect, lessen their professional reliance on the need for cooperation, and have less rushed discussions about cases with all parties. Finally, considering the informality of proceedings in magistrates' courts necessitates thinking about the ideals we would want summary criminal procedures to embody. Inasmuch as it does not hide anything that may compromise due process rights, informal justice can be acceptable. If, considering the number of cases handled by magistrates' courts annually, informality is desired, great care should be taken to ensure that those who are facing criminal prosecution are not prevented from actively participating.

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