



## **Experiences of criminal justice in south Wales**

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This submission is based on a research project funded by the British Academy intended to bring together the experiences of those who use the criminal justice system in south Wales. We will provide evidence of some of the reflections of the participants, which should inform the Commission's understanding of the operation of the criminal justice system in south Wales. This evidence will provide some brief excerpts of the interviewees' experiences, with the study to be published in full at a later date.

### *The research study*

We interviewed 69 participants across the course of 2018/19. The sample comprised of 20 solicitors, 16 barristers, 6 police officers, 2 prison workers, 10 people who had been convicted of crimes, 12 family members of people who had been accused or convicted of crimes and 3 others who had been witnesses in criminal cases. The following codes have been used: DS for defence solicitor, BS for barrister, PO for police officer, PW for prison worker, CC for those accused or convicted, FM for family members, and SC for those who had been witnesses.

We conducted semi-structured interviews, which have been anonymised to protect the identity of those who took part. Interviews took place at a variety of venues: in participants' offices, at court, in HMP Cardiff, and at the offices of the researchers. The length of interviews ranged from 10 minutes to two and a half hours with an average length of around an hour.

There was a breadth of experience from across the region. Participants were based in Cardiff, Gwent, Swansea, the Vale of Glamorgan and the Valleys. Solicitors were drawn from 16 firms and barristers from 5 chambers with a mixture of those who had solely practiced in Wales and those who had also worked in England.

This research built on previous work conducted separately (Newman 2013; Dehaghani 2019) – and in joint publications (Dehaghani and Newman 2017; 2019) – where we have argued that more research needed to be done into the experiences of those suspected and accused of crimes. The research was premised upon developing a holistic understanding of the experience of being in the criminal process, informed by key events and relationships within the criminal justice system.

In this evidence, we have picked out five themes from the interviews that may be of particular interest to the Commission. These are offered with representative quotes from interviewees.

### *Court closures*

One of the most important issues for the interviewees in this study was the significance of court closures across south Wales. Time and again we heard complaints about way court closures were having an adverse effect.

'The courts ... Carmarthen Court has closed, Ammanford Court has closed, so for Carmarthenshire it all comes down to Llanelli. Quite often on a Saturday duty in Llanelli we'll find out that people are brought out for minor stuff, because ... they're talking about drunk and disorderly, that sort of stuff, or because they're homeless and they haven't got a flat, so the police will keep them in for court on the Saturday and quite often you'll see people coming down and you think, "Why on earth has this person been dragged here?" and then the magistrate's obviously got immediate sympathy for them ... they might actually be better off because you're dealing with it there and then and they might get

a better sentence, but they're still dragged ... halfway around the country ... Haverford West up to Llanelli. The worst, talking from experience ... that I've ever been involved with a fifteen year old on a Section 5 public order. So not an imprisonable offence, okay? He gets arrested in Burry Port, gets taken in the car, en route to Llanelli, gets told Llanelli is full, go to Ammanford. En route to Ammanford he is told, Ammanford is full, go to Haverford West. En route to Haverford West, he gets told Haverford West is full, go to Brecon.' (DS11)

'I mean I've had clients who have been arrested out of area, and they have problems getting back, but that's a different issue, isn't it? I haven't found it to be too bad ... I remember having a client coming from Porthcawl, and he was worried about the money because he'd only get the money back, you know, if he's found not guilty, and then he can make an application, but he's also got to pay his own train fare stuff, and, you know? Of course, the judges ... well what can they do? They can't do anything about it, but it's, you know, five quid there, five quid back, he's on like fifty-three quid a week, whatever it is, that's a lot of money, isn't it? And also frustratingly ... you go to court and nothing happens, and it gets adjourned and you have to come back again. Less so now, so you've got to balance that with being too fast.' (DS16)

'Yes, it is hugely significant in Swansea, because Swansea is, covers the whole of West Wales and it's a massive geographical area. Initially, there were Crown Courts in Carmarthen, there were Crown Courts in Haverfordwest. The Crown Court in Haverfordwest covered the whole of Pembrokeshire, and Pembrokeshire is a big old county. They closed the original court in Haverfordwest and built a new court, which was allegedly a combined centre, magistrates and Crown. The Crown Court was so badly designed it was unusable ... as soon as counsel stood up ... if you were on the jury, you couldn't see the witness ... So Swansea has gone from having effectively seven courts to four courts ... you would have people basically travelling from Swansea – to Swansea from Pembrokeshire, taking hours and hours and hours to simply plead not guilty, and spend all their money for one hearing ... People who have the misfortune of being charged with indictable-only offences from Pembrokeshire, unless they're remanded in custody, they're not going to get to court. Well they do, but I mean it's, you will often a case where, you know, the bus is gone, the train's broken down, or his lift didn't turn up ... It's just not fair, and there is no... alternative provision for allowing somebody to say, "Well, I'll plead not guilty, but I'll do it from round the corner from where I live" ... there should be a provision for that, and ... well it's the same in the magistrates' courts isn't it? ... they've closed so many of the outlying magistrates' courts ... I would say surprising; it's maybe not surprising. Very few people at that level have access to private transport. You know, they may be relying on someone giving them a lift.' (BS15)

'You've got people now ... the boundaries for which court you go to ... you're just on the wrong side of a boundary, you've got a person that doesn't work, is shoplifting because they've got no money, expected to then be in Cardiff by nine thirty AM. Well, it's just not going to happen. And then warrants issued for their arrest, and... and some people would rather let a warrant issued for their arrest just so they can get to court. Like, "Well, come and get me if you want to get me there, because I haven't got the money to pay for it" ... I never understood why they closed Pontypridd Valley Magistrates' Court. I've never understood it. Because every time that I went there it was rammed, and that was covering all of that part of the valleys. So now, you know, if you're just on your boundary you've got to get to Merthyr, just on the other side of it you've got to get to Cardiff, you know, those are your only two courts... when I started ... there were so many more courts. You had Blackwood, you had Pontypridd ... Same with police stations as well. You know, it used to be the case that you would be

going to a local police station for interview, whatever else, but now, all Bridewells. They're all big Bridewell stations ... I've found they've started using the local courts now for VA interviews, voluntary attendance interviews. So they're called VA suites, like in Neath Police Station: they haven't got custody there anymore, but if it's a voluntary attendance interview you can go there, instead of having to get to Swansea. So it's a little bit closer, but it's still, you know, Port Talbot to Neath, someone who doesn't drive, got no money, it's still a bit of a trek ... Pontypridd magistrates' court was perfect for covering that catchment area ... There was just no reason, no need to close that, I don't think ... There's a lot of clients that are always late, you know, and they, as long as they keep you updated you can kind of buy a bit of court time for them. Some district judges won't stand for it. If you're not there by the time your case is called, they'll issue a warrant for your arrest.' (DS14)

'That's becoming more of an issue, because they're shutting courts. When I started ... each area had a local court. Now everything is in Newport. Some stuff is still in Cwmbran, the youth court ... So people are having to travel a lot further. We had a client today who lives in, just north of Merthyr, who, it's an offence of harassment, so they deal with it in the area where the complainant is. So even though he's miles away, the offence is committed in Gwent, so he gets dealt with here. So he was interviewed, denied it, has received a postal requisition at very short notice, and can't afford to get from Merthyr to Newport ... the individual I spoke to today was threatening to kill himself. He's rang the court and said the same thing. Because he's not without his problems, and he just can't afford to get to court, and doesn't want to be in a custodial setting. And that's a risk, as soon as they issue a warrant ... I had a client who I represented as a duty, two weeks ago, he's brought in from Abertillery. He was brought to Newport because Merthyr, his local court – I mean it isn't even that local – doesn't have disabled access in the cells, and he's wheelchair-bound. He had an accident in the army. He's brought to Newport, plead, he denies the breach of the community order that he was on and it gets adjourned for trial back to Merthyr. But he's just given a travel warrant to get home ... So that'll be a train from Newport to Cardiff, Cardiff to sort of Pontypridd area, maybe a change in Pontypridd to get up to Abertillery, and this is at half five in the evening. Still don't know if he made it home.' (DS7)

The impact on of the court closure programme since 2010 on all court users needs to be better understood with, for example, the closure of over half of our Magistrates' Courts likely to have a dramatic effect. As a part of this, whether and how digital provision could mitigate some of the ill-effects court closures having on users in Wales need to be fully drawn out.

#### *Police station closures*

As well as talking about courts, solicitors and police offices identified the significance of police stations being closed or downgraded in the region. While issues with police stations were not raised as often as court closures, they were still a significant issue in south Wales for our interviewees.

'I go on loads of sort of meetings and courses and sort of if you're a lawyer in Mid-Wales then, I can't remember, when they were doing the last that competitive tendering malarkey for crime, then a lot of the lawyers were saying in Mid-Wales that they had to drive seventy-five miles to their police station. It was a hell of a long way.' (DS1)

'People arrested for a Barry matter now are taken to Bridgend. You know, which is a fair old way from Barry, let alone Cardiff. And of course people who are in court, who are offending in the Bridgend area, or Bridgend Neath area, they've either got to go to Swansea or they've got to go to Cardiff,

depending on which part of the area. So that's quite a bit of travel. And up in the Valleys, oh God, a huge number of courts have shut. I can't remember what's left. Cwmbran still operates ... that's probably about the only... proper Valleys court left, I think. The rest go to Newport, Merthyr, and Cardiff, or they go all the way up to Llandrindod Wells. So there's huge amounts of travelling involved. And probably for solicitors as well ... to some extent it's been a benefit for the lawyers based here in Cardiff, whose practice is substantially in Cardiff. Though for the clients far less so.' (DS18)

'The biggest problem I find is getting hold of the CPS and the police. That I find extremely difficult, just not being able to get through. I think that's a problem in that there's a lot of unmanned police stations, and when an officer's based at an unmanned police station it's nigh-on impossible to get through, and the thing with CPS is you just get no response to phone calls or emails. I don't know if that's because they're understaffed, though, but that's the biggest frustration, I think.' (DS13)

Data needs to be collected on the police station closure programme across Wales and research conducted into its impact. Both, practitioners and members of the public who have been involved with the police station as suspects or witnesses should be talked to for their experiences of police stations becoming centralised.

#### *Future of Legal Aid Practitioners*

As well as cuts to courts and police stations, legal aid cuts were also identified for the manner that they affected practitioners in south Wales. Solicitors also talked about the impact that legal aid cuts had on law firms and the ways these struggled to survive as well the impact of cuts on the recruitment and retention of barristers.

'The last contract tender was quite a complicated one. They tried to introduce almost competitive tendering, where they wanted to restrict the number of firms in an area because there's misbelief that if you get bigger you make more money because your costs go down. But as I said you, it doesn't work like that because of the contract that they issue. You have to have a certain number of staff per fee earner, and a certain number of supervisors per fee earner. And every other cost goes up when you expand, but they only wanted four firms in Gwent that would do duty work. So we entered this tendering process, where we had to go through this process of supplying documents, and answering all these questions, and essentially writing a huge document like a prospectus as to how we would service that contract and why we are best suited as opposed to other firms to do that ... But if we were the only firm left in Gwent, then you know you can to a certain degree play more hardball with the legal aid agency: "Well, I'm not signing that contract." But we're going to end up in that position in about ten years when all these people leave the profession.' (DS7)

'It impacts on the work I do, it impacts on the advice that I give to students that want to be criminal lawyers, I tell them not to do it. With a heavy heart, but I tell them not to do it, because they'll never – they'll always be poor! Because it's hard work being a legal aid lawyer and it's very important, obviously. And it's so badly remunerated ... it's ridiculous. I could earn more money if I went and manged a KFC than I could if I was a legal aid lawyer in Cardiff. I mean I've got another job now ... but if I had to do that all the time, I don't think I would. I don't think I would do it for the money, because ... it's just not enough. And if you're, if you're in the police station on a Saturday night, dealing with an attempted murder, you've been a solicitor for eighteen years, you'd expect to earn more than seventy quid to do that case. People think that, you know, that you earn a lot of money! And it's not

just the shop-lifts and everything else, it's a big serious world that requires a lot of expertise, and, you know, and anti-social hours and everything else, so you don't get paid properly for it. But it's also unfair to the defendants, it's very unfair. I don't know if you've seen they want to reduce the minimum sentences? So that will impact greatly on legal aid because we won't get legal aid for anything that's going to be in the magistrates' court because they won't be at risk of custody. I mean unless they hit one of the other interest of justice tests, but the usual, isn't it, is real risk of custody.' (DS14)

'And it's going to be a big problem in the future, because on thing I should stress about the cuts is the job is dying from the bottom up. If you go around the chambers in Cardiff now, we always historically used to have tenants in that call grade of nought to ten years called the 'junior tenants', learning their job, nought to five years' call, we'd always have about five or six people; five to ten years' call, we'd have five or six people. So we had a team of people under ten years' call that would be about ten people, and that would be across all the chambers. Now, we just cannot get people, once they've qualified, to do criminal work. They just do not want to do it because the money is so bad, they don't see any career path there for them to do it ... Your first five years you're just trying to learn the job. Second five years you're promoting yourself forward, you're getting into more serious work. Then after ten years' call, you've got to motor on and do more and more difficult cases ... There is no one coming up behind. Absolutely no one. We cannot get our tenants, once they cross the line and become a tenant here, they look at civil, family, immigration, and see that they can earn twice as much.' (BS2)

'The bar will contract, the criminal bar, in Wales, I think. Because solicitors are under financial pressure as well, a lot more than Crown Court to do work, you know, well that's a business decision they've got to make. That takes work away from the bar, so it will contract. And just trying to think from a Welsh aspect in particular. I just think, I'm really worried about the recruitment of junior criminal barristers. Where are we going to be in ten years' time? Are we going to have a body of people here in Cardiff who are going to be able to do that work? That's what I wonder.' (BS4)

There is a need for more research to look into practitioner numbers and the demographic profiles of practitioners (age, sex, class) across Wales to explore the impact of legal aid cuts on legal advice. For example, the problem of advice deserts for Wales is becoming increasingly apparent and study needs to be done to understand how we can ensure access to justice, especially across our rural areas (see Newman, 2016).

### *Types of criminality*

In addition to the impact of cuts, the interviewees raised the issues of how the criminal justice system here might compare with other areas. In particular, the nature and scale of criminal activity in south Wales was often identified as being different from England.

'Yeah, we don't get the, the massive cases that you get in other court centres. I mean, if you go to Birmingham, Manchester, London, they've got gangs, you know, which has a huge impact there, and you'll have, you know, shootings and massive gang culture. We don't have that in Cardiff, fortunately for the residents of Cardiff, we don't, you know – a big case in Cardiff Crown Court would be a murder. If you go to Birmingham Crown Court there'll be six or seven murders on the go at one time ... So we, you know, we need to sort of acknowledge that, really. We're a tiny blip in the ocean, really, compared to other court centres which are much, much bigger than us ... I think there's more career progression in London. When I was in London, the people over fifteen years' call didn't do rubbish. They didn't do

ABH's, they didn't do Section 20s, they didn't do affrays, they just left that all to the junior people. They were more interested in cultivating a big case practice. Here, there just – you get people over fifteen, twenty years' call doing burglaries, affrays, rubbish trials, just because they've got to be in work that week. They've got to, they've got to earn some money.' (BS2)

'Obviously we've got certain types of crime here that you ... you don't have the same kind of levels of gun crime and sort of proper gang-related drug crime like in Liverpool. I did a case in Liverpool for three and a half months and they've got massive drugs cases all the time, because that's where the drugs come in. We haven't got, we haven't got that level of serious crime.' (BS5)

'The one thing that we don't have as much of is gun crime, but again I'm told, and I was talking to various officers during the course of a trial we've just finished, and they're saying it is becoming more of an issue. I mean I did a murder last year which was a, two brothers who kind of shot and killed, shot and killed somebody. It was a drugs execution, which was unusual for South Wales, but it's there. And in terms of knife crime, which is hugely publicised at the moment, there is a lot of knife crime in South Wales. I mean virtually every murder I've done in the last two years has been a knife – has been a stabbing, with people – and I mean, I've said this to various people, what I find extraordinary is maybe in the past, people would, if they had a problem, they'd go to sort it out with their fists. What they tend to do now is they get a knife, and they kill them! Which is an extraordinary response ... It's the volume: that's the, the only thing. I think in terms of serious cases, there are as many serious cases in South and West Wales as there are in – in terms of their seriousness – just not the volume.' (BS15)

'Well, we don't have the truly big cities that they [England] have, you know? We don't have the conurbations with London, Liverpool, Manchester, Leeds, Bradford. Anywhere you like, you know, we don't have this massive stretch. Yeah sure we still have areas that are slightly underprivileged perhaps in housing, maybe even in education, but massive strides are made all the time to try and put that right. You know, you look at the regeneration of the water front in Barry, the regeneration in Swansea, the regeneration in Cardiff in particular with the bay and how even the schools have improved down there. You look at how they try and regenerate things in the Valleys. I mean the Gurnos at one time was a horrid place, but they have tried to better it, and so we should continue to do it. But please, put the money in, in the right way, in the right resources.' (PO5)

Further research should explore how and why criminal practice differs between Wales and England, as across regions of Wales. If regional patterns could be identified, these could be used to inform decisions around the allocation of resources to ensure adequate provision of, both, practitioners and facilities.

### *Welsh language*

We also explore issues around the Welsh language to consider whether this was also a point of difference from the criminal justice system in England. While many interviewees picked out the uniqueness of the language in Welsh criminal practice, it was also highlighted that practitioners in other regions of Wales would likely have more insight to provide on the language in practice.

'I dealt with them, a few of them as a PC trying to interview them, and to be honest they could see I was struggling as a PC. Because I grew up – my mother was Welsh, my father wasn't. Went through the Welsh schooling system. After that though I didn't really speak Welsh ... They'd been arrested, and

they were helping me interview themselves you know, through the Welsh medium. It was really strange. I can understand why they're doing it, you know, they want everything in Welsh, they want the charge sheet in Welsh, every single thing in Welsh. They're just making a point, and fair enough to them. That's the only difference I can think of between us and England ... Very poorly equipped to deal with it. When I was in the custody suite – I don't know if it's changed now ... You could find it if you needed to but trying to find a Welsh speaker then was a pain. You know, you might not find somebody for ages, and they're being kept ... You had to sort of struggle to get everything together for the, your Welsh speaker insisting on having an interview in Welsh ... I would imagine it's, Dyfed Powys and North Wales, you're going to have lots of Welsh speakers. But I was – there weren't many when I was working in town. I was one of the few that could speak Welsh for interviews. Well the other ones didn't admit that they could speak Welsh!' (PO4)

'I speak Welsh. I can only think of another couple of duty solicitors that do. My response to the consultation on best-value tendering was all about the fact that they had to treat Dyfed Powys differently to everywhere else because we're North Wales, we're the ones where Welsh language is a daily issue, and there was a, there's a shortage of Welsh language criminal solicitors anyway. So, to do anything which would make that less would mean that some people wouldn't have the representation that they wanted, and actually in law were entitled to. So, you know, if you want somebody to act for you in the Welsh language in court, you've got absolutely that right. You can have cases here in Welsh. Well, what's the point of that when the person that you're talking to has to have an interpreter to understand what you're saying?' (DS11)

'There's the language, but that's not as much of an issue as some people would like to make it. We have two people here who speak Welsh and can conduct hearings in Welsh, but I can't remember the last time they did one. Generally Welsh speakers will, we have ... part, on the case management forms if we list the trials as would they like their proceedings in Welsh or English, you know it's all open to the defendant to choose. And you know, even if they are Welsh speaking, they'll quite often just quite happy for it to be in English. You obviously have some defendants who you know, I [banging noise] bang the table, "I want my hearing in Welsh!" But they're quite rare.' (DS7)

'I think we're quite lucky in Wales because everything is bilingual. We don't – actually one of our solicitors speaks Welsh at home so if we did have a case conducted in Welsh, I don't think it would be a problem for us. And there are barristers that are fluent in Welsh and obviously as soon as you ring the court you get the option to have it all in Welsh.' (DS8)

'So, I don't think language is an issue. I really don't. Which is obviously, to be with the obvious easy answer to say, "Well there's a Welsh language in Wales; there's not a Welsh language in England." I think we don't, you know, we don't really get involved in the Welsh language sufficiently to cause any issue. There are a very small amount of people that make that an issue, but a very small amount of people, so I don't think that is.' (PO1)

Regions of Wales with different cultural and linguistic profiles need to be further researched in order to gain an accurate understanding of the role played by the language in peoples' experiences of the criminal justice system in Wales. For example, a north-west Wales case study may produce widely differing results with issues around the language taking far greater prominence than in the regional case study offered by this research.

## *Conclusion*

The research highlights the lack of criminal justice research conducted in Wales and need for more study to be done to build on take forward the insights provided in this research. Most empirical study into the criminal justice system of England and Wales involves fieldwork in England and is too often assumed to apply equally to both nations in the jurisdiction. We need specific analysis of how cuts at Westminster – for example, the court closure programme – may have particular impacts in Wales due to our geography, economy and culture. This case study of south Wales will hopefully mark the start of greater attention being given to the experiences of those who go through the criminal process in Wales, as well as leading future researchers to look at the differences between England and Wales, and within Wales.

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