

THE IMPACT OF COVID-19 ON JUSTICE SYSTEMS AT HOME AND ABROAD

BACKGROUND

Since the 23rd March 2020, the Centre for Justice Innovation collated information on justice system responses to COVID-19 in eight different common law jurisdictions: England and Wales; New York State, USA; New Zealand; Northern Ireland; Ontario, Canada; Republic of Ireland; Scotland; and Victoria, Australia.

We looked at the impact of COVID-19 on:

- Adult and youth criminal courts;
- Public family law courts;
- Adult and youth community supervision including out of court disposals, bail supervision and community sentences;
- The handling of domestic abuse within the areas listed above.

We sourced data from publically available platforms and supplemented this with off-the-record conversations with colleagues. As the pace of announcements and changes has slowed since the earlier phases of the crisis, we are now taking stock of the general trends we observed and reflecting on what the main challenges will be in the coming months.¹

FINDINGS

Cross-cutting issues

There is no doubt that COVID-19, and the lockdowns imposed to respond to it, had a profound impact on the justice systems we looked at. It placed pressure on resources throughout the various agencies working in justice systems— **staff capacity was strained by increased illness and self-isolating measures**. COVID-19 also disrupted the support to individuals in the justice system provided by a range of other actors, for instance, some voluntary sector organisations had to reduce the services they provided due to financial and other pressures.²

Moreover, COVID-19 particularly **impacted justice services that rely on physical meetings and attendance in physical spaces**. The orientation of justice systems toward meetings and appointments in physical spaces, such as courts or probation offices, was severely impacted as they were less available due to closures and social-distancing modifications. For example, we found that, in all the jurisdictions we looked at, probation/supervisory services had to effectively halt unpaid work/community service. In the jurisdictions we looked at, all but one imposed restrictions on the number of court buildings that were open to conduct hearings. New Zealand was the only jurisdictions which did not close any court buildings.

We found that COVID-19 has exacerbated a number of pre-existing challenges faced by the justice systems, most notably that the suspension/radically **reduced volume of cases going to court worsened existing court delays across a number of the jurisdictions we looked at**.³

¹ This briefing covers material from the last tracker, published on 1 July, and as such does not cover subsequent developments. To find out more about the specific actions taken in each country in each area, please look at our COVID-19 Tracker, available online at <https://justiceinnovation.org/covid19>

² See, for instance, Institute of Fundraising (2020) Round-Up: Coronavirus Impact on Charities ([Link](#)). Accessed 20/7/2020.

³ See, for instance, Justice Committee (2020) Coronavirus (COVID-19): The impact on courts. ([Link](#)). Accessed

A recurring theme was the **lack of a specific and distinct youth justice response**, with guidance often combined with the general adult justice recommendations.

Court systems

None of the jurisdictions ceased to hear all cases but **all the court systems we looked at restricted the type of cases that continued to go ahead**. In the criminal courts, we found that every jurisdiction broadly prioritised the same types of cases, those relating to people in custody and detention. In public family law, again we found commonality where the priority focus was on emergency cases and family violence matters, including orders of protection. Non-urgent business was often adjourned. In most of the jurisdictions, jury trials already in progress continued (with the measures listed above), and new jury trials were suspended (either indefinitely or to a date several months away).

In all jurisdictions, the **cases that continued to be heard did so subject to a range of adjustments**, such as social distancing measures, a restriction on media and public access to the court, increased cleaning, PPE being worn and a reduced number of operating courtrooms.

All jurisdictions conducted much of the urgent court business virtually (using phone/video call services). Different jurisdictions had different procedures for determining which cases were conducted in person and which virtually. It is difficult to quantify which jurisdiction was able to hear most cases during the lockdowns imposed though it seems likely that England and Wales was the jurisdiction that started hearing new trials first.

There was little **information available publically in any of the jurisdictions for youth justice cases**. One area of good practice was in Scotland however did publish online guidance specifically for young people attending a virtual hearing during the pandemic, to support them through the process and explain what it involved.⁴

Community supervision

As with courts, probation/supervision agencies in the jurisdictions in question **prioritised their approach to their existing caseloads**, focusing one to one contact (sometimes in person) for the higher risk groups of offenders, while shifting to video/telephone contact with others. In most of the jurisdictions examined, many probation offices were closed, with staff working from home, so face-to-face supervision, moved to digital via phone, Skype and messaging.

In all the jurisdictions examined, **specific programmes of activity such as programmes and unpaid work were unable to be completed**. This means that, in many jurisdictions, backlogs have emerged and there is **active discussion about how these backlogs are worked through** and/or whether there ought to be special amnesties. Other interventions did continue, for example New Zealand Corrections continued to fit electronic monitoring in offenders' homes.⁵

In some jurisdictions, **individuals on bail were not be required to report in person to police stations**. Other bail conditions still had to be adhered to and increased monitoring may be put in place if deemed appropriate in individual cases,

10/08/2020 and Office of National Statistics (2020) Criminal court statistics ([Link](#)), Accessed 10/08/2020.

⁴ Scottish Children's Reporter Administration (2020) Virtual hearings. ([Link](#)). Accessed: 28/07/2020.

⁵ Department of Corrections (2020) Update on our move to COVID-19 Alert Level 1. ([Link](#)). Accessed 27/05/20.

Domestic Abuse

The jurisdictions we looked at re-iterated a **prioritisation of addressing domestic violence**. lockdown measures resulted in more people spending prolonged periods of time in their homes which increased the risk of domestic abuse. Police forces in all jurisdictions remained committed to responding to emergencies. All jurisdictions prioritised domestic abuse cases within the courts. Most jurisdictions announced increased funding for frontline domestic abuse services. However, we also found that there was **widespread disruption to the support available to victims and witnesses**.

Jurisdictions diverged on the question of whether to adjourn a large number of cases in the family justice system (in the hopes of being able to proceed with them more normally in the future) or to attempt and proceed with as many as possible online.

Prisoner releases

Among the jurisdictions we looked at there was a clear pattern of **releasing some prisoners and those on remand**. Jurisdictions tended to release pregnant women, individuals with a short time left on their sentence or those serving a short sentence, subject to a risk assessment and excluding violent or sexual offenses. Two outliers in this area were **New Zealand and Victoria, Australia, where there were no releases**.

CONCLUSIONS FOR THE SHORT TO MEDIUM TERM

Addressing the backlogs that have grown as a result of coronavirus will be of overriding importance in coming months. The backlog of criminal court cases is perhaps the highest profile of these challenges, but work will also be needed to address backlogs in unpaid work and probation, and within the family justice system.

Significant procedural changes, especially the use of virtual hearings in criminal court, require additional guidance, public debate and discussion The response to COVID-19 often demanded that important and consequential changes were implemented at pace and in a context of greater uncertainty and less time for reflection than would normally be the case. Moving forwards, a key challenge will be to ensure for greater scrutiny, discussion and legitimisation of changes to the justice system, and for the provision of additional clarity, support and guidance where needed in connection to these changes.

Whereas the initial phases of the COVID-19 response were characterised by rapid change, the pace of new developments has now slowed. **Looking forwards, a key challenge will be ensuring that time is found to understand the impact of the changes that have been adopted to date, and to reflect on what this can tell us about future reforms or alterations to business as usual**, Getting this right will require examining whether changes to date have been effective at achieving the objectives that were set for them, and developing an understanding of and respond to the impact of changes on potentially disadvantaged groups.

At the Centre for Justice Innovation, we believe that in addition to the high-level responses of justice systems to COVID-19, more local and operational level responses also demand serious attention. This will be the subject of some forthcoming work – please visit [our website](#), follow us on [twitter](#) and subscribe to our [newsletters](#) to keep up to date.