INSIDE THE
CROWN
COURT

Researchers Dr Jessica Jacobson, Gillian Hunter and Amy Kirby discuss their recent work on the experiences of victims, witnesses and defendants at the Crown Court

We tend to think of the criminal court as a place where ‘what really happened’ is established. In fact, court proceedings are a highly ritualised process of managing conflict between alleged wrongdoers and those allegedly wronged, in which the ‘truth’ often remains unknown and unknowable. The process itself entails a highly ritualised public performance, within which elaborate formality coincides with informality; matters of the utmost seriousness are dealt with alongside the most trivial and mundane issues; and an emphasis on objective ‘facts’ is subverted by a dependence on subjective interpretations.

Our study, funded by the Economic and Social Research Council, aimed to understand what it is like to appear in Crown Court as victim, witness or defendant, and what factors determine whether proceedings are seen as fair and legitimate by the participants. Fieldwork, conducted in two Crown Courts, included in-depth interviews with 90 victims, defendants and witnesses, observations of trials and sentencing hearings, and 55 interviews with court staff, judges and barristers. By these means, we assessed victims’ and defendants’ and witnesses’ comprehension of court proceedings, how fair they perceived the proceedings to be, how respectfully they felt they were treated by the courts, and the significance they accorded to the proceedings and the trial outcome.

Court proceedings are often characterised by an intermingling of incongruous elements and a degree of chaos. And yet, the vast majority of witnesses, victims and defendants conform to the expectations and social rules of the process. This ‘redundant conformity’ seems to reflect an implicit belief in the legitimacy of proceedings. Verdicts or sentences thought to be unfair can undermine, but tend not to erode, the perceived legitimacy of the court process.

Our interviews with witnesses found that attending court can be terrifying, humiliating, upsetting or frustrating, and many aspects of the process can be difficult to understand. Most witnesses were anxious about meeting the defendant or the possibility of reprisals for giving evidence. Despite this, they tended to go to court voluntarily, citing their motivation as being a sense of duty to protect others from victimisation or to seek justice for themselves and others. Chance encounters with defendants did occur, and were reported as being one of the most distressing aspects of the witness experience.

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Defendants, for their part, exhibited a ‘passive acceptance’, and to some extent, apathy towards process and outcome.

While many defendants did not give evidence at trial, witnesses were most nervous about cross-examination; the formal language posed difficulties, and witnesses were appreciative of judges’ interventions to ensure that they understood a barrister’s questioning or to prevent aggressive questioning. There was also frustration about how testimony or ‘their story’ was inhibited by rules about admissibility of evidence.

Engagement in the process is crucial to build confidence in the criminal justice system and to create a sense of genuine access to justice. Overall, witnesses and defendants reported being respected and treated equally, and it is clear that this helped to mitigate many of the difficulties and stresses associated with court attendance.

Witnesses clearly valued the support made available to them, such as: the provision of separate waiting areas, away from the defendant; court familiarisation visits; the Witness Service; and ‘special measures’ to help those who are vulnerable to give evidence.

However, there remains scope for this support to be enhanced, and for witnesses and defendants to be better informed about court processes.

Findings are presented in our report Out of the Shadows, published by the national charity Victim Support in 2013, and in our forthcoming book Inside Crown Court: Personal Perspectives and Legitimacy (Policy Press), which will be published in October 2014.

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