



Justice Under Lockdown

Abstract This chapter provides a cross-country exploration of policing and court responses to domestic and family violence during the COVID-19 pandemic. While traditional policing and court response models were disrupted during the pandemic, many police forces and courts adapted their practices, building on already existing digital and remotely enabled options to ensure access to justice was maintained throughout the pandemic. Using empirical data from England and Wales as a case study, this chapter examines the ongoing viability of these options for the delivery of justice, especially for those experiencing DFV, and considers the preparedness of criminal justice systems for future crises.

Keywords Courts · Police · Access to justice · Domestic abuse · Digital justice

INTRODUCTION

Following the World Health Organisation's (WHO) declaration of a global health crisis in March 2020—demanding social distancing and self-isolation—many criminal justice jurisdictions were quick to pivot to alternative modes of delivering justice (Legg & Song, 2021). This shifting

terrain in the delivery of justice comprised a range of responses and innovations some of which were either already in place or were being experimented with. The use of video links for parole hearings, pre-recorded interviews for witnesses deemed vulnerable, other technology-assisted practices enabling remote hearings, and police use of body-worn cameras are just a few examples of the shift towards what might be referred to as ‘digital justice’. Nevertheless, the speed at which criminal justice systems pivoted to these forms of delivery during the pandemic was a newer experience for many, with some justice systems better placed to meet these demands than others.

Of course, it is also important to note that by the time the COVID-19 pandemic was taking its toll on formal justice delivery processes, the more informal presence of what Wood et al. (2019) have called ‘viral justice’ (social media campaigns calling offenders to account), especially in relation to intimate partner violence, was already being felt (see also Fairbairn & Spencer, 2018). However, in this chapter the focus of concern will be on documenting the efficacy and impact of the move toward the online delivery of more formal justice processes in responding to women living with violence(s). Attention, rather, is primarily on policing and criminal court responses during and since the implementation of various forms of public health-driven responses in several different jurisdictions using evidence from England and Wales and Australia as illustrative case studies. To better understand the impact of this shifting terrain on the delivery of more formal justice responses to women, it is important to set these developments within the context of, firstly, a brief overview of the already existing arguments for and against the greater use of the digital in the delivery of justice and, secondly, what was already known about women victim-survivor’s expectations of policing and criminal justice processes. Perhaps expressed more abstractly, it is difficult to fully appreciate justice under lockdown without some sense of what Fraser (2009) might call the ‘what’ and ‘who’ of justice systems: what is justice for and whose interests are served by it. A brief overview of the arguments for and against digital justice existing prior to the call for justice innovations consequent to the pandemic is first examined.

DIGITAL JUSTICE BEFORE AND DURING THE COVID-19 PANDEMIC

Building on the already existing technological-facilitated practices in the justice system (some of which are listed above), Susskind (2019) makes a compelling case for criminal justice learning lessons from the move towards the digital in civil law. In doing so, Susskind adds some significant weight to the view that remote communities' access to justice is improved by enhanced use of digital responses. Indeed, Genn (2017, p. 3) provides an impressive and convincing list of potential advantages of shifting the work of the courts to an online format including easier document handling and instantaneous information sharing. However, when thinking about the specific issue of access to justice, Genn goes on to observe:

The key challenge is always to find a balance between rules that will deliver uncomplicated, fair processes and the best chance of a **substantively just outcome. The public justice system is founded on different principles from mediation, ODR, EBay, Resolver and other private processes. Parties are not both volunteers. One side may be forced into the process against its will. The public courts are the necessary fall-back when voluntary negotiation over disputes is not possible or has failed.** (NB. Emphasis in the original). (Genn, 2017, p. 7)

Genn (2017) raises some important issues echoing the questions raised earlier by Fraser (2009) concerning the 'what' and 'who' of the criminal justice system. When these questions are placed in the context of women's experiences of criminal justice, especially those living with violence, they become particularly pertinent. Thus, it is important to not assume that access to justice and what that means in terms of who obtains such access and how such justice is delivered to them, is made easier through digital justice options than more conventional justice processes especially for women living with violence. These questions sit in the background in the discussion that follows.

A recent study by Stanford Law School (2021), examining the consequences of the shift to the use of virtual courts in the US during the COVID-19 pandemic, echoed the findings of other studies on the use of video conference/teleconferencing in the justice process. While finding some examples of good practice, this study comments:

Worryingly, both our study and the literature imply that the use of virtual court proceedings can lead to negative consequences for defendants and for the justice system's legitimacy. Our qualitative interviews and quantitative surveys converge on this point. Defense attorneys responding to the open-ended questions on the survey consistently reported that virtual proceedings dehumanize their clients and lead their clients to distrust the criminal justice system. Proceedings were said to be "devoid of any humanity" or have "a reality TV feel." (Stanford Law School, 2021, p. 170)

In addition, the Stanford report comments on the importance of video quality, questions of investment in technology (also commented on by Genn, 2017), the impact on the nature and influence of non-verbal communication and the resultant impoverishment of client communication. All of which carry implications for claimants, witnesses and defendants and all are features of the *what* and the *who* of the justice process.

A survey of the criminal justice response to the pandemic in several African countries conducted by Muntingh et al. (2022) revealed similar and different issues to those reported in the Stanford (2021) study. They found that confusion arose in those jurisdictions that sought to prioritise urgent cases concerning what counted as urgent:

Most countries (except for Mozambique) used virtual proceedings to mitigate against the loss of court time. Whilst this is considered a good practice which can be replicated in the future due to its cost-effectiveness and efficiency, limited infrastructure, lack of training and in some cases electricity outages made implementation difficult and often frustrated proceedings. (Muntingh et al., 2022, p. 16)

Issues such as these contributed to subsequent backlogs in the system and over-crowding in pre-trial detention centres. In Canada, Puddister and Small (2020) reported greater resistance in shifting towards the digital during the pandemic. There the justice system expressed a preference for delay rather than so-called 'trial by zoom' except in instances where decisions were deemed urgent—that is, involved rights of habeas corpus or involved vulnerable witnesses. Puddister and Small also point to the greater practical access challenges for remote and rural communities for use of the digital, given their overall poorer access to the internet, for example. Similar pre-pandemic resistance to remote hearings had

been reported in England and Wales with the kinds of problems being identified ranging from poor internet connections to poor WiFi, poor equipment and the alienation of a wide range of court users (Institute for Government (IFG), 2020). However, as is discussed later in this chapter, the need to respond during the pandemic arguably overrode some of these concerns (see Rossner et al., 2021). Further, in an experimental study of a virtual court, Rossner and Tait (2021, p. 18) concluded ‘that a well-designed distributed court can communicate a sense of equality and shared experience among remote participants in a criminal hearing’.

While many jurisdictions had already started to embrace the use of digital technology in the delivery of the justice process, the extent to which these moves were hastened or resisted during the pandemic was varied and variable. In some respects, the jury is still out on the efficacy of such moves with some problems remaining intransigent to a greater or lesser extent depending upon the nature of the jurisdiction concerned and the resources available for technological investment. In some respects, the principles of a criminal justice system, as alluded to by Genn, have remained somewhat blurred in the drive to keep justice systems working both during and after the pandemic. Meanwhile many jurisdictions, as reported by Muntingh et al. (2022), remain challenged by a backlog of cases built up prior to, during and post pandemic (see *inter alia* Godfrey et al., 2022a, 2022b). Interestingly in much of this debate about digital justice—except for a wide range of work on police use of body-worn cameras (for a review in relation to DFV, see Pfitzner et al., 2020)—policing responses have largely been absent from this discussion, as have the challenges for this mode of justice delivery for women living with violence. This latter issue is discussed next.

WOMEN AND (DIGITAL) JUSTICE

There is well-established evidence on the tensions which exist for women living with violence in looking to criminal justice as a means of resolving problems in their lives. The mismatch between women’s expectations of justice, the delivery of justice and even the different ways in which justice processes contribute to furthering violence in their lives have been differently referred to as ‘kaleidoscopic’ (McGlynn & Westmarland, 2019), ‘white man’s justice’ (Hudson, 2006) and ‘systems abuse’ (Douglas, 2018). These terms have been used to describe justice processes in which women always appear as ‘unexpected subjects’ (Gribaldo, 2021)

and/or 'imperfect victims' (Goodmark, 2021). This mismatch between the expectation and experience of criminal justice has perhaps become more complex as the reach of the digital has become ever more pervasive in everyday life.

The pervasiveness of digital technology extends into women's experiences of violence(s) in which things like tracking devices in mobile phones and cars, online stalking and harassment, and the abusive use of image sharing have become constituent elements of how they navigate their lives. In the contemporary world, as Harris (2018) has pointed out, experiences are now not limited by time, place or space. Equally unlimited are some of the evidential requirements made of women when making complaints of abuse. Thus, mobile phone data, for example, can become part of the evidence presented before a court when establishing respective understandings of consent in cases of rape. In some respects, the turn to digital technology in everyday life alongside its increasing presence in criminal justice, arguably, for many women has just meant more of the same: ongoing abuse differently articulated and frequently exacerbated by the criminal justice process. In a telling but differently nuanced way, digital abuse, like other forms of violence is 'just part of life' (Genn, 1988).

At the same time, of course, the increasing presence and influence of social media has in some ways also afforded an opportunity for the expression of different forms as justice. Referred to above, and by Wood et al. (2019), as 'viral justice', the #MeToo campaign stands as testimony to the capacity of social media to act as a forum for alternative responses calling to account in relation to sexual violence (Walklate, 2020), which Cossins (2020) regards as a significant moment in changing the conversation about such violence(s) for men and women. Though these too have the potential for the expression of more punitive responses as well as less punitive ones (Walklate, 2019). Nevertheless, the turn to the digital in all its forms had already begun to change both formal and informal justice practices across a panoply of problematic behaviours, such as DFV, rendering some practitioner responses more ready than others to embrace the potential of the online world. Thus, when faced by the requirements of the pandemic, with many women already cognisant and skilled in the use of digital platforms, the stage was set for a further embrace of digital justice.

In an early assessment of the challenges posed for access to justice, UN Women (2020) offered a holistic overview of these challenges and

the place of responding to DFV within them. The following sections of this chapter discuss two themes within these challenges: policing and the courts. By way of illustrating wider international trends in responding to DFV the following discussion draws on empirical work conducted in England and Wales as a case study.¹

LOCKDOWN TIMELINE IN THE UK: AN OVERVIEW

In England the first national lockdown ran from 23 March 2020, relaxed on 23 June 2020 with variations in Wales, Scotland and Northern Ireland. This lockdown closed all non-essential businesses with people being required to stay at home except for buying food and for medical reasons. Most restrictions across the UK were lifted on 4 July only to be tightened again between July and September with some local areas experiencing higher levels of restrictions referred to as local lockdowns. A second national lockdown was reintroduced on 5 November 2020 in England (with variations elsewhere in the UK) with a tiered system of restrictions operational in December. However, by 30 December 2020, 75% of the country was under the highest tier of restrictions (including limits on how many people could gather in public and private places, attend funerals and so on). A third national lockdown was introduced across the country on 6 January 2021, with restrictions very similar to those of the first (especially the requirement to stay at home). These restrictions started to be lifted on 8 March 2021 but were not fully lifted until July 2021 to allow enough people to receive their first COVID-19 vaccination (for fuller details of the nature and extent of restrictions imposed in the UK, see Brown & Kirk-Wade, 2021).

LOCKDOWN JUSTICE: POLICING RESPONSES TO DFV IN ENGLAND AND WALES

As Halford and Smith (2022) point out there remains ongoing uncertainty as to the extent to which the public health responses to the pandemic resulted in increasing demands on the police both in England and Wales and globally. What is more certain is the impact these responses

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had on support and other services (see Chapter 5). Studies focusing on the impact on policing reveal contradictory trends in different locations (see *inter alia* Halford & Smith, 2022; Bourgault et al., 2021; and Chapter 1)—some outlined an increase in reported incidents, some a decrease and others no change. A study by Ivandic et al. (2020) added some complexity to this picture by pointing to an increase in third-party reporting and a decrease in ex-partner violence in their study of data from the Metropolitan Police (UK).

Globally such variations are to be expected given differences in cultural relationships with policing. Lack of clarity in relation to such figures reported to and recorded by the police notwithstanding, it is the case that demands on policing in general changed quickly in many jurisdictions during the pandemic. On the one hand under different restrictions on movement in different places the overall pattern of crime changed (less night-time economy crime, street crime and so on) with many police forces being additionally charged with ensuring compliance with lockdown restrictions. On the other hand, maintaining ‘business-as-usual’ innovative thinking and practice was required to deliver a range of tasks associated with policing. This was especially the case in relation to responding to DFV. In many jurisdictions this was the moment when police forces pivoted to the use of digital technologies in ways that were new to them. It should be noted that little work has offered any in-depth understanding of what these innovative practices looked like and/or how they were experienced by victim-survivors in receipt of them. Nevertheless, acutely aware of the need to remain ‘open for business’, many police forces in England and Wales pivoted relatively quickly to different ways of responding to DFV. The work conducted by Walklate et al. (2021a, 2021b, 2022) documents some of these practices.

Making sense of innovation in any organisation is neither simple nor straightforward (Weisburd & Braga, 2019). This is particularly tricky in policing, where there is a fundamental reliance upon a ‘command and control’ model of policy implementation and decision-making. Nonetheless, in the work reported by Walklate et al. (2021b) domestic abuse leads in England and Wales found themselves in a space in which they could exercise both the leverage and the capabilities to create a brokerage role in service delivery reminiscent of social entrepreneurs (Brewer, 2017; Smith, 2020). In England and Wales advertising that they remained open for business for victims of domestic abuse was central. Such practices ranged

from using multimedia platforms to reach out to communities to implementing a single point of contact for all domestic abuse support, using Facebook/online forums to reach out to victim-survivors, working with community leaders to access hard-to-reach audiences, and having a police presence in supermarkets, pharmacies and local shops as a way of offering safe spaces for victims to report domestic abuse. Some police forces were also proactive in providing technological aids (like Ring doorbells to high-risk victims),² using data analytics to identify high-risk victims with whom contact had been lost, and identifying high-risk offenders and reminding them, where appropriate, of their bail conditions.

One noteworthy move was towards the use of online platforms for multi-agency risk assessment conferences to ensure swift responses to, and the development of, safety plans for high-risk victims. As Walklate et al. (2021a) report, most forces they worked with had made this move, and there was overwhelming enthusiasm for maintaining virtual meetings for this work. The reasons for this ranged from the practical (it is easier to get everyone in the same room at the same time with no travelling issues to negotiate) to perceived improvements in the quality and efficiency of the meetings with improved participation from, and better inter-agency working with, partner organisations. All of this was seen to be to the ultimate advantage of DFV victims. Decisions were made in a more timely, responsive and flexible manner, with all the relevant agencies in the room—a process consistently referred to as ‘ideal’ especially when it came to Domestic Homicide Reviews (Dawson, 2017).

Offering some insight into a different innovative multi-agency practice, the work reported on by Halford and Smith (2022) examined a pilot project in which Independent Domestic Violence Advisors and Independent Sexual Violence Advocates worked side by side with police officers responding jointly to DFV incidents during the pandemic. This work showed improved victim support and increased engagement with criminal justice on the part of victim-survivors, resulting in improved safety planning and prevention. In a review of support service experiences of working with police forces during this time, Speed et al. (2020, p. 570) also comment: ‘Support services report quicker response times and reports of police forces going above and beyond to assist victims with exit strategies where travel is an issue’.

² Devices that enable people to see who is ringing the doorbell and then can decide whether to open the door.

Many of the practices highlighted above have also been reported on in other European countries (EIGE, 2021), some African countries (Muntingh et al., 2022) and the US (Piquero, 2021). These studies lend weight to the view expressed by the His Majesty's Inspectorate of Constabulary, Fire and Rescue Services (HMICFRS) Report (2021), which states: 'Through innovation, flexibility and adaptability, forces generally successfully maximised the protection of staff while minimising the effect on public service' (HMICFRS Report, 2021, p. 2).

However, if little work has examined how policing practices changed during the pandemic, even less has concerned itself with how such changes were received by victim-survivors. One small-scale study reported by Godfrey et al. (2022a, 2022b) conducted with a southern police force in England and Wales compared victim-survivor views and experiences of face-to-face reporting with online reporting. This study found high victim satisfaction with their contact with police officers in this force, whether interviewed face-to-face or by videoconferencing. In both instances, officers were perceived to be very supportive. For both formats, victim-survivors emphasised the importance of convenience, safety and security for them. They also emphasised the importance of giving victim-survivors a choice over which format was provided to them. While some technical issues prevailed during the roll-out of this practice in this force, these difficulties did not seem to impact upon the victim assessments of their experiences. Nevertheless, the availability of, and investment in, appropriate technological infrastructure was and remains a critical challenge facing court processes during and after the pandemic.

LOCKDOWN JUSTICE: COURT RESPONSES TO DFV IN ENGLAND AND WALES

In England and Wales—somewhat in contrast to policing responses—the courts and other constituent elements of the criminal justice process were rather less than ready to innovate at the start of the pandemic (Speed et al., 2020). As Godfrey et al. (2022a, 2022b) report, crisis management became a key feature of justice delivery for the courts. On 23 March 2020, all jury trials were suspended with His Majesty's Crown Prosecution Service Inspectorate (HMCPSI) (2021) reporting plans to mitigate the impact of lockdowns on the workings of the system. However, by this point newspapers were already reporting that the justice system was in

‘meltdown’, as the criminal court case backlog passed 37,000 (Dearden, 2020; Syal, 2020). The backlog in the magistrates’ courts had, by the end of March 2020, already increased by 32%, from 12,100 to 16,000, and in the Crown Courts by over 40%, from 17,400 to 24,900 during the first few weeks of the first lockdown (HMCPSI, 2021, p. 43). In May 2020, some jury trials were re-initiated in some courts and in June 2020 remote hearings were instituted to deal with all urgent applications including those for bail or to extend custody time limits, and for Domestic Violence Protection Orders (His Majesty’s Courts and Tribunal Service [HMCTS], 2020a). Prioritisation of cases became a central plank of response management at this time with cases of domestic abuse listed as second in this list after remand cases. However, by July 2020 it was evident that such crisis management was having little overall impact. Thus, HMCTS (2020b, p. 4) announced a major recovery plan with four pillars: maximising the use of the existing estate (introducing physical screens to ensure safe use of the courts), providing additional capacity through Nightingale Courts, using technology (remote or video hearings) and considering adopting different operating hours (opening the courts on evenings/weekends). The nature of this plan speaks volumes to the readiness and capability of the courts system to respond under the conditions of the pandemic.

Some would say that the recovery plan was ‘too little, too late’ as by January 2021 magistrates’ courts were only just keeping up with new work and reports of cases listed but not to be heard for two to three years were not uncommon (Godfrey et al., 2022a, 2022b). While cases of domestic abuse were second in the list of priorities at this time, the toll on women experiencing DFV and endeavouring to move forward through the criminal justice process with their complaints was considerable. As one police respondent reported on by Godfrey et al. (2022a, 2022b) pointed out in relation to one of their cases:

DV [domestic violence] assault that occurred in September 2019 and the trial was booked for April 2021. And there was a delay in charging, so the defendant didn’t get charged until 2020. But the case management hearing was due to be heard on the 15th of July. And because of COVID-19 restrictions around the court, when my staff updated that in July that had been moved, she was already angry, and she then made the retraction statement and then the case management hearing set the trial and the victim said she’s not willing to attend. She’s only just managed to get her mental health back on track and she is not going to put her mental health

in jeopardy by waiting for the trial ... To tell them that it's going to take 12 to 18 months for it to come to a conclusion—for them I personally don't think that's probably worth it. (Witness care officer, Southern Force 2)

This above quote appropriately illustrates the challenges for those willing to participate with the criminal justice process, not only under pandemic conditions but also more generally. Victim-survivor reluctance to engage with criminal justice is well documented. Keeping victim-survivor witnesses on board with the criminal justice process as the possibility of cases being heard recede into the future is a challenge (Hester, 2006). As Godfrey et al. (2022a, 2022b, p. 1050) highlight the attempts to explain the ongoing backlog in the courts system in England and Wales as simply artefacts of the process:

Sounds hollow to victims, especially domestic abuse victims, facing long delays in getting their cases heard in court. At worst, it legitimates and normalises the criminal justice system's lack of response towards innovation and speedy justice all of which preceded COVID-19.

The shift to remote courts and online facilitation of document and information sharing has been a feature of criminal justice responses in a range of jurisdictions throughout the pandemic. This shift was pointed to in African countries (Muntingh et al., 2022), the US (Piquero, 2021), Australia (McIntyre et al., 2020) and several European countries (EIGE, 2021). The usual 'glacial pace' of change (McIntyre et al., 2020) shifted in momentum in unprecedented ways and outstripped the pre-pandemic-era resistance to such practices, particularly on the part of the judiciary and barristers as documented by several commentators (see inter alia Stanford Law School, 2021). Moreover, these kinds of changes not only penetrated the criminal justice system but also the family and civil courts where, in the case of the latter, there was an already ongoing presence of online resolution processes. In relation to family courts, based on consultations with those working within the family system, Harker and Ryan (2022) observe:

The process of "holding up a mirror" to the family justice system in this way may be valuable in the long term, not only during a crisis. It was particularly striking that the consultations exposed the difficulties that

parents and relatives had with being able to fully participate in court hearings, whether they were parties in public law proceedings or litigants in person. While the nature of remote hearings made participation especially difficult, many of the problems reported by parents and relatives are equally likely to be evident in face-to-face hearings: not feeling “heard,” not fully understanding the process etc. (Harker & Ryan, 2022, p. 218)

In other words, the issues of accessibility (in relation to technology, geography and comprehensibility) and participation (being heard and physical presence) added to the questions of personal safety, confidentiality and vulnerability, pertinent to a wide range of victim-witnesses in the justice process but especially in relation to cases involving DFV. These issues have not necessarily been erased in the move towards digital justice. All of this was observed by Byrom (2020). McIntyre et al. (2020) express these concerns in this way:

What steps can be taken to reinstate ordinary judicial principles and processes in the digital sphere ... how do we ensure that adverse practices developed in recent months are not entrenched in a way that persists in the wider movement towards a digital judiciary, long after COVID-19 fades from memory? (McIntyre et al., 2020, p. 201)

The extent to which such ‘ordinary justice principles’ served women living with violence any better and/or differently in the moves toward digital justice during the pandemic is clearly moot. What is less moot are the questions raised concerning what the legacies of the practices documented above might be.

LOCKDOWN JUSTICE LEGACIES

It is important to note that in all the policing and criminal justice response examples cited above it is evident that DFV was prioritised in many jurisdictions. While UN Women (2020) are right to observe that much remains to be done—and there is no room for complacency—the high public and media profile given to concerns of a shadow pandemic clearly weighed heavily in the criminal justice responses documented above. The prioritisation given to cases of DFV through the justice process in many jurisdictions stands as testimony to this. However important caveats remain—especially in respect of both what may, or may not, stand the test

of time in relation to the innovations discussed above and the effectiveness of the turn to the digital, especially for victim-survivors.

One practice embraced in England and Wales and adopted elsewhere was the move to holding multi-agency risk assessment conferences (MARACs) to the online platform MS Teams. Evidence reported by Walklate et al. (2021a, 2021b) clearly indicated positive support for continuing this practice and for the added value it afforded to victim-survivors: speedier assessments and safety planning with all the appropriate people in the (virtual) room. There was strong policing support to continue this practice. However, as with many other of the innovations discussed above, the focus on being open for business and looking for ways in which to provide support in all the ways that this focus implies, does not erase historically embedded difficulties in some of the practices which pivoted toward the digital. For example, in relation to MARACs police forces took the lead in ensuring these practices continued. Questions remain concerning the extent to which in adopting this leadership role other agencies were encouraged or inhibited from taking part (see also McLaughlin et al., 2018). This observation was made by Bottoms (1990) over three decades ago and has remained a largely unspoken issue since. An associated question also pertinently remains: whose interests lie at the heart of these meetings, the agencies represented in them or the victim-survivor? Moreover, as Welsh (2022) has commented:

One of the enduring justifications for a partnership response to domestic violence is that women need different services for themselves and their children at different times in the abusive experience but, in the focus on safety planning, the prevailing response is one organised around a very particular time in this experience. It is also organised around a very particular notion of safety – one which is removed from the lived reality of the problem itself. (Welsh, 2022, pp. 16-17)

Arguably, these concerns are not necessarily mutually exclusive but pertain to both modes of managing risk assessment—that is, face-to-face or virtual. Much more work is needed to establish the extent to which these concerns are understood, operationalised and realised before the shift to the digital presumes that the problems of the face-to-face have been erased. McLaughlin et al. (2018) suggest: ‘It is time for us to consider whether MARACs still represent the best possible response to multiagency coordination information sharing and planning in relation to

domestic violence’ (McLaughlin et al., 2018, p. 303). This is particularly pertinent as the volume of work for MARACs has steadily increased and as Welsh (2022) observes has become increasingly focused on those already defined as high-risk to the exclusion of other victim-survivors.

Of course, one of the features central to MARAC practices is good-quality and effective information sharing. The shift to the digital—the use of cloud document sharing practices notwithstanding—makes no presumption that such practices are better quality or more effective.

This is a further lacuna in which more work needs to be done (McCulloch et al., 2020) and is an issue pertaining to both pre- and post-COVID-19 pandemic practices. Moreover, information sharing via the cloud raises further questions of investment in and availability of technological infrastructure, since not all partners to MARACs are adequately endowed. However, effective information sharing, communication and quality data are not just issues for MARACs. They are also issues which have repeatedly emerged in pre-pandemic evaluations of the move toward digital justice in the courts.

For example, in reviewing the evidence on the impact of remote justice with particular reference to vulnerable groups, Byrom (2020) points to major evidence gaps in relation to the impact of partly or fully audio hearings, particularly in relation to family justice, lack of consistency between digital interventions to enable comparisons across different contexts and a complete absence of empirical research on the use of fully video hearings in live cases. If the work of the Stanford Law School (2021) is added to these concerns, then the potential offered by digital responses needs to be examined carefully. Interestingly, as commented above, little of this evaluative work on remote hearings and/or digital justice looks at the development of these practices through the specific lens of victim-survivors of DFV to consider the extent to which such developments match with their expectations of justice. However, as observed at the beginning of this chapter, the mismatch between women’s expectations of justice and the delivery of justice is not a new phenomenon.

CONCLUDING THOUGHTS

The COVID-19 pandemic has revealed much about where both global and local justice responses to DFV are situated within the twenty-first century. While much remains to be done, it is important to take heart from the seriousness with which such violence was addressed during the

pandemic. At the same time, however, there are ongoing concerns. Justice backlogs remain in many jurisdictions with the well-known consequences that these have on those living with violence. Lack of investment and appropriate infrastructure remain too. This is not just about technological investment but also the more ordinary, everyday funding needs of support agencies. The suitability of many court estates remains where the provision of separate spaces for defendants and complaints can be crucial. Problems of appropriate information sharing, common understandings of risk and risk assessment, and effective inter-agency cooperation also remain.

Expressed at the beginning of this chapter—by reference to Genn's (2017) observations on access to justice and Fraser's (2009) reminder to reflect on the 'what' and 'who' of justice—it is evident that, despite all the innovation and embrace of the digital exhibited in this chapter, key issues in relation to the bigger question of 'whose justice' for women living with violence remain the same. For example, when responding to DFV whose safety and what understandings of safety are paramount? Who is thought to be vulnerable and why? How is participation in the justice system managed and for whom? When sharing information, what data and whose data is confidential and why? Underpinning all these questions is an implicit recognition that those marginalised by policing and justice systems continue to be so—whether face-to-face or remote (see inter alia Nancarrow, 2019; Goodmark, 2021). The danger lies in the presumption that the digital world erases rather than exacerbates these issues. The jury is still out on this issue.

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