Doing data justice

Improving how data is collected, managed and used in the justice system

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About this report

Good use of data is critical to good policy making and the effective running of public services. This report, produced with funding from the Nuffield Foundation, explores how data can be collected, managed and used more effectively across the justice system. We examine the organisations and processes leading up to, during and after court and tribunal appearances, and offer recommendations for how the justice system can use data more effectively.

About the Nuffield Foundation

The Nuffield Foundation is an independent charitable trust with a mission to advance social wellbeing. It funds research that informs social policy, primarily in education, welfare and justice. It also funds student programmes that provide opportunities for young people to develop skills in quantitative and scientific methods. The Nuffield Foundation is the founder and co-funder of the Nuffield Council on Bioethics, the Ada Lovelace Institute and the Nuffield Family Justice Observatory. The foundation has funded this project, but the views expressed are those of the authors and not necessarily those of the foundation.

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Summary

Imagine running a hospital not knowing how many operating theatres you have, what illnesses your patients are suffering from and whether their treatment is having any effect. On the other hand, imagine a hospital where you could walk into any operating theatre, and all the information about the surgery – and the surgeon and the patient – is in the public domain forever, and could be used to judge the surgeon's performance.

These were both analogies used by our interviewees for this project – one highlighting the data gaps that still exist in the justice system, and the other contrasting the need for better data (and openness) with countervailing pressures around rehabilitation, rights to privacy and to be forgotten, and the risk of researchers "rushing to premature conclusions" about judges' performance if analysing their judgments in aggregate and out of context.

Good use of data is critical to good policy making and the effective running of public services. This is just as true of the justice system as it is of other domains. Data is needed to manage the operation of the system, to identify bottlenecks where they exist, to understand how different interventions – and the system as a whole – affect the outcomes we care about and to promote the principle of open justice while protecting people's right to privacy and dignity. But justice is an especially complex area, with the constitutional need for independence between different parts of the system giving rise to a litany of different organisations responsible for different aspects, and therefore various data owners with different systems and different priorities.

Much progress has been made in recent years and there have been several exciting initiatives to share and use data more widely. But there is still no coherent vision for how data should be used across the justice system, and this means data is not being used as effectively as it could be to help organisations across criminal, civil and family justice to achieve their objectives. Many of the issues identified in Dr Natalie Byrom's government-commissioned assessment of digital justice in His Majesty's Courts and Tribunals Service (HMCTS) in 2019 remain relevant,[1] and were only partially addressed by the government's response.[2]

This report explores how data, broadly defined though with a particular focus on statistical data, can be collected, managed and used more effectively across the justice system. We examine the organisations and processes leading up to, during and after court and tribunal appearances. This covers the responsibilities of, among others, the Home Office, Police, Crown Prosecution Service (CPS), Ministry of Justice (MoJ), HMCTS, His Majesty's Prison and Probation Service (HMPPS), the Children and Family Court Advisory and Support Service (CAFCASS) and the Judicial Office. Achieving good outcomes in the justice system requires the involvement of even more organisations, including the Department for Education (DfE), the Department of Health and Social Care (DHSC), local authorities and the Legal Ombudsman, among others, but decisions over how justice data will be used mostly sit with these core justice organisations.

Two Institute for Government 'Data Bites' events informed this report: Data Bites 40, held on 5 April 2023, and Data Bites 42, held on 17 May 2023. These featured presentations focused on the state of data in the justice system and highlighted innovative data programmes happening across the system.* These were supplemented with a literature review and semi-structured interviews with officials working on data within the system and external experts.

There have already been important advances in the use of justice data in government...

There are many exciting initiatives using data across the justice system. Trailblazing examples are three projects to share and link data:

- Data First,[3] which is linking data across the justice system and government departments and sharing datasets with external researchers (with funding from Administrative Data Research UK – ADR UK)

- the Justice Data Lab, which is linking anonymised reoffending datasets to help organisations working with people in prison assess the impact of their work[4]

- the Better Outcomes through Linked Data (BOLD) programme,[5] which is linking data across justice and other departments so that officials within government can analyse the data.

Interviewees also highlighted ways in which the MoJ has among the most advanced data-science capabilities in government, including Splink (data-linking software developed in-house), and is paying attention to the fundamentals – such as data quality – through initiatives such as its Data Improvement Programme. The new Online Procedure Rule Committee also has data standards at the heart of its work. We heard that data and analysis are increasingly highly valued within the MoJ since Antonia Romeo, with a background in economics and analysis, has been its permanent secretary.

... but more could be done

However, the data gaps in justice are larger than in other areas, and where data does exist, it is often of poor quality, attempts to digitise court records as part of wider court reform have run into frequent problems, and speakers at our events and interviewees expressed a view that data is not driving policy and enabling the smooth operation of the system as well as it should. In some cases this is because the data is not available in a usable form, but in others evidence that a different approach would improve outcomes has not led to changes in policy, because of political or ideological reasons.

Depending on the specific project, or area of the justice system, it can be data famine or flood – too little data or too much – with data being too poorly organised to make sense of, and improvement projects often seeming somewhat isolated. Overall, justice data is adding up to less than the sum of its parts.

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*   A brief summary of the presentations is provided in the Annex.

Many of the problems we identify are common in the use of data across government, for example in relation to:

- insights from analysis not feeding into policy action

- poor-quality data

- the scale of data gaps

- poor linking of relevant data across organisations

- difficulties for external researchers in accessing data.

The largest problem, which is especially severe in justice and explains why some of these other problems are also more acute there, is the fragmented system of multiple data owners. For example, even focusing just on criminal justice, the police, CPS, HMCTS, judiciary, the MoJ and HMPPS all possess their own data, have different priorities and objectives for the use of data, and often record similar events differently to suit their needs. While other public services also involve a range of organisations, the set-up of the justice system poses unique challenges to joining up data.

For example, the different objectives and priorities of HMCTS (which is focused on running an efficient and effective courts and tribunals system),[6] the judiciary (which is focused on a clear, public record of what happens in courts) and the MoJ (which is focused on people's experience of the justice system) lead them each to collect and record data in different ways.

Despite these challenges, there have been notable improvements in using justice data, from which we draw lessons for how to manage data better in future. Many of our findings apply across justice jurisdictions. We find that initiatives have been most successful when they have:

- set out clearly how data can contribute to core organisational aims and won senior buy-in

- highlighted great opportunities when data is linked and shared, including providing better operational understanding and research that has answered policy-relevant questions

- done the 'boring stuff well', for example having clear data sharing protocols.

We also find that broader cultural change to better appreciate data has also been important in ensuring success. Improving the way justice data is used will need to be a collaborative effort, relying on several government bodies and non-government stakeholders. Although it does not have all of the tools at its disposal, the MoJ sits at the heart of the system and so is best placed to house and co-ordinate cross-sector initiatives. For this reason, many of our recommendations focus on the MoJ in particular.

Based on the lessons we draw from successful examples, we recommend the following:

- **A joint group of senior leaders across key justice organisations should agree and publish a single justice system-wide data strategy.** Tensions between organisations' priorities for the use of data are a major problem. A strategy developed across the organisations, resolving key trade-offs and tensions and setting out system-wide objectives, would be a good starting point.

- **Organisations' own data strategies should set out the path to meet system-wide priorities.** Individual strategies for each organisation are still needed but should nest under the overarching strategy, focusing on how, for example, HMCTS will contribute to delivering the overall strategy. They should spell out specific priorities, such as a plan for prioritising and filling data gaps, and how the organisation will contribute to open justice and appropriate data sharing. They should include concrete estimates of the funding and skills needed to achieve strategic objectives.

- **The MoJ and Home Office, as well as other relevant bodies such as HMCTS, should set up structures to better integrate policy personnel with data and analysis functions to ensure analysts are conducting work that can directly feed into policy decisions and policy officials are aware of the latest internal and external work.** This should include regular meetings in relevant policy areas between policy and analysis officials across relevant organisations.

- **The analysis functions within justice departments should publicise the success of recent data sharing initiatives like the BOLD programme and Data First, both internally and externally, to help make the case for more data linking and sharing, for instance through a regular public webinar series or justice data user group.** Concrete examples of how research has helped to answer burning questions will build senior buy-in and an appetite for more research in other areas.

- **Collectively, justice organisations should clarify data sharing protocols to make access to data more consistent, and less reliant on who you happen to speak to, while preserving robust safeguards to protect data privacy.**

- **The MoJ should take steps to help researchers access data and grow the research community.** In justice, the research community is especially small, which limits the amount of work that can be done. External researchers are a valuable resource, so the system-wide strategy should set out a clear statement of purpose for data sharing and datasets, and the details of projects using shared data should be clearly documented and regularly updated.

- **The MoJ in particular should create more opportunities for stakeholders to advise on data policy decisions.** There are numerous users of data, including frontline staff, researchers, journalists and legal professionals. To enable them to feed in to the process more effectively, the MoJ should set up a justice data advisory group containing these diverse perspectives and consult the group as it develops strategies and makes reforms.

What roles should data be playing in the justice system?

Our research has highlighted three key roles for data in the justice system.

Helping to organise the operation of the system and identify problems

One of the primary roles for organisations such as the MoJ and HMCTS is ensuring the smooth flow of cases through the justice system. This is especially high priority given large backlogs and long waiting times across the system.[7]

In the criminal justice system, this means ensuring the CPS works effectively with the police upstream as they prosecute cases, then HMCTS and the judiciary managing the administration of the courts, with some of those sentenced then going into the prison system and ultimately probation services. In other justice jurisdictions, there are similar relationships and flows: for example, in the family justice system, HMCTS interacts with CAFCASS and local authority-run children's services as cases are escalated and solutions are proposed.

Data is critical to justice systems working well. As Amy Caldwell-Nichols, head of insights and analysis at HMCTS, told us at the Institute for Government's Data Bites 42 event, HMCTS has an explicit goal to be a "data-driven organisation",[8] which is expressed in the organisation's data strategy,[9] and which it acknowledges is important for it to operate effectively. Good operational data is necessary for HMCTS and others to keep track of cases and manage them effectively.

Historically, the justice system (and the courts in particular) has operated in a decentralised manner, with powerful local justice boards, and an associated legacy of paper-based record keeping, which has persisted for longer than in other public services. The police operate in a similarly decentralised way, with 48 police forces across the UK. Recording information digitally, in a way that can then be viewed and analysed at a system level, is a vital transition for co-ordinating the operation – and improving the productivity – of today's justice system. The MoJ's digital strategy states that to "unlock data from legacy systems and move information from paper to digital sources" is one of its measures of success.[10]

Good operational data does not just help an organisation manage its own section of the system better. When shared, it could help other organisations, such as the CPS and HMCTS, ensure transitions between different parts of the system work better too. Being able to follow the same person or case through the system across organisations will make for a smoother operation and help to do so in a way that appreciates the individual and their broader experience of the system. Data is one of the main ways a system with a tendency for disjointedness can be integrated.

If data is detailed enough, it can not only be used to manage the smooth operation in general but also identify problems when the system is not working well. This will help organisations to understand how to fix problems and to identify possible bottlenecks that are making the justice system less efficient overall. High-level statistics might identify, for example, that courts are using less of their available time to hear cases than before the pandemic.[11] But more detailed data would be needed to uncover the cause of this, and so propose solutions to rectify it.

At our Data Bites 42 event, Caldwell-Nichols gave the example of divorce proceedings, where granular operational data identified a specific bottleneck that was slowing some cases down and so reducing throughput in the courts. She said processes had since been amended to fix this bottleneck and these cases were now flowing through the system more quickly.[12]

Enabling a better understanding of the outcomes the system is generating

While the day-to-day goal of organisations within the justice system might be operational, the higher aim is outcome based: to deliver justice fairly and improve outcomes for society. The role of data should therefore be cast much more widely than operationally, and analysis using data can and should be used to understand what effects the system is having.

At the Data Bites 42 event at the Institute for Government, Karen Broadhurst, a professor at Lancaster University, described judges making decisions about children as "like throwing a dart at a dart board, with no feedback on whether you've hit the board or a person in the room".[13] In other words, we often do not know how the interventions of the justice system affect the outcomes we ultimately care about – for example, how different approaches to families and children affect their long-term outcomes.

Performing this role more effectively requires using data in more sophisticated ways. Broadhurst's work, presented at the Data Bites 42 event, showed how the same mothers often appear in the family courts multiple times, indicating deeper social issues that lead to their interactions with the justice system.[14] Better understanding of these problems requires linking data on justice to other spheres, such as health and housing, to map the different ways in which individuals engage with the state. This has begun to happen through the Better Outcomes through Linked Data (BOLD) programme.[15]

A further aspect of this is the need to understand how the justice system affects different users, and whether it disproportionately negatively affects some vulnerable groups. This is an explicit priority for HMCTS.[16]

Enabling open justice

Finally, data can shed light on justice proceedings and give effect to the longstanding principle of open justice: that, with a few exceptions, the content of court proceedings and other justice processes should be available to the public. In the words of a famous court judgment: "Not only must justice be done; it must also be seen to be done."[17] This could include, for example, free access to public judgments, court listings and some case-level data (such as transcripts).[18] HMCTS's data strategy acknowledges that this means that, where appropriate, data should be open, and shared when it can be done ethically and responsibly; similar issues apply in other areas of the justice system too.[19]

Better open access to proceedings will assist with the roles that data can play, outlined above, by allowing external experts, commentators and researchers to contribute to these processes, and especially to help identify the impacts of the system on outcomes for different users. But more transparency also plays an important role in its own right, helping to build and retain trust in the system and protecting the right to a fair trial.

These benefits need to be balanced with concerns over confidentiality and privacy, which rightly limit when and how data is shared in some cases. The aim should be to share as freely as can be done while protecting those important rights.

These roles are acknowledged in the MoJ and HMCTS data strategies

To differing extents, each of these roles features in the digital and data strategies that the MoJ and HMCTS have published, the two organisations whose strategies focus most directly on the justice system.

HMCTS's strategy is especially focused on operational effectiveness,[20] highlighting for example the role of data in "improv[ing] performance and efficiency", alongside other objectives such as supporting the judiciary. Much of the strategy is focused on how data can be better used internally, with an ongoing reform programme to modernise systems. The strategy also acknowledges the importance of open justice and the need to be aware of the impact of the system on vulnerable groups.

The MoJ's digital strategy is user focused, emphasising the need to run efficient systems with services built around the people who use them.[21] Another pillar of the strategy is to be "driven by data", meaning that insights from data will drive service improvements, and that data will be available to analysts to understand the impact of justice interventions and drive decision making.

However, neither strategy clearly lays out all of these roles for data as guiding principles for decisions around data. And their different focuses highlight tensions over which of these roles should be prioritised (which we return to below).

What are the existing problems with how data is collected, managed and used in the justice system?

The MoJ and HMCTS data strategies recognise the opportunities that justice data offers to better understand and improve the justice system. But these are not currently fully realised.

There are several stages to effective data use for it to play the roles laid out in the previous section. It first needs to be collected, recorded and stored in a consistent and accessible way. To get a fuller picture of the system, it then needs to be shared and linked to other sources of data across government. Next, data needs to be used well: good analysis relies on a good understanding of the contents and context of the data (relying on interaction with the front line), and enough resources to undertake analysis. Sharing data with external researchers is a crucial way to make use of specific skills and provide additional research capacity. Finally, for that analysis to make the desired difference to policy, analysts need to understand the needs of policy officials, and policy officials and the broader culture need to appreciate the insights that data can provide.

Our research has identified five main problems that hamper data playing as effective a role as it could at every stage.

The structure of the justice system inhibits a joined-up approach to data

Many interviewees commented on how the unique structure of the justice system makes it difficult to deliver cross-system data governance and sharing reform. The MoJ, HMCTS and the judiciary all have a stake in these decisions, and in particular the courts have exclusive jurisdiction over the day-to-day administration of justice. The implication of this is that the MoJ, despite being "tooled up" and having political responsibility for using data to monitor and improve courts, is a "non-party" in lots of data relationships, meaning it cannot decide how the data is shared. As one interviewee put it, "every court is a little fiefdom", where ministerial power is limited.

The MoJ, HMCTS and judiciary have different, and poorly joined-up, priorities for using data. The MoJ's data and digital strategies are focused on improving users' experience of the justice system, aiming to both improve satisfaction with processes and gather insights to improve outcomes and reduce reoffending. The HMCTS's data strategy is more specifically focused on improving case flow and optimising processes, alongside building the internal data governance needed to support this. For the judiciary, its priority is open justice and having a record of court processes, but it also has a counterbalancing concern that data could be used to analyse judges' individual records, potentially threatening their independence (if how external analysis would interpret judgments became a conscious or unconscious factor in legal decision making).

These different approaches to data have implications for how extensively data is shared and published, both within the justice system and more widely. One interviewee commented that there are "fundamental questions still to be worked out", with a "muddle" of different views across the judiciary, HMCTS, MoJ and private and civil society stakeholders. In particular, as one interviewee noted, due to the judiciary's concerns, data has tended to be published at a less granular level to prevent potential analysis that identifies and compares specific judges' actions.

Interviewees also emphasised how this fragmented system is poorly tailored to the differences between how officials in operational roles approach and use data compared with those in policy and analytical roles. For operational staff, their major concern is the everyday functioning of their part of the justice system – collecting analytical data is not a priority, and for some it is experienced in their day-to-day job as more of a hindrance than a help. Some new programmes, such as HMCTS's Common Platform,[*] have not had enough input from teams delivering services, creating operational problems when they are implemented.[22] Some interviewees felt judges and court administrators take a more cautious approach to court data transparency than policy officials, others that the judiciary are often in favour of greater transparency for principled and practical (being able to access the information themselves) reasons. Nonetheless, the mismatch in priorities and approaches hinders the effectiveness of how data is collected, used and shared. One interviewee working internationally on data strategies commented that this divide is a common issue globally.

Interviewees with experience of working on data-linking programmes emphasised the challenges of working across government with different data owners. These are both logistical challenges, due to variation in IT systems, data standards, data governance and data sharing permissions, but also political, as programmes are working across ministerial briefs, bringing "territorial fights", which hinder their interconnected approach. We explore problems with data linking across the justice system and beyond in more detail below.

Following recommendations from Dr Natalie Byrom's government-commissioned report on digital justice, HMCTS has set up a Senior Data Governance Panel[**] to develop its approach to open and shared data governance.[23] This is a positive innovation bringing together different stakeholders in justice data, providing a forum to negotiate these tensions and decide a clear path forward in individual cases.[24] It has made promising progress in facilitating the data sharing of court records with external researchers, but its capacity is limited and it has not introduced any substantial new data governance frameworks to support wider join-up in data approaches across the justice system.

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[*]   Common Platform is a digital case management system giving secure access to all case information for stakeholders in a case, from the judiciary to the CPS and barristers.

[**]   The Senior Data Governance Panel, set up in January 2023, offers independent expert advice on access to and use of courts and tribunals data, and discusses issues that HMCTS, the MoJ and the judiciary refer to it. It focuses on four main principles: open justice, independence of the judiciary, rule of law and maintaining public confidence in the justice system. The panel comprises senior officials at HMCTS and the MoJ, senior judges and independent experts.

The justice data available is not enough to meet internal and external users' needs

The Centre for Public Data (CfPD) has identified extensive "data gaps" in justice data – questions of significant public interest, which key stakeholders such as select committees or authors of major independent reports have raised, which cannot be answered with the data currently available, whether because it is not collected or because it is not stored accessibly or in the right format.[25] Anna Powell-Smith, director of CfPD, noted in her Data Bites presentation at the Institute for Government that signs of data gaps, such as responses to parliamentary questions stating that data is not centrally held or available, were more prevalent for the MoJ than for other government departments.[26]

Data gaps (which appear feasible to fill) exist in fundamental areas, from basic information such as the average length of time defendants are held in custodial remand, or the number and characteristics of unrepresented defendants in magistrates courts, to sought-after granular data such as court-level sentencing data (which the government committed to publishing in 2019 but has not yet done).[27]

CfPD's work focused on publicly available data, but we heard from interviewees that these problems extend to the quality and availability of data internally, meaning key policy and operational questions are difficult to answer. Interviewees highlighted concerns over the quality of data on internal systems, with one describing it as a "complete mess". A disconnect between the needs of frontline staff and analysts means data is often inputted in a way that is not useful for subsequent analytical work, or not consistent. The HMCTS data strategy acknowledges this, identifying more than 200 administrative systems (some more than 30 years old) and stating that "we don't currently harness the potential of our raw data to its fullest extent, and there is a lot that still needs to be improved upon before we can".[28]

Amy Caldwell-Nichols noted in her Data Bites 42 presentation at the Institute for Government that HMCTS's main focus at this stage is not filling data gaps but building a data platform to publish the data it does already collect.[29] This was a recurring theme in our interviews. While the MoJ and HMCTS do hold and publish a large amount of justice data, and there are exciting initiatives under way to make more data publicly available – such as Data First* and new MoJ delivery dashboards** – external experts raised concerns that their size and scope did not go far enough to address users' needs. Gaps are even more pronounced in some parts of the justice system than others. At the Institute for Government's Data Bites 42 event, Natalie Byrom described civil justice as a "data desert",[30] while Karen Broadhurst outlined the lack of data summarising outcomes for people using family courts, limiting researchers' ability to assess their efficacy and advise on improvements to processes.[31] Neither the MoJ's nor HMCTS's data strategies state plans to seek to fill these gaps, although meeting their objectives to improve data standardisation and access would contribute to progress.

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*   Data First, which the MoJ leads and ADR UK funds, works to give accredited researchers access to linked administrative datasets from across the justice system.

**   The MoJ delivery dashboard collates criminal justice data from the police, CPS and HMCTS to give an overview of volume metrics at different stages of the justice system, and progress in MoJ priority areas: improving timeliness, increasing victim engagement and improving the quality of justice.

An additional problem with the data, related to the fragmented structure of the justice system, is difficulties in finding 'a single version of the truth'. Different organisations record the same events in different ways. For example, the CPS focuses on defendants, HMCTS on cases and the MoJ on people using the system, which means statistics on backlogs and cases processed do not perfectly align. One interviewee told us that transforming data from case based to person based can be done, but it is complex and time-intensive and therefore mostly has not been done. Even if the underlying data for analysis is unified, in some cases there are no clear definitions for useful categories – such as 'serious and organised crime' – so external researchers design their own, making it harder to draw robust conclusions across multiple studies.

Alongside gaps in data that describes processes and people within the justice system, public access to case-level data – such as court listings, judgments and transcripts – is also poor. Across our Data Bites events and interviews, stakeholders reported continued limited access to court hearings, listings, transcripts, judgments and sentencing remarks, echoing the "numerous barriers" that the Justice Select Committee found when it investigated this issue in November 2022,[32] although the National Archives' launch of the Find Case Law search tool has helped.[33] This impedes open justice, as members of the public and the media cannot freely access information (where privacy and confidentiality concerns have been taken into account) about the day-to-day operation of the justice system. Knowledge of past judgments is also crucial for defendants' access to justice in a common law system.[34]

Datasets are poorly linked across the justice system and beyond

As the justice system comprises so many bodies, data is held across many different systems, each with their own data protocols. There are a few ambitious programmes that are gathering and linking administrative data across these systems to build new collated datasets – such as the UK Prevention Research Partnership's VISION programme and the MoJ's Data First (with ADR UK), Justice Data Lab (with New Philanthropy Capital)[*] and Better Outcomes through Linked Data (BOLD) programmes.

However, these are rare examples, with limited scope and capacity. Interviewees highlighted continued problems in, for example, linking police, CPS and court records, in part because data is recorded differently, as mentioned above. Most court data remains structured by case, rather than by person, so there are missed opportunities to connect the dots for an individual, understand why they have multiple appearances in different parts of the justice system and ascertain their contact with other public services such as health care, welfare, social care or housing services. This has very real consequences; failures of data systems to understand these links can have enormous implications for people in the justice system and the wider public's experience of crime – for instance if personal risk factors contributing to an individual's likelihood to commit crimes in future are not addressed as part of their rehabilitation.

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* The Justice Data Lab links individual-level datasets with central anonymised individual-level reoffending data to help organisations working with people in prison assess the impact of their work on reoffending rates.

Interviewees also highlighted how limited data makes it harder to conduct evaluations of interventions in the justice system. Most evaluations are process based. These are important for understanding how an intervention has affected stakeholders' experiences of the criminal justice system, but they do not account for any impact on wider or longer-term outcomes, largely due to the challenges of linking process-related data to outcome-based data. For example, in April 2023 the MoJ published a process evaluation of Section 28 of the Youth Justice and Criminal Evidence Act 1999, which provided an option for vulnerable or intimidated witnesses in criminal cases to pre-record their cross-examination before trial. This reached several important conclusions about how processes could be improved but did not assess whether Section 28 has affected conviction rates, which was one of the key objectives of the policy.[35,36]

Poorly linked data also causes operational inefficiencies, as any individual going through the justice system has their personal data collected multiple times. At a time when operational staff are stretched, with limited capacity for data entry among their other priorities, this is not a strategic use of their time. Data not being linked across systems can also have a problematic bearing on case outcomes, as it may mean a victim has to give several statements, placing an additional burden on them and in some cases leading to victim attrition (them dropping out of the case).[37]

Where data-linking programmes are taking place, they face many methodological challenges. Programmes have to arrange access to administrative data stored in different parts of the justice system and in various government departments, which can be time-intensive and challenging as they negotiate different political territories and priorities. Then once data access is secured, variations in data standards and definitions across government make it difficult to provide a high-quality linked output with a known rate of error.[38] Various data-linking programmes have developed different methodologies for this. The MoJ uses Splink, an open source library for "fast and accurate" record linkage, developed as part of Data First.[39] But interviewees raised concerns that broader, burgeoning initiatives linking data across government – like the Office for National Statistics' (ONS) Integrated Data Service – might use different linking methodologies, creating "different versions of the truth in different places", which would impede the MoJ's aim to improve data consistency and standardisation.

There are missed opportunities to make data available to external researchers

Justice data is personal and sensitive. There are legitimate risks when it is shared with the public, external researchers or even other parts of government. But there are also valuable opportunities to fill key evidence gaps by harnessing external research resources and expertise. Robust data governance systems are crucial to ensure government strikes the right balance between protecting individuals' confidentiality and, where appropriate, enabling external researchers to usefully learn from justice data.

For external researchers, requesting access to justice data has typically been a fraught process. Officials agreed with this characterisation in interviews. There are no clear internal catalogues for who owns data and what data even exists, and officials are often unclear what it can be used for and whose decision it is to share it.

Different sources of data are accessed by different means, including the ONS' Secure Research Service and the SAIL Databank, as well as more ad hoc arrangements. As one interviewee put it: "How quickly you get through governance depends on who you speak to. It could take months or happen very quickly." Some projects that have had direct buy-in from key members of the judiciary have had extraordinary access to detailed case-level data – one interviewee explained that HMCTS's Data Access Panel granted one organisation access to hundreds of court transcripts, with the proviso that they were used only for the specific use applied for. Others have struggled to get off the ground, due to slow progress through complex (and sometimes poorly understood) internal processes, while others have not emerged at all because data is not available to researchers. The Office for Statistics Regulation reports that this is a common issue across government.[40]

The Senior Data Governance Panel has begun to unblock some of these issues. Independent experts, officials from the MoJ and HMCTS and members of the judiciary jointly make decisions on complex data access requests, with appropriate provisions in place to maintain confidentiality (such as restrictions on how the data can be used or reported). To accelerate research, the MoJ is also working with ADR UK as part of Data First to fund training and PhDs using linked administrative data, and research fellowships where academic experts are using linked data to address departmental evidence priorities. This should bring new insights, build a network of academics with the skills to use administrative data for research, and help grow the stock of linked data that is available.[41]

We understand that the Home Office Crime and Justice Lab is planning to set up a similar model to Data First using police data. But these different initiatives are at the early stages and there is a risk they could be disconnected, with different sources of justice data likely to appear on different platforms and with different access processes.

Providing external access to data in the right ways requires HMCTS to have the right skills. One interviewee highlighted that officials have a poor understanding of how copyright law and licensing apply to justice data, with implications for managing external data scraping. For instance, as there is no indexed, publicly inspectable database of case-level courts data, external companies are scraping daily online public records and creating downloadable databases, potentially breaching copyright if used commercially. But because there has been no definitive statement about how this HMCTS data is licensed, it is very difficult to determine and respond to any breaches. The National Archives, responsible for publishing court judgments from the superior courts of record[*] since April 2022, have developed an Open Justice Licence, which resolves these uncertainties, but it has not delegated this for use by HMCTS.

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[*]   The superior courts of record are the Supreme Court, Court of Appeal, High Court and Upper Tribunals.

Data has risen up the agenda in recent years, but internal attitudes and resources remain limiting factors

In recent years, the culture of the MoJ in particular has been changing to value data more. Senior leaders – at present, the permanent secretary, Antonia Romeo, supported by two separate directors for data and analysis – have driven this changing culture, and it has been matched by investment in data expertise and ambitious new projects such as Data First. One expert commented that the UK's strategies and ambitions for justice data governance are advanced compared with those of other countries. But attitudes in justice have not always been so pro-data and the system as a whole still has a long way to go before it could genuinely be described as 'data driven'.

As Natalie Byrom described in her Data Bites 42 presentation at the Institute for Government, too often the MoJ and HMCTS do not act on insights from data.[42] A House of Commons Public Accounts Committee report on courts reform, published in July 2023, found that HMCTS has made too little progress in addressing findings from its access to justice assessments, including "concerning disparities" in how divorce and probate services perform for people from minority ethnic groups compared with other user groups. Despite warnings, the report also found that HMCTS has failed to respond adequately to operational staff concerns about technical and functionality issues with the Common Platform, noting that "its research so far is insufficient and the evidence that does exist is concerning".[43] This was a complaint echoed about the Home Office in interviews. The broader concern here is that, too often, policy making processes are disconnected from data and analysis, and one is not necessarily informing the other. For data and analysis to play a full role in improving performance and outcomes, policy officials need to understand and act on the findings of the Public Accounts Committee.

In an era of tight spending, prioritising data initiatives has been especially challenging. Natalie Byrom, in her presentation at the Institute for Government's Data Bites 42 event, suggested that the problem facing decision makers is often "spend money on data or fix the fire on my table",[44] but failing to spend enough on data infrastructure makes it more difficult to tackle all the other problems facing the justice system. The MoJ deserves credit for supporting new data initiatives even while budgets are tight. But inadequate resourcing has undermined some operational reforms. The court reform programme has been scaled back due to insufficient budget. The minimum viable product (MVP) for the Common Platform has been delivered, but multiple technical and design issues have created significant challenges for HMCTS's operational staff and it may be more difficult to build on this product to achieve some of the more ambitious goals of the platform, including providing better data for analysis.

The improvements needed have not been rolled out quickly enough, and some have been moved into HMCTS's business-as-usual activities even though they require further work, while others have been paused indefinitely.[45] At the same time, limited capacity has had an impact: the number of data access requests to MoJ officials has outstripped their capacity to deal with them, limiting data sharing, while HMCTS attributed delays in the Common Platform partially to operational staff's lack of "bandwidth" to accommodate associated new responsibilities.[46]

What lessons can we learn from examples of best practice?

There are many exciting data initiatives happening in justice, some of which were presented at our Data Bites events. These examples of good practice highlight several lessons that can be applied to future data initiatives, and to the justice system's approach to data more broadly.

At the outset, it is worth underlining a point that several interviewees made: that rather than worrying about the differences between different parts of the justice system, we should focus more on the commonalities and what can be learned from the different parts. As one interviewee put it, for all the (important) differences in systems, language and detail between criminal, civil and family justice, there are similarities: cases are all about disputes of some sort, involve a claim being raised, escalate to a case coming before a court or tribunal and having to be managed, and result in verdicts, settlements, mediation, appeals or abandonment.* Lessons from integrating data in one domain (for example, immigration tribunals) could be applied elsewhere (for example, criminal justice). This approach may also help break down siloes in the justice system and avoid the situation where strategies and activities are focused on criminal justice, with other domains bolted on as an afterthought.

There are also examples of innovative data use from elsewhere in government that the justice system could learn from. This is particularly relevant where other departments are part of a wider encapsulation of the justice system and its role in social policy – the BOLD programme, for example, draws in data from DHSC, the Department for Levelling Up, Housing and Communities (DLUHC) and the Department for Work and Pensions (DWP) as well as the Home Office. Some lessons from justice can also be usefully shared more widely, for example through the heads of the data strategy network that now exists across government.

We identified three broad sets of lessons.

The need for clarity and strategy
Clarity over the role data can play to improve the system is key
While the existence of a data strategy will not solve everything by itself – as one interviewee told us, "strategy is just words unless you have tangible things you are working towards, people to deliver it, senior buy-in across the department" – it is a vital starting point to set intentions and provide a shared plan for improvement. Another interviewee paraphrased former US president, Dwight D. Eisenhower: "I've never known a plan that worked, but planning is absolutely crucial... you have to have a data strategy."

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* This is not to ignore important differences, including the different nature of civil justice (independent parties choosing to engage in a process) and criminal (less voluntary and with the state an active participant), and what might happen after the court has reached its verdict.

For several interviewees, the 'pillars' summarising the MoJ and HMCTS data strategies are important as clear statements of aims. The MoJ strategy aims to:

• improve justice outcomes through data-driven insight and innovation

• ensure data meets user needs

• build a data culture that values data as a strategic asset.[47]

The HMCTS strategy, meanwhile, sets intentions to:

• gather, hold, curate and protect data that is needed, now and in the future, to help the system run smoothly

• manage analysis and modelling effectively

• have the right analytical skills and culture

• use data and insight to deliver efficient and high-quality services

• share data safely to support transparency

• allow others to innovate and deliver better services.[48]

One interviewee felt the HMCTS strategy meant people had actually written down what they had been thinking, which helped raise awareness of what needed to be done.

Data strategies and other organisational pronouncements on the strategic value of data, and what better use of data could achieve, have brought clarity – but so too have practical projects and programmes. For example, in negotiating data linkages between different departments, the BOLD programme had to make the case for how the results could contribute to solving policy challenges.[49] Compelling use cases (of specific questions that can be answered or problems that can be solved), and the fact that the BOLD programme has multidisciplinary teams united by programme focus rather than by department, have helped unify siloed organisations. Being able to point to research generated from analysing the data can further strengthen such use cases.

Several interviewees felt that the culture towards data was changing within the justice system, shifting towards a greater understanding of data's value, the role it can play and the benefits of working together around it. The centrality of data to the pandemic response may also have cemented the importance of data. Trying to get others to appreciate the importance of 'fixing the plumbing', such as data quality and data governance, can still be challenging, but even here, showing people who work on (for example) governance that it is not designed to add extra work but to provide further structure and support around what they are already doing, may be helpful.

Successful initiatives have gathered momentum by getting buy-in from senior decision makers

Leadership and having a mandate from senior leaders (ministers, senior civil servants, the judiciary and others) are vital for success. In one example – the Home Office National Crime and Justice Lab – the mandate came from a 2019 Conservative manifesto pledge.[50] But for the most part, it has been about the tone and stability that senior leaders have set.

As we noted above, the leadership team of the MoJ has an appreciation of the role data can play, and analysis and data sit in their own stable directorate (rather than moving between finance, strategy, communications and IT, as had previously been the case). A chief data officer was also appointed around the time the data strategy was published. In the words of one interviewee, "it shows 'we do really care about this, we're going to invest in it', not just talking about being really good but trying to deliver against it as well". This push has been recognised outside the department.

Those involved in earlier digital justice reforms, such as HMPPS's digital and technology strategy,[51] also cited the importance of leaders who had embraced new ways of working and ensured their whole leadership team was given time and training around the importance of data. One interviewee underlined the need for leaders to make the most of past successes (including specific case studies from projects such as Data First) to encourage future progress.

Interviewees also said that initiatives where the judiciary permitted data to be shared had been some of the most effective. Justice Fraser – co-chair of the Senior Data Governance Panel and its predecessor shadow body – was singled out for championing the importance of justice data, taking his role seriously and pushing hard for sensible external recruitment to the panel. Interviewees recognised some of the challenges for senior leadership in the justice system, given the 'air gaps' between and distance from its different independent parts, the change in the role of lord chancellor and – as with the health secretary and the NHS – the difficulty for a politician to say they are not responsible for all the workings of the system while having political responsibility for it.

Improving operational data and collection also relies on working with, and the support of, leaders in the police and courts. Each court and police force is run independently, so changes to data collection, or systems, will only roll out and be implemented effectively if they understand the purpose for the change and support it.

Clarity and strategy can help build the right culture and skills

Knowing what you are trying to achieve with data can help you understand the skills and culture you need to deliver it. As previous Institute for Government work has found, multidisciplinary teams can be crucial.[52] The MoJ's digital strategy commits to "multidisciplinary teams made of policy, operational and digital colleagues… [to] develop policy, processes and digital services that meet the needs of our users", under its user-centric pillar.[53] The BOLD programme has been pioneering in this regard. For each of its individual programmes, the teams have analysts, policy makers, operational staff and project delivery staff. Other projects are learning from the

BOLD approach and the skills it has brought into programme teams (for example, data sharing expertise enabling better conversations with data protection teams). The BOLD programme has also brought together people from different departments involved in a data share, with a stake, in the same team, which has helped with better cross-system working (one interviewee noted that "it sounds simple to have someone with vested interests on both sides, but it doesn't always happen"), and some analytical teams also sit across different domains, which can help bring things together.

Some interviewees suggested that more could still be done to further develop relationships between policy teams, analysts and academics – "here are the datasets, what are your key policy questions?" – through fully collaborative projects; the MoJ's *Areas of Research Interest* report could be really useful for starting the conversation.[54] Data literacy and data culture across the MoJ are "moving in the right direction", according to one interviewee, but it remains vital to think about how non-specialists approach data, and the way data feeds into their decisions alongside other considerations:

> "There's no point thinking about creating new products or new processes if the people on the other end don't understand the impact or have the skills to engage – for example, if you're designing a new dashboard, the skills of the people using the dashboard have to be part of it."

Having people in particular specialist roles matters. One interviewee said they had increasingly found people in roles dedicated to ensuring open justice and transparency, although civil service turnover remains a problem, with external stakeholders having to have the same conversations with new people. Thinking about the capabilities and knowledge that need to be kept within the department is also important: one interviewee noted that some departments that give lots of money to private companies to do external data work become dependent on them, losing the capability within the department to evolve innovation around data.

Any initiative should keep those affected by the justice system, and those making use of data, front of mind

Ensuring data meets user needs is one of the pillars of the MoJ's data strategy. But 'user needs' can take on two distinct meanings, both of which are important if data is to be used well.

First, there is the experience of service users, including staff, lawyers, victims and defendants, and claimants and respondents. The Organisation for Economic Co-operation and Development (OECD) has found understanding users to be a vital starting point for justice system reform.[55] Yet the Public Accounts Committee's report into court reform was critical of a failure to engage with users and even "a marked reluctance for the system to be designed in conjunction with, and for the benefit of, professional court users".[56] For data to better serve those people's needs, it is critical that operational reforms include extensive consultation with frontline users and operational staff, and that data is linked in a way that allows for a better understanding of a court user's journey through the system, for example to avoid asking for their information at multiple stages.[57]

Second, there are the consumers of data for analysis. To serve these well requires an understanding of the community of external interested users of published data, for example ensuring the data format is accessible. Internally, it requires a good understanding of how data can feed into policy officials' decision making, which questions they are most interested in, and in what forms data or analysis is likely to be most impactful.

More data creates new opportunities to improve the justice system
Detailed and digestible data on each stage of the justice process helps to improve how the system operates

The systematic recording of data at different stages of the justice process has helped identify problems – for example, understanding where bottlenecks are in criminal cases and, as Amy Caldwell-Nichols highlighted in her Data Bites 42 presentation at the Institute for Government,[58] in divorce proceedings. But too often, this sort of data is still lacking, particularly in family and civil justice. And even where such data does exist, it may not be available in useful formats.

Collecting and publishing such data would bring more focus onto solving problems. Using data in this way can also be a way of getting judges and court administrators on board with reform and the need for better data, as they may be able to see benefits for operational processes (although it can have the opposite effect if judges are concerned the data is being used to assess the performance of individual courts). Mapping the different stages of a justice journey can help improve individual stages as well as the operation of the system as a whole.[59]

Examples show the potential of linked-up datasets across organisations and jurisdictions to better understand how someone interacts with the state

We are already beginning to see some of the potential of linked data, particularly administrative data, within (and beyond) the justice system. In particular, Data First (supported by ADR UK) and the BOLD programme have started to produce linkages and research based on that data to understand different aspects of justice. Several interviewees highlighted these "brilliant" initiatives for the progress they had made in linking data across government and gathering a wealth of information about how best to do that and what works.

The MoJ has used Data First to produce analysis of repeat defendants[60] and the backgrounds of children sentenced or cautioned,[61] while new research-ready datasets include all civil cases heard in County Court and a flagship data share with the DfE to better understand family courts, which has already facilitated around 40 academic research projects.[62,63] The Office for Statistics Regulation highlighted both Data First and the BOLD programme in its recent report on data sharing and linkage for the public good. It found that, across government, there had been "some excellent progress in creating linked datasets and making them available for research, analysis and statistics".[64] It noted there were still problems with sharing data across siloed government organisations, but that the external funding that initiatives such as ADR UK provided could be helpful in overcoming them.

The success of Data First and the BOLD programme is also prompting people within the MoJ and elsewhere to think about the future data sharing capability they want, and how to set the department up to be at the forefront of data sharing work, regardless of future funding.

Qualitative and quantitative approaches can complement one another

The BOLD programme has engaged with the people whose data it is analysing alongside the quantitative analysis it has conducted.[65] Similarly, the Justice Data Lab has highlighted the need for qualitative studies to help interpret quantitative results.[66] One of our interviewees expressed a wish that we should think about the use of 'information' in the justice system to inform policy and future decisions, of which the quantitative data that many initiatives have focused on, is just a part. Quantitative data is essential to meeting many of the core aims we set out at the start of this report, but qualitative insight provides a much richer picture of how the justice system is operating and affecting people's lives, to answer questions that quantitative research never can.

Detail and implementation matter

Data sharing protocols are important

One of our interviewees highlighted that it can be easier to engage people on the 'sexy' side of data – such as analysis – than on the work that needs to be done on fundamentals such as data quality, data standards and data governance. Many of the problems we identified above stem from different organisations having different incentives and unclear protocols, which can make linking and analysing data from different sources more difficult.

The Data Improvement Programme (which sits within the MoJ, but also has a programme working to improve justice data beyond the department's boundaries) is getting into the detail of data quality and data governance. This and similar initiatives tend to start with national-level data (rather than, say, data at the level of different police forces) because it is often easier to link. The Data Improvement Programme is looking at whether there could be consistent templates, processes and frameworks to avoid having to reinvent the wheel every time.

A recent Institute for Government report on data sharing during the pandemic also noted that such templates could be valuable,[67] and there are central efforts that the Central Digital and Data Office in the Cabinet Office is driving to support the use of data standards and improve data maturity (the "capability, effectiveness and readiness to use data fully") across government.[68] Central resources – such as Government Digital Service (GDS) website design patterns and other components – have also been valuable in previous digital justice reform programmes (for example, a new service to help people with the cost of visiting prisoners adapted existing GDS website design patterns so that they can check their eligibility for this help, and used the GOV.UK Notify service to keep people updated about the progress of their claim).[69]

Where data sharing protocols and processes have been carefully considered, there has been work of real value. As well as the BOLD programme and Data First, interviewees praised Splink, the open source library for "fast and accurate" record linkage.[70] The Government Analysis Function also highlighted this as a success story: its 2022/23 annual report notes that it has been downloaded six million times – now more than seven million – and is widely used, including to understand offenders under electronic monitoring orders and to create more accurate criminal histories.[71] Other examples include the Nuffield Family Justice Observatory, which had a one-off data sharing agreement with the MoJ to measure and analyse Deprivation of Liberty applications and orders that the High Court had made; access to the data was granted quickly given the setting up of a new procedure to process all applications and orders and the concerns of the senior judiciary about the lack of national data.[72]

You need proper investment and resourcing to make things a success

Further innovation in the use of justice data will require sufficient money and people over an extended period. Existing projects such as Data First could achieve even more with more people, being able to handle more data requests and provide more support for a wealth of policy-relevant research projects. Several interviewees underlined the importance of being able to harness external expertise, such as research academics, and that the time necessary for this had not necessarily been factored in initially. The problems with the Common Platform also speak to the need for having enough resources and the right capabilities in place – initial hardware and software issues, with the system running slowly, contributed to a poor reputation among frontline staff delivering justice services. Funding, building and having the right technical capabilities and platforms in place (such as Splink) are critical, and could allow more of the data in the system – that analysts do not currently use – to be used.

Recommendations

These lessons from successful initiatives in justice data can be applied more broadly to the justice system as a whole to help overcome the systemic problems we have identified. To help the key organisations within the system – including the Home Office, MoJ and HMCTS – better realise their goal of being data-driven organisations, with all the benefits that brings for understanding the justice system and improving outcomes for its users, we recommend several improvements to how the development, internal use and external provision of justice data are co-ordinated and delivered.

Publish a single data strategy across the whole justice system

Many of the problems we identified above – including extensive data gaps, limited data linking and inconsistent data sharing – stem from the lack of a coherent framework with guiding practices and approaches towards data across the array of institutions within the justice system. Without this, data is collected, used and managed inconsistently. Variation in data systems, standards and governance across the justice system impedes joined-up thinking and analysis, while conflicting perspectives on the objective of collecting and publishing data limit effective data sharing with other parts of government, the public, the media and external researchers.

These are difficult problems for the use of data in justice, and the differing incentives and objectives of key players are especially challenging. But for data to be used more effectively across the system as a whole, key organisations need to resolve these tensions to promote a unified system-wide approach to using data.

A single justice data strategy covering the whole justice system – including civil, family and criminal justice and the different organisations involved in each – would bring coherence to these disparate approaches, providing a plan that recognises the tensions between stakeholders and navigates a clear path forward. Sometimes there are good reasons for inconsistencies in approaches to data, such as additional protections for confidential data, but in many cases, unnecessary variations in data practices, policies and processes could be avoided by having a clear strategy document setting out an approach for the whole justice system. To ensure it meaningfully accounts for and resolves areas of difference, **a senior group that reflects the diversity of objectives in the justice system – including representatives from the MoJ, HMCTS, judiciary, HMPPS, Home Office, CPS and Youth Justice Board – should agree the strategy.** These organisations work with others across government – including the DfE and DHSC – but to ensure the strategy is workable, it makes sense to focus on core justice organisations.

Our research has shown that securing buy-in from senior leaders across the justice system is crucial to give the strategy momentum. At the same time, too often, operational staff have been excluded from giving feedback on data policies, to the detriment of their effectiveness. **The senior group agreeing the strategy should therefore include both senior policy officials and operational staff, as well as other senior leaders such as those in the judiciary,** to ensure the strategy has mutual support and fully accounts for how interventions to improve data will affect frontline staff delivering justice services.

It is also vital that the strategy reflects the needs of those outside government who use justice data. A broader group advising on the strategy should therefore also include external researchers working with justice data, and civil society organisations who can represent the public's interests in justice data.

Organisations across the justice system should agree and own the system. As the core department at the heart of the justice system, responsibility for writing the strategy should sit within the MoJ, making use of the relationships the data improvement team has already built with other teams across the criminal justice system and building new links with family and civil justice bodies.

The strategy should act as a framework, presenting a vision for how data should be collected, used and managed in the justice system. The National Data Strategy provides a model for this, with some departments setting their own activities with reference to the overarching framework.[73] It should also provide the tools – such as guidelines and standards where appropriate – for organisations to apply in their individual contexts. For clarity, and to help structure internal plans, it should outline which bodies are responsible for delivering each desired outcome. It should set out:

- the key roles data can play in the justice system, both operational and in relation to policy

- plans to improve the quality of existing data sources and identify data gaps

- a clear statement of what different data projects across the justice system, such as Data First, aim to achieve and what responsibilities different bodies have to support them

- a policy for how, when and why administrative justice data will be shared with external users and researchers

- a process for determining how, when and why internal data, including administrative data, can be shared across the justice system, and between government departments

- ethical guidelines for collecting, managing and using justice data.

Publish organisation-specific data strategies, which set out the path to meeting system-wide priorities

This still leaves a crucial role for **organisations' own data strategies.** While it is important that different organisations within the justice system have common standards and objectives for data, they each have unique priorities and roles to meet system-wide objectives. For example, the HMCTS strategy could set out a specific plan for how it is going to gather and respond to feedback from frontline staff on the Common Platform as it continues to be developed, or details of any data training programmes it needs in order to support staff in meeting the new data standards and practices that the whole-system strategy advises.

Learning from the limitations of past public sector data strategies,[74] and issues with the roll-out of HMCTS's Common Platform,[75] organisations need to back their plans with enough resources to deliver them, **setting out the spending needed to achieve the strategies' key objectives. Organisation-level data strategies should be prepared ahead of spending review negotiations,** so departments and bodies can present spending review teams with a clear case for resourcing their strategy. A defined, desirable use case for new processes and initiatives will be key.

Organisation-specific data strategies should set out:

- how an organisation will deliver the overarching justice data strategy, and how any changes to systems and processes needed to do this will be managed and implemented

- how an organisation will manage both its operational and analytical data needs, and manage any trade-offs between them

- a clear indication of the budget needed to meet the priorities set out

- an assessment of the skills needed to meet the priorities set out, and a list of steps to improve skills where appropriate.

Most organisations within the justice system already have some kind of data or digital strategy. But these should be refreshed to reflect an overarching justice data strategy, if possible in advance of the next multi-year spending review, which is likely to be in 2025. By that time, most of these strategies should be due for renewal in any case. For the MoJ, which currently has published a digital strategy but only a summary of its data strategy, it should publish a separate data strategy in full.

Set up structures to better integrate policy personnel with data and analysis functions

Interviewees within the civil service all noted that the stock of data and analysis has risen in recent years, helped by Antonia Romeo's leadership of the MoJ given her analyst background. But interviewees still felt that insights from analysis do not always feed through into policy making, and more impactful analysis could be undertaken if policy personnel fed their priorities to analysts more regularly. Some departments have embedded analysts within specific policy teams to overcome some of these problems, although these can create other challenges (such as a lack of joined-up thinking across analysis).

The Areas of Research Interest (ARI) that each department publishes are useful documents to highlight the priority questions that the Home Office and MoJ want to answer to help them make better policy. The MoJ's document does a good job of reflecting broader justice system priorities, such as reducing rates of reoffending and improving life chances.[76] These documents are primarily intended to send a signal to external researchers, but they can also highlight the main priorities internally.

The MoJ's ARI has not been updated since 2020. This is not unreasonable: it is explicitly a document with a three- to five-year horizon, and most of the gaps highlighted remain unfilled. But internally it would be useful to update priorities more regularly, and for policy officials to proactively identify these in partnership with analysts.

More regular two-way dialogue in specific policy areas would also help to ensure policy officials are aware of the latest research and analysis (both internal and external) and analysts are aware of policy officials' latest priorities. To facilitate this, **the MoJ should explore ways of working that would help analysts work more systematically with policy teams,** for example by having analyst roles within policy teams, and ensuring there is a clear partner analysis team for each policy team. Tax policy is one area where this seems to happen well, with the HMRC's Knowledge, Analysis and Insight teams well integrated into the tax policy making process.[77]

More broadly, the government's chief digital and data officer should have a duty to promote this engagement between policy and analysis across government.

Publicise the success of recent data sharing initiatives

For justice data to take larger strides forwards, including through more data linking and data sharing, key senior decision makers need to be convinced that the benefits are worth the costs, including necessary extra spending and the challenges of working with other organisations. Successful initiatives such as Data First and the BOLD programme had to work especially hard to make this case at their inception because they did not have many concrete examples to point to. Instead, they had to rely on hypothetical examples of what new datasets could achieve.

The fruits of these initial investments are now emerging. Data First has already led to several useful published analyses.[78] And the BOLD programme has already produced useful internal products that should be published over the coming months.

The analysis function – within the MoJ and across government – must ensure these successes are publicised, both internally and externally, beyond the immediate teams that might benefit from the analysis. As we approach what seems likely to be another tight spending review, both existing and new data initiatives will struggle to get the necessary funding without a strong business case and a broader understanding of the important role these programmes can play. The BOLD programme has a full-time communications official, which has helped to build its profile – something that Data First does not have. But the whole analysis function should ensure the potential of better data across the entire system is highlighted through these first steps.

There are several forums across government that can be used to publicise success including, but not limited to, DataConnect,[79] Public Sector Data Live,[80] Analysis in Government Month[81] and the Policy Profession Forum. Alongside more targeted publicity within the MoJ, these are all ways to highlight the value of data within justice throughout government.

This drumbeat will be more effective if it echoes outside government as well as inside. **Publishing more internal analysis would help to achieve this.** It is welcome that Data First and BOLD research outputs will be published, and work that external academics have conducted also ends up in the public domain. In our interviews for this project, we heard about many interesting and useful pieces of analysis shedding light on important policy questions. While it would require more work, civil service analysts publishing more working papers (as, for example, HMRC has done in some cases[82]) would help to improve the quality of analysis through peer review and better publicise the role that good data can play. **External researchers should also play their part by ensuring work is widely accessible and framed to influence policy.**

Clarify data sharing protocols

In an earlier Institute for Government report on data sharing across government during the pandemic, we noted that – despite several successes – there were still barriers to data sharing, some of which were cultural (including a fear around sharing data in case things went wrong), process based (the time taken to establish agreements) and technical (a lack of interoperability between systems and poor data quality).[83]

In that report, we recommended that the Central Digital and Data Office (CDDO) should produce a data sharing 'playbook' to help civil servants looking to share data. We recommended that this should include:

- templates for standard documents (such as data protection impact assessments and data sharing frameworks)

- links to relevant guidance and legislation

- links to existing government resources

- advice on the practicalities of setting up a data share (including who to engage, when and how)

- a guide on engaging the public (with the Centre for Data Ethics and Innovation leading this work).[84]

The Central Digital and Data Office should develop a central data sharing 'playbook', which would be useful to the MoJ and other organisations in the justice system and help to share expertise and good practice from across government.

However, **the MoJ should also consider creating its own data sharing 'playbook' to help standardise data sharing protocols across the justice system and capture lessons from previous attempts**. As one interviewee told us, being able to build on previous practice would avoid having to reinvent the wheel each time. A justice-specific initiative could also help set standards for particular data across different organisations.

Preparatory work for a playbook-type initiative would have to include understanding how data sharing already operated across the MoJ – what agreements looked like, what data was flowing where, what was working well and what was working less well. Altogether, a 'playbook' and the activity around it could help standardise the approach to data within the justice system and provide staff with the support they need.

Help researchers access data and grow the research community

Despite good progress in recent years, access to data for researchers remains patchy and inconsistent across the justice system. This means less useful external research is being done to fill key evidence gaps and identify the effects of policy than could be the case. Compared with other public services, the justice research community is also small and taking steps to grow that community – including through more consistent data availability – would mean more resources were available to tackle key questions. While the incentives of policy makers and academics are not perfectly aligned, there are plenty of projects that, with available data, could answer important policy-relevant questions. The MoJ, HMCTS and others running the justice system have only limited internal capacity for research, and external researchers can bring both extra capacity and specialist expertise, as has already been shown, for example, through the work of the Nuffield Family Justice Observatory on the repeat appearance of mothers in the family courts.[85]

To make it easier for researchers to understand what data is available, the **system-wide data strategy should set out a clear statement of purpose for sharing data publicly.** As well as making access to data more uniform, **a document or webpage should clearly set out the datasets and data linkages that are available,** and **a repository of the projects already approved should include updates on how far these projects have progressed.** Some versions of this exist already – for example, there is a webpage for projects approved to use Data First data[86] – but a broader document could incorporate other sources of justice data too. This would be most effective if it could link projects to the specific Areas of Research Interest the MoJ has set out, as this would also help to identify gaps where little research is happening.

Together, these steps would create a more transparent research environment, helping to open up the process beyond a relatively small group of insiders. If done well, it would also enable more strategic oversight of the totality of research happening with justice data.

Interviewees told us that more demands for access to data can require a lot of internal resources, for example to answer questions about the contents of datasets and the feasibility of addressing evidence gaps. As the research community grows and matures, **the government should consider setting up a board of expert justice data users**, organised in partnership with ADR-UK, which could help to deal with these questions and take some burden off the MoJ. While we have not found a precise analogue in other areas, several departments use expert advisory groups to help feed research into the policy process,[87] the Evaluation and Trial Advice Panel provides expert advice on evaluation[88] and there are less formal data user groups, for example on children's social care.[89]

To encourage more and better research, a more radical option would be to explore different ways of working with academics. For example, **projects could be run as partnerships between internal and external researchers**. This is a model employed in other countries where internal expert knowledge of administrative data complements external research skills,[90] although it has rarely been used in the UK. There is already one example of this happening in UK justice, where work on repeat criminal court defendants was conducted in conjunction with an external academic,[91] but this could be employed more regularly. The model could provide mutual benefit to officials – who gain from interacting directly with expert researchers as well as extra resources for projects, which they can mould to meet departmental priorities – and researchers – who can do better research with co-authors who know the contents of the data well.

Beyond data, there are also several ways in which departments can better equip themselves to make use of external research expertise, which past Institute for Government research has highlighted.[92]

Create more opportunities for stakeholders to advise on data policy decisions

Researchers are important users of justice system data, but there are others too, including frontline staff, legal professionals, civil society groups and journalists. It is vital that data is collected, shared and published in a way that fits with users' needs. But this is difficult when users' needs vary, and we have found in particular a disconnect between operational and analytical data needs, which has both created operational difficulties and held back the quality and quantity of data for analysis. There is no quick fix to resolve this tension, but the broader data strategy and specific data initiatives would benefit from a mechanism to understand the needs of this wide range of users and receive feedback.

The MoJ should set up a **justice data advisory group** for this purpose, which would also have a wider remit across justice organisations. It should include representatives from a broad range of stakeholder groups, including researchers and frontline staff, to advise on data strategy and policy and the ethics and public acceptability of data use within the justice system. It is also important that the broader public be represented, which would be most effective through civil society groups. Consultation with these groups should be part of the process for generating and subsequently amending and updating the system-wide justice data strategy.

Conclusion

Welcome strides have been made in the use of data in the justice system in recent years, including both specific exciting initiatives and a rise in the status of data and analysis within the MoJ in particular. But progress is still needed for data to play a better role across all of justice. A lack of a coherent, cross-cutting strategy is at the heart of the various problems we have identified in this report. And while a single document is not going to solve all ills, a common basis which various organisations within government can work from, and which those external to government can engage with, is an important starting point. Other changes we recommend should follow from this overarching strategy.

The next few years represent an opportunity. Longstanding problems in the justice system, which coronavirus has exacerbated, have led to criminal justice in particular growing in salience as a government priority, which could create the type of burning platform that is often needed to get organisations to work together and drive change. At the same time, justice is now at the vanguard of some data practices within government, which are now bearing fruit, and developments in artificial intelligence are likely to enhance the continued focus on data and digital in government.

However, there are also other factors that might make progress more difficult. First, the next spending review is likely to be tight, creating difficult trade-offs to invest in data or prioritise short-term projects that 'keep the show on the road'. How far the MoJ protects and prioritises data in its spending choices will be a good test of how far it has succeeded in its goal to become a data-driven organisation. Second, public and political attention on justice is limited to the criminal jurisdiction. The problems here are worthy of attention, but a strategy that focuses only on criminal justice and ignores family and civil justice will both neglect important areas and risk missing important synergies and joint learnings across domains.

Some of our recommendations are 'quick wins'. For example, improvements to joint working between analysts and policy personnel, clarifying data sharing protocols, and a justice data user board for researchers could all be set up before any overarching justice data strategy is written. Designing and agreeing the overarching strategy is a bigger job, but one that could, with appropriate prioritisation, be in place before the next multi-year spending review. And most other recommendations flow from that.

The justice system faces unique challenges, but it also has the opportunity to push the boundaries of effective data use within government. Its ability to do that will have big implications for how effectively it can meet its broader objectives.

Annex: Data Bites events

Data Bites 40, 5 April 2023
The speakers at this event were:

- Thomas Pope, deputy chief economist at the Institute for Government

- Anna Powell-Smith, director of the Centre for Public Data (CfPD)

- Toby Hayward-Butcher, head of strategy and delivery of the MoJ's Better Outcomes through Linked Data (BOLD) programme

- Dan Corry, chief executive of New Philanthropy Capital

Thomas Pope outlined the proposal for this project, a partnership between the Institute for Government and the Nuffield Foundation. He set out the array of different organisations making up the justice system, the different roles of data within it, and our key research questions to answer. Pope then outlined how the Data Bites events would inform this project, and how audience members could get involved.

Anna Powell-Smith set out new work from the CfPD identifying data gaps in criminal justice and recommending how they could be filled. She identified four highest-priority areas where data gaps could be feasibly resolved: remand and bail, sentencing, court operations and lower-level crime. She emphasised that government initiatives such as Data First and the MoJ delivery dashboards are welcome, but not enough to meet these gaps in areas of significant public interest.

Toby Hayward-Butcher explained the purpose and approach of the MoJ's BOLD programme. He set out the benefits of linking data across government, and the methodological challenges. Hayward-Butcher outlined the four pilots that the programme is currently conducting – on substance misuse, reducing reoffending, victim pathways and homelessness – and the typical pathway these projects would follow. He then explained key lessons from the programme's work so far, including the benefits of a "use-case-led" approach, multidisciplinary teams and engaging data subjects in projects.

Dan Corry explained the central problem the Justice Data Lab exists to solve, that charities need to measure the short- and long-term impact of their programmes on outcomes for people in prison but do not have the data to do so. He outlined how the Justice Data Lab fills this gap, connecting individual-level data that charities provide with government data on reoffences and creating a quasi-control group to assess an intervention's average impact on reoffending. Corry then explored some overall findings the Lab has gleaned from these individual projects, such as that interventions focused on education tend to be the most effective for reducing reoffending.

Data Bites 42, 17 May 2023

The speakers at this event were:

- Lizzie Cook, senior lecturer in sociology and criminology at the Violence and Society Centre at City, University of London

- Amy Caldwell-Nichols, deputy director, head of insights and analysis at HM Courts and Tribunals Service

- Karen Broadhurst, professor of social work at Lancaster University

- Natalie Byrom, director of research at The Legal Education Foundation and director of the Justice Lab.

Lizzie Cook set out how the Violence, Health and Society (VISION) programme works to link a variety of multi-sectoral data sources on violence to bring new insights into the causal pathways for violent crime, with the aim of improving violence prevention. She outlined recent work that mapped how gender and other inequalities featured in administrative homicide data, and located areas where more data is needed to account for the links between these inequalities and risk factors for perpetrating or being a victim of violent crime. Cook set out the need for a national minimum dataset that facilitates routine, aggregate analysis of domestic homicide reviews, to help fill some of these gaps and aid crime prevention.

Amy Caldwell-Nichols outlined HMCTS's ongoing work to fulfil its data strategy. She set out the pillars underpinning HMCTS's aim to be a data-driven organisation, and explained her team's key day-to-day focuses: managing the more than 1,000 data access requests it gets each year, and maintaining more than 25 new online data dashboards. Caldwell-Nichols highlighted HMCTS's achievements so far, including building this new data platform and revamping its data access process, and set out its priorities for the following year, including developing its data catalogue and improving data standardisation.

Karen Broadhurst highlighted the value of administrative data for family justice reform, through her work at the Centre for Child and Family Justice. She explained how data gaps have meant the family justice system is poorly understood and evaluated, and pointed to the work of the Nuffield Family Justice Observatory as vital for beginning to turn the tide. As an example of where work using administrative data has brought useful insights, Broadhurst outlined how their work had produced the first estimate of how many women in family court care proceedings would return, finding it was one in four. This gave a name to a problem that previously government had not known existed, and resulted in new investment in national preventative programmes.

Natalie Byrom looked back on her 2019 report on digital justice in HMCTS, pointing out where things have changed – such as the new Senior Data Governance Panel – but arguing that too much remains unchanged. She explained that too often data is

neglected in favour of "firefighting" crises in the justice system, arguing that data reform is just as integral for improving the system. Byrom set out a manifesto for improving the use of data in the justice sector, arguing government should: improve data collection, invest in transforming existing data into insights, reduce barriers to acting on insights, address siloes and regulate LawTech, and strengthen existing engagement with stakeholders and the public.

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