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Stand-Down and Deliver: Pre-Sentence Reports, quality and the new culture of speed

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Abstract: This article considers the recent and rapid evolution of Pre-Sentence Reports in England & Wales, which has entailed changes in both the speed of production and the mode of delivery of reports prepared by probation teams. The article analyses the main drivers behind these changes before going on to consider the implications for how the quality of contemporary reports should be assessed. It argues for a reconsideration of quality in the PSR context: one which takes into account the structural and cultural changes that have impacted upon PSR production in recent years; is flexible enough to cope with the different forms (oral/written) that reports may take; and takes into account the needs and expectations of the key stakeholders involved in the production and use of reports. It concludes that, in the new court culture of speed, timeliness (as featured in current National Standards) is an important quality for PSRs, but as a sole measure of quality it leaves a great deal to be desired.

Stand-Down and Deliver:

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Keywords: Pre-Sentence Reports; courts; sentencing; quality; *Transforming Justice; Transforming Rehabilitation.*

Introduction

For decades, pre-sentence reports have been prepared for the criminal courts by probation staff, typically following an adjournment of around three weeks between conviction and sentence. In 2006, these 'standard delivery' reports made up 77% of all pre-sentence reports prepared by the probation service in England & Wales, but a decade later, in 2016, the proportion of such reports reached an all-time low of just 7%. Furthermore, 2016 saw the number of 'stand-down' PSRs - those delivered orally in court on the day of request - exceed the number delivered in writing (i.e. standard and

[1] This article is dedicated to the two probation court teams who allowed me to observe their practice in the first six months of 2017. The ideas developed in this article are my own but would not have been possible without this invaluable access to the real world of probation practice in Magistrates' courts.

fast-delivery written reports) for the first time (Ministry of Justice 2017a). This dramatic change in the delivery of pre-sentence reports in England & Wales has not attracted a great deal of academic attention; yet it represents a significant cultural shift in probation practice which merits critical scrutiny.

This article begins by tracing key developments in policy and practice relating to pre-sentence reports (and their predecessors, Social Inquiry Reports) in England & Wales, focusing on the problematisation of the Standard Delivery Report from the latter part of the 1990s. The second part of the article considers the relationship between speed and quality, arguing that what 'quality' means in relation to PSR practice, far from being straightforward or objective, is in fact subject to variation over time as well as competing perspectives. The final part of the article argues for a 'realist' approach to thinking about the quality of PSRs in the contemporary context: one which accepts the value of speedy production from the court's point of view, but which is also cognisant of the needs of (and potential risks to) practitioners and defendants in the new culture of speed.

A brief history of pre-sentence reports in England & Wales

The origins of pre-sentence reports have been traced back to at least the 1860s, when Edward Cox, the Recorder at Middlesex Quarter Sessions, appointed George Lockyer to make enquiries about certain offenders in cases where leniency was being considered (Vanstone 2004). This reporting function continued in the practice of the police court missionaries, who followed a decade later, and subsequently into the work of the 20th century probation service[2]. As Gelsthorpe & Raynor (1995) observe, this early practice of reporting to the court was almost certainly done orally, but the production of written reports dates back to at least the early twentieth century. As one of the most tangible artefacts of probation work, written reports have attracted the interest of several researchers over the years, and have been seen as offering "the most penetrating insights into the service's understanding of itself and its goals" (McWilliams 1985: 257). For example, McWilliams' (1986) analysis of reports produced between the 1930s and 1960s was used to illustrate a significant shift in probation's mission from a phase of

[2] In 1907 the Probation of Offenders Act gave magistrates' courts the right to appoint probation officers – both to offer advice at sentencing and to supervise those deemed suitable and 'deserving' of a chance to reform - and the 1925 Criminal Justice Act made it obligatory for every court to appoint a probation officer.

'special pleading' to one of 'scientific diagnosis and treatment'. Subsequently, researchers including Hudson & Bramhall (2005) and Gelsthorpe et al (2010) have sought to illustrate other significant changes in probation discourse and practice via the analysis of PSR content.

The production of pre-sentence reports is governed by legislation which, in the last 25 years, has brought some significant changes. The 1991 Criminal Justice Act replaced the Social Inquiry Report (SIR) with the Pre-Sentence Report (PSR), intended to focus on an analysis of the current offence and the identification of a 'community sentence' (another new concept at that time) that might be suitable for the offender (Raynor et al 1995). Importantly, the 1991 Act (s3(5)(a)) specified that a PSR had to be in writing. It also required the preparation of a PSR in a number of situations in which, under earlier legislation, consideration of a SIR would have been optional – thereby generating a mandatory increase in demand for reports of about 10%, or around 20,000 extra reports per annum (Bredar 1992). Subsequently, demand for PSRs grew steadily: in 2000, the probation service produced just under 250,000 reports, compared with just under 194,000 in 1990 (Bredar 1992; Home Office 2004). Meanwhile, official guidance on PSRs in the form of National Standards placed an increased emphasis on risk assessment, and saw the introduction in 1995 of a specific section on 'risk to the public of reoffending', to cover both the likelihood of further offending and the gravity of risk in terms of its likely harm. Consequently, probation areas which had some experience with risk of custody prediction tools and statistical predictors of reconviction such as the Offender Group Reconviction Scale (OGRS) began to experiment with structured risk/need assessment tools to assist with report writing (e.g. Roberts & Robinson 1998; Raynor et al. 2000). From 2001 a national Offender Assessment System (OASys) was introduced to probation areas and this, too, was intended to inform the assessments presented in PSRs (see Robinson 2003).

It is in the latter 1990s that we begin to see in official documents a 'problematisation' of PSR provision, in the sense that demand for reports was outstripping the resources available to meet it, and there were concerns about the potential impact on the service's legitimacy (in the eyes of sentencers) of a failure to keep up with growing demand. The service's initial response to this predicament was the introduction, in 1999, of a Specific Sentence Report (SSR), to be delivered on the day in cases where the court simply

required an assessment of suitability for a particular community sentence. Unfortunately, however, this initiative did not have the desired effect of substituting for full PSRs but rather led to requests for SSRs where previously none would have been requested, creating a 'net-widening' effect (Home Office 2004). The subsequent introduction of a capacity to pull text from an electronic version of the OASys assessment (e-OASys) into a PSR template was another initiative which the probation service anticipated would save resources (by avoiding duplication of effort), at a time when national performance in respect of producing reports within the (then) 15 working days national standard was slipping (NPS 2004). The developing technology of risk assessment was also seen as providing a defensible basis for the rationing of report-writing resources: a 2004 Circular included a new 'same day' report format for use in cases where low risk was indicated. 'Low risk' at this time was defined as an OGRS score of less than 31% and an OASys risk of harm screening which did not indicate the need for a full risk of harm assessment (NPS 2004).

The Criminal Justice Act 2003, implemented in 2005, brought further significant changes to pre-sentence reports, and paved the way for more reports to be delivered quickly. Importantly, the Act removed the requirement for PSRs to be written, and official guidance capitalised on this opportunity to save resources by encouraging the use of oral reports delivered on the day and introducing a new Fast Delivery Report (FDR)[3] (a shorter format written report to be completed on the day or in up to 5 days) to be used "wherever possible and appropriate" (NPS 2005, para 2.5). Within just a year, 'low risk' (and thus suitability for a Fast Delivery Report) had moved from an OGRS score under 31% to one below 41% (NPS 2005: para 6.6). But FDRs continued to be used less often than had been deemed desirable, so in 2007 the 'low risk' threshold was again raised to an OGRS score below 76% and probation areas were issued with the first of many decision tools to assist practitioners in determining the 'appropriate' PSR format (NPS 2007). There followed a steady increase in the use of FDRs and oral reports relative to SDRs over the next few years, from 27% in 2006 to 48% in 2009 and 79% in 2014 (Ministry of Justice 2015a). As previously noted, by the third quarter of 2016, this figure had reached 93% and for the first time the number of oral reports delivered outnumbered written FDRs (Ministry of Justice 2017a).

[3] To replace the same day report format issued in 2004.

Transforming Justice: another nail in the coffin of the SDR

The above account points to a desire to save probation resources as an important driver of change in respect of the production and delivery of PSRs in the last decade or so. However, another important driver of the acceleration of PSR provision is to be found in the wider criminal justice field, in the form of the *Transforming Justice* programme. Whilst the probation service had begun to problematize the production of Standard Delivery PSRs from a resourcing perspective, *Transforming Justice* (TJ) would, indirectly, feed into the problematization of the SDR, as a cause of undesirable delays in the process of dispensing 'speedy' justice.

Transforming Justice (TJ) is the contemporary label used to designate a programme of reforms which have primarily affected the agencies responsible for bringing criminal cases to court and disposing of them: namely, the police, the Crown Prosecution Service and the criminal courts (e.g. see Ministry of Justice 2012a). As such, then, TJ is a post-hoc construction which encompasses a raft of policy papers and incremental initiatives designed to enhance the efficiency of the criminal process. These have included major reviews carried out by Martin Narey under the previous Labour administration (Narey 1997), by Lord Falconer (Department for Constitutional Affairs 2006) and more recently by Lord Justice Leveson (Leveson 2015). Raine (2000) has traced this 'modernising' agenda in the realm of criminal prosecutions to the 1980s, but it has clearly become more pronounced since the turn of the new century, and in particular the context of austerity which has reduced budgets for criminal justice along with other public services (e.g. Leveson 2015). TJ is closely linked with the Ministry of Justice's *Digital Strategy,* a wider programme of parallel reforms seeking to digitise the delivery of information and services across the justice system to the maximum extent possible, thereby reducing reliance on face-to-face, telephone and postal modes of communication (Ministry of Justice 2012b).

Whilst TJ promotes a range of priorities, a central theme has been the speeding up of justice processes, and the concomitant construction of delay as a problem in criminal proceedings (Raine 2000). This equation of speed and effective justice was evident in the early 2000s in performance indicators set for the new Local Criminal Justice Boards (LCJBs) (set up in 2003) which included targets in respect of timeliness and a reduction

in the number of ineffective trials (Plotnikoff & Woolfson 2003). Local initiatives within the framework of LCJBs fed into more high profile initiatives directed at the lower courts following the *Criminal Justice – Simple, Speedy, Summary* (CJ-SSS) review (Department for Constitutional Affairs 2006), before spreading to the Crown Court[4]. 'Speedy justice', in these various initiatives, has been constructed as a 'good' not just for the public purse (in terms of cost savings), but also for victims and witnesses (reducing the distress they experience during protracted court proceedings) and for offenders (reducing uncertainty about outcome and enabling them to start serving their sentence sooner). The *Digital Strategy* similarly emphasises speed as a value: in his foreword to the 2012 strategy, Grayling emphasised the delivery of "*solutions at pace* that are simpler, easier to use and better value for users and government" (Ministry of Justice 2012b: 1, emphasis added).

An initial test of new working arrangements inspired by CJ-SSS was carried out in four pilot magistrates' courts in 2006-7. Designed to "reduce the number of wasteful hearings and improve the speed of cases", this pilot was declared to have been "enormously successful", both in terms of increasing the proportion of guilty pleas at first hearing, and reducing the overall number of hearings/adjournments per case (Department for Constitutional Affairs 2007: 3, 2). Having demonstrated that speedier processes could be achieved, the model was "cautiously welcomed" by magistrates and quickly rolled-out nationally (unnanmed author 2007). It was followed in 2012 by a further initiative which aimed to ensure that all contested trials in the magistrates' courts were disposed of at the second hearing, and within 6-8 weeks of the first. Both initiatives have been said to "adopt a near zero tolerance approach to adjournments" in summary cases (Hannibal & Mountford 2014: 160).

Given the Probation Service's role as a key actor in the courtroom – especially in relation to decisions to adjourn for pre-sentence reports - it is surprising to find that it is hardly mentioned in the raft of documents associated with TJ. One exception to this however is the report on the pilot magistrates' court scheme (CJ-SSS), which cast the implications for the Probation Service in the following positive terms:

[4] An *Early Guilty Plea* scheme, initially piloted in four Crown Court centres, was designed to fast-track cases in which a guilty plea was anticipated (Ministry of Justice 2012: 32). The most recent iterations of these schemes in the magistrates' and Crown courts (respectively) – both launched in 2015 - are known as *Transforming Summary Justice* and *Better Case Management.*

> The probation service can capitalise on the increased number of guilty pleas by providing increased numbers of oral or fast delivery reports. This again speeds up the system and allows resources to be used effectively (Department for Constitutional Affairs 2007: 10).

As noted above, national data shows that these initiatives coincided with much greater use of Fast Delivery Reports (FDRs) and same-day oral reports, and a Probation Circular issued in 2009 makes explicit reference to court timeliness targets as a key driver of its message that Standard Delivery Reports should become 'non standard', i.e. only to be used where a Fast Delivery Report would provide "insufficient information to meet the needs of the court" (National Probation Service 2009: 1)[5].

Transforming Rehabilitation: toward specialist court services

It is arguably quite ironic that, whilst one programme of criminal justice reform (*Transforming Justice*) was emphasising the benefits and efficiency of 'joined up justice' (Ministry of Justice 2012a), another, running in parallel, was about to have quite the opposite effect (Ministry of Justice 2013). In May 2013, the Ministry of Justice published *Transforming Rehabilitation: A Strategy for Reform,* which heralded the break-up of the Probation Service and its reconstitution in the form of a new National Probation Service (NPS) to supervise offenders assessed as presenting a high risk of serious harm, and 21 new Community Rehabilitation Companies (CRCs) to supervise those assessed as low or medium risk. *Transforming Rehabilitation* (TR) envisaged court services and the provision of reports as a responsibility of the National Probation Service (as the remaining public sector arm of probation), and in June 2014 these aspects of probation work were duly allocated to the new organisation. The NPS thus became responsible not only for PSR production and court services, but also for decisions about the appropriate allocation of new cases: either to colleagues within their own organisation, or to one of the new CRCs[6]. To assist with this decision-making process, a new assessment tool, the Risk of Serious Recidivism (RSR) predictor, was introduced, along with guidance that offenders scoring below 6.9 on this instrument should be allocated

[5] The 2009 Circular includes a letter from the senior presiding judge (Leveson), copied to all Probation chief officers, encouraging the use of oral and FDRs in the Crown Court "as much as possible". According to a report of the House of Commons Justice Committee, probation service budgets were immediately reduced in 2009 on the assumption that this guidance would be followed (2011: 16).
[6] Or an EM provider if a stand-alone curfew.

to a CRC, whilst those scoring 6.9 or above should be supervised by the NPS (NOMS 2014). Meanwhile, the Offender Rehabilitation Act 2014 introduced a new Rehabilitation Activity Requirement (RAR), designed as a 'shell' for supervision which could be proposed by report writers in PSRs but developed in detail post-sentence by the supervising officer, whether in the NPS or a CRC. The RAR was thus intended to be 'flexible' enough to match the particular resources available in that area, and to meet the needs of the individual under supervision (see HMIP 2017). It also signalled the deferral of a full assessment of the offender's risks and needs from the pre- to the post-sentence stage, when the supervising officer would take full charge of the order.

Some 18 months after the implementation of TR in the probation arena, the new NPS published a document called the E3 Blueprint, which set out the service's plans in pursuit of 'effectiveness, efficiency and excellence' in relation to each of its core areas of work (NPS 2015). It announced that the report delivery service developed in Wales was to be implemented in all NPS areas. No evidence of the effectiveness of this model was offered, beyond the observation that it was seen as a good fit with the needs of *Transforming Justice.* E3 was followed up in July 2016 by the publication of an Operating Model for the NPS, which confirmed that court work (to include PSR preparation) would become a specialist service, to be staffed primarily by Probation Service Officers (PSOs) who would be expected to prepare 65% of PSRs[7]. It also included a target for report production of just 10% SDRs, and a 60/30% split between oral and written fast reports. The expansion of specialist court teams to accommodate all report requests, with reports no longer being allocated to field officers, was a significant development in terms of breaking with tradition, in that it severed the vestiges of any link between the report writer and the subsequent supervising officer in cases resulting in a community sentence. It also coincided with a national programme of court closures which included 57 Magistrates' courts and 2 Crown Court centres, which created further distance between at least some field teams and the courts from which they receive cases (Ministry of Justice 2015b).

Meanwhile, national guidance published in January 2016 predicted that the latest iterations of the *Transforming Justice* programme - including the establishment of Guilty

[7] Since 2002 probation service officers (PSOs) have outnumbered qualified POs. In the decade from 1998, the number of PSOs increased by 177 per cent, compared with a 7 per cent increase in POs (Mills *et al.* 2010).

Anticipated Plea (GAP) courts[8] - would increase demand for 'on the day' reports (PC04/2016, para 1.6). It launched a new template for all 'short format' PSRs (whether delivered orally or in written form), aimed at achieving consistency between the seven NPS areas and communicating information about the pre-sentence assessment process to providers of probation services who would manage the case (NPS 2016). Napo responded to this national guidance with a Parliamentary Briefing which expressed several concerns, around the use of FDRs and stand-down reports in complex, high risk cases in which access to information from other agencies may be critical; and the increasing deployment of PSOs without appropriate training or qualifications to complete reports on high risk groups. Napo also appealed for the scrapping of targets in relation to fast- and standard delivery reports, in favour of the exercise of professional discretion to determine, on a case by case basis, the appropriate type of report (Napo 2016).

Speed and quality: are they compatible?

Napo's concerns about the impact of speed on quality in the PSR context are not new. Twenty-five years ago, the changes to PSRs heralded by the 1991 Criminal Justice Act – not least the anticipated increase in demand – prompted concerns about pressure on the Probation Service to produce reports more quickly. At that time, the standard adjournment for production of reports was four weeks for a defendant on bail or three in the case of custodial remands. Napo (1991, cited in Gelthorpe & Raynor 1995) feared that faster reports would be of lower quality and, in effect, would constitute a second-class service, to the disadvantage of some defendants. Concerns such as these prompted the Home Office to commission a piece of research to examine the quality of reports written to shorter and longer timescales (Gelsthorpe & Raynor 1992, 1995). The researchers assessed a sample of 142 reports produced during the pilot study, for which completion times were known. The sample was made up of 21 reports completed on the same day; 35 completed in 1-7 days; 58 completed in 8-21 days and 28 completed in 22 or more days.

The main finding of this research was that although the reports examined were of variable quality, this was not attributable to the speed of production: the average

[8] GAP courts aim to dispose of cases at a first hearing listed within 14 days of arrest.

quality of short-notice reports did not differ significantly from that of the reports which had taken longer to prepare. Interestingly, regardless of speed of production, the researchers found across the whole sample a disproportionate amount of emphasis on the offender's social history, or what they called "inappropriate psychosocial gossip" (Gelsthorpe & Raynor 1995: 194). Faster reports did, however, tend to be less thorough in their discussions of offending behaviour; to be less likely to incorporate information obtained from third parties; and when a probation order was recommended the faster reports were less likely to suggest packages of intervention involving additional requirements or facilities. The researchers suggested that these were all issues which would generally require more time – to re-interview the offender or liaise with others (Gelsthorpe & Raynor 1995: 193).

This study provides support for the idea that fast reports are not necessarily poorer than those which take longer to produce. However, before we jump to that general conclusion, we must first take a step back and acknowledge that quality – whether in relation to PSRs, broader aspects of probation practice or in other contexts – is socially constructed (e.g. see Robinson et al 2014). Not only is there no such thing as an objective measure of quality, but we also need to be aware that what 'counts' as good quality from one perspective or at a certain point in time may not be consistent. This can be illustrated with reference to a number of different constructions of quality that can be found in the literature on PSRs

For example, in their research, Gelsthorpe & Raynor took a particular approach to the construction and measurement of quality which built upon the 1980s tradition of local quality control by probation areas[9]. The quality appraisal instrument they developed included 42 variables and five quality ratings from 1 (poor) to 4 (good), producing an overall score ranging from 5 to 20 (Gelsthorpe & Raynor 1992, 1995). This was subsequently refined and made available to probation areas as the 'Quality Assessment Guide for Pre-Sentence Reports' (Raynor et al 1995). Meanwhile, a different

[9] Their research included a survey of local quality control which revealed that most areas were using some kind of quality checklist to enable managers to monitor the content of reports, but also that 'gatekeeping' (the screening of reports prior to their submission to court) was widely practised. In many cases this was conducted with a particular focus on anti-discrimination and the avoidance of stereotyping, and was commonly targeted on minority groups. However, the survey revealed that not only were different areas using different sorts of checklists, but also that there were differences of approach between teams within the same county.

construction of quality emerged in the form of National Standards which, from 1992, covered report writing. These standards have not, however, remained constant, but have evolved over time. Early incarnations of National Standards in relation to pre-sentence reports (and probation work more generally) were quite detailed and had quite a lot to say about what a report should look like and what it should (and should not) include; whereas more recent iterations have veered in a much more minimalist direction. National Standards for probation work published in 2015 had very little to say on the subject of court reports: only that they should be prepared "within the required timescale" (NOMS 2015: 5). This is consistent with contemporary performance indicators for PSRs, which simply monitor the proportion of reports produced within the timescale requested by the court (Ministry of Justice 2017b: 36). In this context, then, quality equals timeliness, and the latter is defined by the court.

Other 'official' or 'top down' constructions of quality are to be found in the frameworks for inspecting probation work developed by HM Inspectorate of Probation. For example, its Offender Management Inspection Programme which ran from 2009-2012 included a definition of high quality reports which referred to a number of specific criteria, namely: timeliness; adherence to nationally approved formats and risk assessment methods; the inclusion of accurate and concise analysis of relevant factors; proportionate proposals; the inclusion of an outline sentence plan in all SDRs and FDRs; and the recording of issues of offender vulnerability (HMIP 2009).

Another approach to thinking about the quality of probation reports has been to consider their impact on sentencing outcomes. One such method has involved the analysis of concordance rates: that is, the frequency with which the proposals outlined in reports are actually adopted by sentencers disposing of the case. It has however been noted that high concordance rates on their own may tell us more about the ability of report writers to anticipate sentencers' decisions, rather than the quality or persuasiveness of their communication; they may also be indicative of sentencers being persuaded (by report authors) to use custody (for examples, see Gelsthorpe & Raynor 1995). With this in mind, Gelsthorpe & Raynor took a slightly different approach in their research, examining the relationship between their own assessmement (i.e. score) of 'quality' and sentencing outcomes. They found that the reports they rated more highly on quality were "more successful in enabling sentencers to pass community sentences

with confidence and to rely correspondingly less on imprisonment" (Gelsthorpe & Raynor 1995: 197).

A further perspective on quality which Gelsthorpe & Raynor incorporated into their study was the elicitation of the views of sentencers. In an exercise designed to compare sentencers' assessments of a sample of reports which the researchers had already evaluated using their quality appraisal instrument, they found that "there was remarkably little difference in the respective assessments of quality" (Gelsthorpe & Raynor 1995: 197). 'Good' reports, for sentencers, were those:

> which identified sources of information, were reasonably concise, calendar dated, logical and consistent as well as having paid attention to layout. [They] also contained background information on defendants where this was seen as relevant to an understanding of offences and moved beyond the defendant's version of events [...] Good reports were also ones which managed to convey to the sentencer something about the defendant as a person (1995: 195-6).

This is a rare example of research which has incorporated the views of sentencers who are, after all, the commissioners of reports and their main users. Attention to the views of defendants, who are the subjects of PSRs and have a major stake in their outcomes, has been equally rare. Although the Probation Inspectorate has deployed surveys of defendants' views about reports (e.g. as part of its OM inspection programme), it is fair to say that their perspectives have tended to be neglected by researchers.

There are, then, a number of ways in which quality may be, and has been, constructed in relation to PSRs, and it is important to think critically about the appropriateness of the different sorts of measures that have been used in the past in today's context. Is it appropriate to evaluate today's reports (including Fast Delivery and Stand-Down reports) using the same frameworks that were used in relation to the Social Enquiry Reports of the 1980s or the Standard Delivery PSRs of the early 1990s? To what extent is Gelsthorpe & Raynor's approach (or their findings) relevant today? Which stakeholders – and whose views – should matter most? In thinking about quality in respect of today's reports, how can we, and to what extent should we, take into account the significant cultural and structural changes that have affected report writing in the last 25 years?

PSR quality today: towards a realist approach

As we have seen, much has changed about and around the production of PSRs in the last 25 years, but an important point of continuity is that courts continue to be the commissioners and principal users of reports. However, their needs and expectations have changed considerably. Crucially, speed has become a key value from the courts' perspective and, whilst the construction of speed as a 'good' in the criminal process may be contested (e.g. Tomlinson 2007; Nellis 2002; Raine 2000), it is a daily reality that report writers must contend with and around which there is a limited amount of room for negotiation. From the perspective of the courts, this means that a key quality of a good report is that its preparation does not *unnecessarily* add to the time taken to dispose of a case. It therefore falls to the court duty officer or report writer to decide, on a case by case basis, whether the timeframe suggested by the court is sufficient to enable him or her to provide an assessment that will be 'good enough' to enable the court to pass a sentence that is proportionate, suitable for the offender and unlikely to expose members of the public to avoidable risks.

In an attempt to encourage court teams to adjust their expectations of a good quality report, and to explicate what a 'good enough' report might look like, the NPS has recently introduced the concept of 'safe sentencing' (NPS 2016). This is explained as follows:

> The primary focus should now be on the NPS obtaining as much information, as early as possible about the offender and providing the Court with a proposal for sentencing which addresses all the known risks, taking into account the sentencing guidelines and enables them to be managed safely in the community. In a case when the report writer is unable to gather all the possible information, the NPS staff member should consider whether having access to the missing information would materially impact on the proposal being made – and balance this against the importance of progressing the case to a conclusion. So, for example, if the author has not had time to check with Social Services about an offender's contact with children then a disposal of supervision would be safe sentencing whereas a sentence of a Unpaid Work requirement without supervision or a curfew might not be (NPS 2016, para 1.3, errors in original).

'Safe sentencing' is a useful concept which recalls the 'defensible decision' in risk assessment described by Kemshall (1998). In the above extract we see an acknowledgement that report writers today are working in a context in which there may be considerable pressure to produce reports very quickly, but in which access to information is imperfect. Evaluating whether sentencing is likely to be 'safe' in a given situation is an important part of the process, but it is not always straightforward and it requires considerable skill on the part of the practitioner, to determine: what, in each case, constitutes essential information; from what source(s) that information can be obtained; and whether sufficient time is available to gather it. It is crucial, then, that both court duty officers and report writers – whether PSOs or POs - are adequately trained, experienced and supported to make and defend these (sometimes complex) decisions. It is also very important that reports are assigned to the right member of the court team, ensuring that individuals are not being required to take on work for which they do not have the adequate training, experience or confidence. As Napo (2016) has observed, in the current climate there is a real danger that changing profiles of offenders coming before the courts (most notably large numbers of cases of domestic violence and sexual offending), coupled with shrinking numbers of fully qualified probation officers, could move the goalposts in this respect, putting undue pressure on PSOs who have hitherto been protected from such responsibilities.

Court probation staff need, then, to have the right knowledge, experience and support to know when to resist pressure to produce a fast report: where time is deemed to be insufficient to enable safe sentencing, then a good quality report, from the perspective of the practitioner, may necessitate a request for an adjournment. Raine (2000: 409) has usefully drawn a distinction between 'unproductive delay' (when nothing is happening) and 'due process time' (productive time, required to ensure due process and consideration). This is a distinction which report writers and court team managers could usefully utilise when weighing up the appropriateness of 'on the day' reports on a case by case basis.

The NPS guidance on 'safe sentencing' goes on to state:

> The focus on assessment for safe sentencing means that assessment for risk management and longer term sentence planning has shifted to post allocation (NPS 2016, para 3.2).

Here again we see an explicit attempt to adjust expectations of reports: this statement suggests that the production of a full and thorough assessment of the offender's risks and needs and the drafting of a preliminary sentence plan is now the responsibility of the supervising officer who inherits the case, rather than of the report writer. Clearly this reflects the emphasis on speed which in most instances will preclude a thorough assessment, but it also reflects the post-TR, post-E3 reality that the (now specialist) report writer will never proceed to be the supervising officer. Thus, the traditional emphasis on laying the foundations of a lasting relationship with the offender and possibly even starting the work of an order at the PSR stage is a thing of the past. The contemporary PSR, then, seeks to offer only a preliminary assessment of the defendant, or a foundation on which the supervising officer can build.

It follows from this the supervising officer who inherits the case will become the second potential 'user' of the report, and whilst they are likely to want to use the report to inform their own assessment of the offender when supervision commences, we currently know nothing about how reports are perceived or used in this context. What we do know is that regardless of the type of report produced for the court, the supervising officer will receive it in written form. Where the report was delivered orally in court, this will have been written up, possibly post-hoc, and probably by hand, by the person who delivered it. However, the court will have received no written record of the report, relying solely on the oral version delivered on the day of sentencing. In terms of evaluating quality, this difference in modes of communication is interesting and begs a number of questions. For example, to what extent can/should the quality of stand-down reports be judged with reference to the written-up version, as opposed to the version delivered orally in court? And, to what extent does the quality or style of delivery – as opposed to the content – of oral reports matter to sentencers? These questions are in addition to others about whether sentencers and supervising officers, as two relatively distinct stakeholders, are likely to value the same types of content in a report.

So far the discussion of quality in PSRs has centred on the report writer and the direct users or recipients of the report – but what of the person who is the subject of the report? What is quality likely to mean to the defendant? Due to a lack of research in this area, we currently know very little about how either the faster production or changing formats of PSRs might be perceived by defendants. However, what we can say is that these changes present a number of risks to the quality of that experience, such that defendants are arguably more likely (than in the past) to feel rushed and confused, and less likely to feel fully engaged in the process.

According to Napo,

> PSRs used to focus attention on each individual case to explore the best way forward to reduce risk of harm and risk of reoffending. The new speed driven PSR process moves us further from looking at the individual and fast forward toward a tick box/form filling mentality where the defendant is simply a commodity to be processed (Napo 2016).

This extract suggests that contemporary systems create conditions in which defendants can become de-centred in the process of PSR preparation and, at worst, commodified: that is, reduced from a person (subject) to a thing (object) (McCulloch & McNeill 2007). Although this is by no means an inevitability, there are a number of reasons why this may be the case.

Firstly, in a time-limited context, interviews will tend to be briefer, as report writers need to reserve some of the time available to them for reading CPS papers, conducting relevant liaison with other agencies (police, social services etc.) and, in some cases, completing mandatory risk assessment tools. In a context where speed is prioritised, and in which contemporary guidance emphasises the gathering of as much information as possible in advance of the interview, there is an enhanced likelihood that the report writer will approach the interview with the defendant as an opportunity to check or confirm information that is already available from other sources, and with a very focused set of questions requiring the defendant's input. Furthermore, with organisational performance targets not just around the delivery of the report within the court's timeframe, but also the completion of case allocation processes, there are many

pressures on the report writer that potentially encourage a 'meet, greet and street' approach that is focused on rapid turnover.

Secondly, as already discussed, the separation of report writing and supervisory roles brought about by TR and E3 means that the PSR writer will not be approaching the PSR interview(s) with a view to forging a longer-term relationship with the defendant. Contact between report writer and defendant is much more likely to be confined to a single interview, focused on extracting quite specific information to inform a sentencing proposal. Furthermore, whilst the report writer has a stake in making a realistic and suitable proposal, s/he has no *direct* input into the design or delivery of any community-based sentence that may result: indeed, in the majority of cases this will be managed by an entirely separate agency, in the shape of a CRC. This means that report writers may be making recommendations for community-based requirements about which they have very little knowledge in respect of how these will actually be populated or managed, by whom, or when they will start. Therefore, the quality of information they are able to convey to the defendant about their order may be compromised.

These structural factors combine to heighten the risk that defendants may be made subject to sentences which they do not fully understand – a problem likely to be exacerbated when defendants do not have legal representation (see Gibbs 2016). Whilst formal consent to most of the requirements of community orders and suspended sentence orders is no longer required (see Raynor 2014), it continues to be crucial that report writers address in the time that they have with defendants their motivation and ability to comply with the proposed sentence, as well as explaining carefully the likely consequences of failure to comply.

Conclusion

Under the twin influences of *Transforming Justice* and *Transforming Rehabilitation*, PSR practice has evolved rapidly in recent years. Significant changes in the courts arena heralded by *Transforming Justice* have seen the vast majority of reports not only being produced much more quickly than has traditionally been the case, but have also meant that contemporary reports are also far more likely to be delivered orally rather than in writing. Thus both their speed of production and their mode of delivery have changed. Meanwhile, both reform programmes have impacted on the functions of reports, albeit

more subtly: freeing report writers in the majority of cases of the responsibility to deliver a full assessment of risks and needs or a plan for post-sentence supervision. Today's reports, then, are not just faster but are also qualitatively different in other important ways from the Standard Delivery reports that used to be the norm.

It may be tempting to conclude that the changes described constitute an inevitable drop in quality, but that is not what has been argued here. Instead, this article has argued for a reconsideration of quality in the PSR context: one which takes into account the structural and cultural changes that have impacted upon PSR production in recent years and is flexible enough to cope with the different forms (oral/written) that reports may take. A contemporary construction of PSR quality should also takes seriously the needs and expectations of the key stakeholders involved in the production and use of reports: i.e. courts/sentencers, probation practitioners (both report writers and those involved in post-sentence supervision) and defendants. Thinking holistically about the quality of today's PSRs means taking the perspectives of all of these groups into account. However, doing so presents challenges, because their needs and expectations will not always neatly coincide and because not all stakeholders are equal in respect of their power to influence the process or the product.

In the new court culture of speed, timeliness (as featured in current National Standards) is an important quality for PSRs, but as a sole measure of quality it leaves a great deal to be desired. Courts certainly do want reports to be timely, but they are not factories; they exist to dispense justice. Thus, whilst speed has become a key value for courts, it is not the only value that matters to them: they continue to want reports that are well-informed, accurate and useful in enabling them to pass sentences that are proportionate, suitable for the individual and unlikely to put the public at risk. Report writers therefore bear a responsibility to ensure that their reports - whether fast or slow; written or oral - are 'good enough' to fulfil these requirements. This necessitates ensuring that their engagement with defendants is sufficient to facilitate their full understanding of both sentencing processes and outcomes. It also means that courts must be prepared to tolerate well-founded requests for more ('due process') time when probation practitioners deem this to be necessary in the interests of justice. It is essential therefore that report writers and their colleagues in court teams are well equipped and adequately supported to make and defend those judgement calls. Finally, where

community based requirements are the outcome of sentencing, report writers also bear a responsibility to provide a sound starting point for their colleagues' work with the supervisee. In the post-TR context, in which report writers are increasingly divorced from the day-to-day realities of case management, and more often than not are employed by a different organisation, it is perhaps this aspect of PSR quality which runs the greatest risk of neglect.

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