

Good Cop, Bad Cop, Both?: Examining the implications of risk based allocation on the desistance narratives of intensive probationers.

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Abstract

The following paper shall discuss the implementation of the Coalition Governments Transforming Rehabilitation (TR) reforms in 2014 by focusing on the impact of these reforms on the desistance narratives of high risk intensive probationers, paying particular attention to the division of probation work between the National Probation Service (NPS) and the Community Rehabilitation Companies (CRC). It is argued that the reallocation of offenders between the NPS and CRC altered high risk probationers perceptions of self, caused probationers to question the occupational competence of CRC offender managers and saw probationers evidence the emergence of an attitudinal dissonance between the two services.

Key Words: Transforming Rehabilitation, desistance, probation, transition, social context

Introduction

Desistance from crime, understood here as the underlying process which supports the maintenance of crime free behaviour for ex-offenders, is widely regarded to be a process of transition requiring an interaction between agentic action and support from social structures in order for desistance to be maintained (see Barry, 2007, Farrall, 2002, Giordano et al, 2002 and Healy, 2013). While a full discussion of the structure-

agency debate is beyond the scope of this paper, if we accept, as King (2014) suggests, that agency is dependant upon the context within which it is being enacted, and that an individual's choices are conditionally based upon it, then research should focus on all aspects of an individual's social context in order to understand their ability to successfully maintain desistance.

Yet while the literature on desistance considers the role of certain aspects of an individual's social context on the desistance process (primarily marriage and employment), it seldom considers the impact of being a probationer as an aspect of it, and the knock on effect this can have on the maintenance their of desistance.

Similarly, while *changes* in an individual's social context have been examined in relation to desistance (see Farrall et al, 2015), changes in an individual's supervision experience have again been largely overlooked. Given that Transforming Rehabilitation was meant to revolutionize the way criminal justice services managed offenders (MOJ, 2013) it seems somewhat pertinent at this point to examine how these offenders have experienced this revolution.

The study and its context

The research on which the current paper draws involved the use of double narrative interviews with 20 male probationers undertaking an Intensive Community Order (ICO), along with 10 narrative interviews with probation staff (Senior managers, Probation Officers, Probation Service Officers, Mentors and Operations Support Officers) and observations conducted over an eight month period (four months prior to the implementation of TR and four months after). The research aimed to investigate

the desistance transitions of probationers within the context of the *initial implementation* of the Transforming Rehabilitation reforms. The Intensive Community Order (ICO) was developed in order to divert offenders from custody. In order to understand the impact of the implementation of TR on ICO probationers in particular it is worth detailing a few key points of the supervision process which shall be featured in the analysis below. The Intensive Community Order is, somewhat logically, more intensive than a 'standard' community order, with offenders being subject to between 3-5 requirements over the course of their 12 month order, whereas the average number of requirements for a probationer on a standard order is 1.7 (Taylor et al 2014: 46 see also Wong et al, 2012). The supervision of probationers was overseen by a supervisory team of an Offender Manager and a Mentor who both had regular meetings of up to an hour in length with individual probationers. Coupled with the conditions of their order (which were mostly performed in situ with the exceptions of unpaid work and the attendance centre), this meant that probationers in the sample were, particularly during the start of their order, reporting to the ICO office on an almost daily basis. This allows for the development of a strong working relationship between a *compliant* probationer and their supervisory team.

In June 2014, the Coalition Government implemented the national roll out of its Transforming Rehabilitation agenda, part of which involved the devolution of probation trust and the reallocation of all probation work, probationers and staff, into one of two new organisations. A new, public sector, National Probation Service (NPS) was created which is now responsible for the management of high risk offenders, those subject to Multi Agency Public Protection Arrangements (MAPPA) and offenders who scored highly on the Risk of Serious Recidivism (RSR) assessment

who may otherwise be assessed as medium or low risk. In addition 21 Community Rehabilitation Company (CRC) contracts were put out to tender, these companies are responsible for the supervision of medium and low risk offenders not subject to MAPPA, making up nearly 80% of the probation caseload at the time of consultation (MOJ, 2013)¹. Upon the implementation of TR, the ICO office in which the fieldwork was taking place became a CRC and was therefore only responsible for managing low and medium risk offenders, meaning that any high risk offenders previously supervised by the ICO were now required to be reallocated to an NPS Offender Managers caseload.

The second early implementation report from HM Inspectorate of Probation (2015a:9) suggested that “more effort was needed to assess and overcome offenders barriers to compliance”. Yet, interestingly, it was apparent in the current research that the disruption caused by the initial implementation of TR presented the potential for considerable barriers to compliance for some of the probationers in the sample. The remainder of the article will focus on two key issues, hitherto unidentified in the recent early implementation reports published by HMPI (2014, 2015a, 2015b, 2016)², which arose out of these reforms; firstly, as there was no NPS presence in the ICO office, any high risk offenders who were reallocated to the NPS were not only required to see a different Offender Manager (OM), but they were also required to go do a different building for their supervisions which at times included a considerable

¹ For a more detailed discussion of the implementation of Transforming Rehabilitation see Robinson et al (2016).

² Although this may in part be due to the fact that the first early implementation report (HMPI, 2014), did not include a discussion of the opinions of offenders and, as such, does not examine offender’s experiences during this initial transition phase.

commute. Secondly, as these offenders were still on an ICO, but simply overseen by an NPS probation officer, offenders were, at least initially, required to go to one office to see their OM and to the ICO office to complete the conditions on their community order, where previously they had all been contained within the same locale. Both of these factors were identified as potentially causing issues of compliance for high risk offenders along with disrupting their ability to successfully maintain desistance from crime.

‘Who says I’m high risk?’

It is important to note here that, in discussion with probationers in the sample, it became apparent that they did not think in terms of criminogenic needs, risk of serious recidivism (RSR), risk of serious harm (RoSH) or case allocation screening tests (CAST)³. For them, the characteristics which, in the eyes of these risk assessment tools made them high risk, were simply aspects of their social context which they were required to manage in order to successfully maintain their desistance from crime. As such, for offenders who’s risk status was elevated after the implementation of TR, being faced with the prospect of being regarded as ‘high risk’, but also the fact that they would have to go elsewhere for their supervision⁴ when they had been reporting to one OM and mentor, was met with considerable hostility by probationers for whom this was a reality. This reaction was, if anything, compounded

³ RSR and CAST are the risk assessment tools adopted for the allocation of offenders to the NPS or CRC under Transforming Rehabilitation.

⁴ While the need for high risk probationers to traverse between two probation offices in the fieldwork office was a cause of concern for these probationers, it is not possible to state from the research as to whether high risk probationers who were able to stay in the same office experienced the same disruption. More research needs to be conducted in this vein if we are to understand the impact of TR on probationers undertaking a ‘standard’ community order.

by the fact that these probationers were required to report to the ICO office to complete various conditions on their community order and subsequently interacted with other probationers whom they identified to be 'more risky' than they were for one reason or another.

Not only this, but the desistance literature highlights the negative aspects of criminal justice agencies stating that offenders are high risk. In line with Farrall et al (2010) the connotations of communicating to an individual that they are high risk have the potential to be destructive in relation to that individual's sense of self and ultimately their desistance trajectories. Healy (2012: 389) identified that 'harsh judgements made by supervising officers about their clients may reduce the likelihood of desistance since offenders sometimes cope with negative social labels by retreating further into criminality', whereas Farrall et al (2010: 560) discuss the negative connotations of being labeled as high risk, suggesting that 'the communication to individuals that they are "high-risk" of reoffending as essentially equivalent to saying to them "you can't change"'.

Further knock-on effects of the reshuffle included an attitudinal dissonance between the NPS and CRC staff for probationers traversing between the two services and a questioning, particularly by pre-existing high risk probationers, of the ability of CRC staff to successfully support probationers desistance efforts.

NPS/CRC: Good Cop, Bad Cop, Both?

As the high risk probationers in the sample were required to attend both NPS and CRC offices, they were able to offer an interesting insight into the development of both services concomitantly. Interestingly upon the initial division of probation work, a dissonance between the two services began to emerge in the eyes of the probationers, which was based upon the service provisions being offered by the two different agencies. Their supervision sessions with their NPS offender manager centered around offence based work, and as such was seen as a negative experience by the high risk probationers in the sample. Drawing parallels with the research conducted by Durnescu (2010) with probationers in Romania, probationers in this sample suggested that their NPS supervision required them to discuss their offending history with a new supervisor. Going over their offending history required probationers in the sample to return to offences which they were attempting to move on from, which was regarded by some as a painful experience⁵. Probationers noted that although they knew they had to report to the NPS for their supervision sessions, they saw these appointments as largely punitive with little in the way of pro-active activities.

Conversely however, the work conducted in the ICO CRC office was considered to be meaningful, pro-active and desistance focused. Interestingly however these attributes were not just confined to the probationers perspective of the equivalent offices, but also of the individual probation staff interacting with them in those offices. Where NPS staff were regarded as lacking empathy and only wanting to talk about a

⁵ Referred to by Durnescu (2010:8) as the 'pains of probation'

probationers offending history and risk management, CRC staff were considered to be supportive in relation to helping probationers find work and generally support their development.

It is important to note here however that this is not to suggest that the accounts provided by the high risk probationers in the sample were accurate of the *actual* support offered by either the NPS or CRC offices they interacted with - simply how probationers *perceived* said support. This is also not to suggest that it was a simple case of ‘NPS bad, CRC good’: the reshuffle of probationers from the CRC to the NPS on the basis of risk drew into question the occupational competence of CRC offender managers in particular. One offender manager suggested that there was the potential for a “good cop, bad cop” dynamic to develop within the newly divided service, and the accounts of the probationers within the sample are certainly indicative of this, with probationers beginning to question whether their former supervisory team was ever capable of supporting their change process.

‘Who can help me?’

When discussing the reallocation of probationers with a Probation Officer in the sample, it was suggested that the assessment of a probationer as high risk:

‘can only be interpreted in one of two ways [by a probationer], you are saying I am risky and you don’t care so you are sending me somewhere else, or you are saying I am risky and I disagree, why aren’t you doing this then? Why are you passing the buck? Can’t you do it? Aren’t you equipped to do it?’

Indeed for those probationers who were required to move from CRC to NPS there remained questions about the ability of their former supervisory team to have supported their desistance transitions in the first place. For Neil, a probationer in the sample, for instance, his faith in his supervisory team, at least initially, was based on the longevity of the ICOs existence, stating that “it must work because ultimately they wouldn’t be in jobs still and wouldn’t still be here [if it did not]”. Reallocating high risk offenders to the NPS began to somewhat undermine this authority. Theoretically this suspicion is perhaps logical, extending Farrall et al’s (2010) argument highlighted above, if criminal justice agencies state that probationers are high risk and, as a result of this, are required to be supervised elsewhere, the potential message being sent to said probationer is not necessarily just ‘you can’t change’ but also ‘if you can change, I can’t help you’. While probationers were still prepared to engage with the conditions of their community order undertaken with the CRC, there remained an element of skepticism concerning the ability of *equally qualified* CRC probation officers to do the work of NPS probation officers.

Conclusion

This article has highlighted concerns raised during the first piece of research in the UK to investigate the desistance narratives of intensive probationers within the context of Transforming Rehabilitation. Focussing particularly on how TR has impacted upon the supervision experience, it would seem that the implementation of TR, particularly the division of probation caseloads between the NPS and the CRCs, had the potential to disrupt the desistance processes for high risk probationers during

the reallocation process. Informing probationers, who's risk status was to be elevated that they were deemed to be high risk and would therefore have to be supervised elsewhere was generally hard to hear for probationers. In addition, the TR reforms had the potential for probationers to begin to question desisting identities. Not only this but a noticeable dissonance in the attitudes of probationers towards NPS and CRC staff began to develop, with NPS staff perceived as being only concerned with enforcement and offending history, while CRC staff were perceived to be more forward thinking and desistance-focussed. Yet while this was the case, the initial transfer discussion between probationer and CRC offender manager, in which a probationer was told he was to be reallocated to the NPS, seemed to draw into question for probationers the capability of CRC offender managers to support the desistance process of probationers.

There are numerous factors beyond the impact of probation supervision which influence desistance trajectories, and it is therefore impossible to ascertain the full impact of such reforms on the successful maintenance of desistance for the probationers in the sample. The accounts provided however are indicative of the internationally recognised disruptive nature of organisational change, when consistency and the maintenance of stable support networks are suggested by the desistance literature to be key factors in supporting change (McNeill, 2013).

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