

Title: It's criminal: The state of magistrates' court reporting in England and Wales

Abstract:

There is a widespread perception that there has been a collapse in court reporting in England and Wales (E&W) as local legacy media struggles to survive in times of falling revenues and shifting audiences. However, there is little empirical evidence with which to examine the issue. This research aims to fill this knowledge gap by carrying out the first week-long systematic coding of the activity of one E&W magistrates' court coupled with a concurrent survey of local media coverage of the courts. Whilst 240 cases were observed during the week-long study, only three stories appeared in the local press and only one case was attended by a journalist. Moreover, the research team identified a significant number of 'newsworthy' cases amongst the sample – all of which were missing from media coverage. Though small in scale, this research does indicate that, in an average week, the vast majority of cases heard at this level of the criminal justice system is largely invisible to the public, with virtually no independent oversight from journalism. This is at odds with the key principle of open justice. The paper ends with some suggestions for regenerating the area by shifting from court reporting to a Justice Reporting model, with the ultimate aim of effectively filling the void in external scrutiny of day-to-day criminal justice.

Key Words: Journalism, court reporting, news values, Justice Reporting, open justice, citizen journalism

Introduction:

The role of the media in civil society is pivotal in creating and strengthening an open and informed debate about social issues within a democracy. The unique position of the media in disseminating information makes it central to providing people with the tools to question and debate social norms and values. The coverage of the workings of the judicial system is key to the rule of law and to a democratic society and independent oversight from journalism is fundamental to principles of open justice and the notion of journalism as a watchdog on behalf of citizens.

However, there is a widespread perception of a collapse in court reporting in England and Wales (E&W) as local legacy media struggle to survive in times of falling revenues and shifting audiences. This is not an entirely new concern with Nick Davis writing 20 years ago that reporting of the courts had "declined to the point of scandal – because, in the last twenty years, the nationwide network of court reporters which once provided blanket coverage has been slowly killed off." (Davies, 1998). More recently, commentators have revisited the issue claiming there is a shocking lack of court reporters and that this has important

repercussions. Director of Court News UK, Guy Toyn, stated the absence of journalists is: “not only a dreadful shame because people aren’t being informed, but a tragedy for the democratic process as a whole.” (Reynolds, 2016). Whilst this lack is discussed across all criminal courts it is more acutely felt at the lower level magistrates’ courts where all of cases start and 95% of cases finish. This comes at a time when confidence in the criminal justice system seems to be faltering. The Government’s Crime Survey in 2015 found that whilst 55% were confident that the Crown Prosecution Service (CPS) is effective at prosecuting the accused, this drops to 45% who felt the courts dealt with cases promptly and only 31% that the courts gave the punishments to fit the crime (Jansson, 2015). There is also evidence of widespread dissatisfaction with the current system amongst legal practitioners, victim groups, the police and the judiciary, with criticism of funding cuts, procedural failings, and court closures (cf. *The Secret Barrister*, 2018).

However, much of the discussion of the disappearing reporter has been anecdotal with little empirical evidence to examine the issue, especially at magistrates’ level. This research aims to address this by carrying out the first systematic coding of a full week of cases heard in one E&W magistrates’ court, coupled with a media monitoring of local news outlets. This exercise helps shed light on the kinds of cases being heard and the frequency and quality of the reporting on those cases.

The case for court reporting

Crime reporting in general and court reporting in particular have long been staples of journalism. The latter activity is particularly important to the realisation and workability of the long-established and vaunted concept of open justice. Described as a ‘constitutional principle of the highest importance’ (Al-Rawi [2010]: [84]), open justice rests on the idea that court proceedings should be ‘open to all the world’ (Scott v Scott [1913]: 429) and that justice must ‘not only be done, but should manifestly and undoubtedly be seen to be done’ (R v Sussex Justices, Ex parte McCarthy [1924]: 259). However, in reality, few citizens see the process with the number of members of the public visiting court having slowly shrunk (Mulcahy, 2011). Instead, the “seeing” of justice being done is now a function ‘performed by the media... acting on behalf of the body of citizens’ (R (Mohamed) v Secretary of State for Foreign and Commonwealth Affairs: [38]). Lord Judge argued that ‘[w]ithout the commitment of an independent media the operation of the principle of open justice would be irremediably diminished.’ (R (Mohamed) v Secretary of State for Foreign and Commonwealth Affairs: [38]).

Court stories potentially fulfil one of the key normative notions of journalism, that of reporting what is in the public interest. Halberstam divided news stories into two categories – what is of public interest and what is interesting to the public (Halberstam, 1992). The latter is discussed below. The former centres on the ideals of journalism to inform the public about society so that they may fully take part in civic discussions and democratic processes. It also stems from early thinkers about the purposes of news such as Robert Park who, looking at US media, concluded that news aids social cohesion (Park, 1940). Tuchman sums up this argument as: ‘The purpose of news was to locate what everyone had to know to act in their environment...’ (Tuchman, 1991).

This project is concerned with both coverage of the event driven news which has characterised court reporting in the past but also with what we have termed ‘Justice Reporting’, ‘process’ stories of public interest. These are stories that relate to the operation of justice and its ability to serve the public effectively and fairly. Such stories can be contrasted with those that relate only to individual cases. ‘Process’ stories can thus provide generalisable information about justice which is more closely related to ‘public interest’ reporting than event driven news. This form of reporting enables society to be ‘better informed about criminal justice issues’ (Judicial College, 2016). This is described by Branahl as *Justizberichterstattung* or ‘Justice Reporting’ (as translated by Machill et al, 2007). In 1998, journalist, Nick Davies, wrote: ‘The cases that flow through the courts reflect the tensions of the society around them, its poverty or racism or inequality; they present pictures of everyday anger and despair; they may reveal corruption and injustice in their preparation.’ (Davies, 1998). This kind of reporting is akin to Justice Reporting (Machill et al, 2007). Branahl describes it thus:

Whereas traditional ‘court reporting’ mostly focuses on court reports and reportages on criminal proceedings, the term ‘justice reporting’ is intended to draw attention to the fact that justice is more than criminal justice and deserves more comprehensive reporting.” (cited in Machill et al, 2007).

Justice Reporting considers the process of justice more revealing than individual cases and is a key idea to emerge from the research for this paper.

There are also practice-related reasons court reporting has been a favourite of journalists over the years. First, it meets many of the structural demands of journalism. It is a ‘beat’ which can notionally supply a regular stream of stories which fit with the news production cycle – what Fishman described as the bureaucratic organisation of society which suits news gathering (Fishman, 1980).

Secondly, the content of court cases conforms well to what Jake Lule has identified as the tendency for journalists to draw upon familiar myths to retell new stories. The victim, the scapegoat, the hero, the trickster; all can be found in every court, every day of the week (Lule, 2001). Court stories contain many of what have been identified as news values, the criteria for judging events, operationalised by journalists as they go about their daily news routines, although rarely as a conscious process (Galtung and Ruge, 1965). According to Galtung and Ruge (1965), the more a story meets the different values the greater its chance of being used. The taxonomy of their twelve original values included aspects such as unambiguity, unexpectedness, reference to elite people and nations (Galtung and Ruge, 1965). Updates have refined the list and the changing nature of news production in the digital age has given greater prominence to certain aspects, but the essential approach remains sound (Harcup and O'Neill, 2016; Caple and Bednarek, 2013, 2015; Schultz, 2007; Dick, 2014). For Harcup and O'Neill, who have updated the list to take account of changing priorities, a story needs to satisfy at least one of 15 criteria. Of these at least 10 could be met by a court report, including drama, conflict, bad news, surprise, shareability on social media and, because of the lack of competition, exclusivity (Harcup and O'Neill, 2016). More specifically Chibnall in his study of crime reporting categorised stories on eight 'professional imperatives': immediacy, dramatisation, personification, simplification, titillation, conventionalism, structured access and novelty (Chibnall, 1977). These are useful also in thinking about the reporting of individual cases identified in the reports that emerged during the monitoring period. In their survey of German research into crime and court reporting Machill et al (2007) found that factors such as local resonance, humanisation and the extraordinary were important. It was also found that the presence of violence and sex were highly significant in case selection. Their own research on case selection found relevance, unusualness, magnitude of offence, whether there were elite people involved, unambiguity and diversity in court reports (Machill et al, 2007). Therefore, court reporting fulfils many of the criteria which make it an attractive forum to cover.

The case against court reporting:

As long as there has been crime reporting there have been critiques that it titillates rather than informs the public. De Quincey wrote in 1854: 'Every day of the year we take up a paper, we read the opening of a murder. We say, this is good, this is charming, this is excellent!' (Cited in Campbell, 2016). In 1998 David J Krajicek, a crime reporter for the New York Daily News, complained of "drive-by journalism". '... a ton of anecdote and graphic

detail about individual cases drawn from the police blotter and not an ounce of leavening context to help frame and explain the crime.’ (Krajicek cited in Harcup, 2015)

Crime reporting and court reporting share similar characteristics in that they often focus on the unusual or high profile. Not all verdicts are treated equally and prominence is given to guilty pleas for salacious crimes – despite the fact that these are not indicative of the vast majority of cases. For instance research on court coverage has found that sexual offences and murders, especially involving children, are a particular focus of media interest (cf Soothill and Walby, 1991; Jones and Wardle, 2008). The concentration on these cases make them appear more frequent than is the reality. As Moran states: ‘News tends to make the extraordinary seem like the everyday’ (2014).

Whilst there has been some research into crime reporting there is much less work on how the judicial system is covered. Research on crime has considered representations of gender, ethnicity and class; the ideological underpinning of media and police relations; and how journalists identify with the forces of law and order (cf Chibnall, 1977; Schlesinger and Tumber, 1994; Mawby, 1994; Leishman and Mason, 2003; Jewkes, 2004; Greer and Reiner, 2012). While these are also areas applicable to court coverage there is scant systematic academic investigation of the judicial system specifically. One notable exception is Moran’s 2014 study of coverage of courts and judicial rulings in E&W during one particular day in a number of local and national newspapers. His findings seem to replicate those associated with crime coverage in that the cases that do get reported are not indicative of the kinds of crimes that are mostly heard. He found that although there appeared to be a good dose of coverage there was one case which made it into half the newspaper sample - that of a naked rambler (Moran, 2014). This also amply fulfilled some of Chibnall’s news values of titillation and dramatisation (Chibnall, 1977).

Alongside these concerns about the nature of crime reporting are concerns about a perceived decline in court reporting and the subsequent impact of the media’s ability to act as a public watchdog . A decade ago legal commentator Joshua Rozenberg (2009) bemoaned the state of the profession while lawyer Marcel Berlins said: ‘We know far more about what was happening in our courts 50 or 20 years ago than we do today.’ (Berlins, 2009). In 2008 the Press Gazette reported complaints by a court reporter of too few colleagues covering that beat (Reynolds, 2016). However, there has been little evidential testing of assumptions about court reporting. A rare example is Brian Thornton’s survey in 2016 which found more than half of local newspapers do not have a court reporter (Thornton, 2016).

The political economy reading suggests it is not cost effective to cover courts when a reporter in the office can produce far more and varied material. Bosland and Townend (2019) argue that traditional media do not have ‘the commercial resources or the inclination to attend, report and intervene in court, or to necessarily represent wider public interest concerns that are not aligned with industry perceptions of newsworthiness’. Circulation is dropping for local media outlets (Mayhew, 2018) and legacy media publications continue to close (Buckland, 2017).

Whilst legacy media outlets may be in decline in terms of revenue and readership, other media outlets are appearing. In Bristol for example a number of new initiatives are growing at hyperlocal level in both online and print (Buckland, 2017). However, anecdotally, those involved in these start-ups have neither the resources nor the training to cover court.

Could a new generation of citizen court reporters fill the reporting gap? The specialist skills required to report cases and the potential legal penalties for mistakes make it a risky proposition for interested parties. A recent high-profile example of “citizen” involvement is the case of Stephen Yaxley-Lennon (better known as Tommy Robinson) who was convicted of contempt of court after live broadcasting on social media from Leeds Crown Court during a highly sensitive trial of a number of Muslim men accused of running a child sex ring (BBC, 2018a). His stated justification for this was the perception that the mainstream media were ignoring such cases and that he was providing a valuable public service. As human rights lawyer Adam Wagner argued in *The Guardian*: ‘The mainstream media at least understands the rules – citizen journalists will do what they like.’ (Wagner, 2018). However, “mainstream media” criticism of their citizen counterparts should be balanced with some consideration of the mistakes of traditional media reporters in this context (for example, coverage of the trial of Arif Ansari, the head of news for BBC Asian Network (BBC, 2019).

There are other practical hurdles for would-be reporters. First access to basic court documents necessary for reporting is routinely difficult (Townend, 2012; Rahul, 2018). Second is the lack of live streaming of first instance cases in E&W - that is, the vast majority of court proceedings. Although there is some filming in the appellate courts (the Supreme Court, since 2009; and the Court of Appeal, since 2013), there is none in either the Crown Court or magistrates’ courts, meaning a citizen journalist wishing to report a case must be *in situ* to effectively cover it, rather than reporting *ex post facto* based on primary materials. This makes it difficult, time consuming and costly to cover.

This gap in independent oversight by journalists from legacy media and other sources opens up the risk of an over reliance on public relations releases by the judiciary, police and CPS. This has been seen in other areas of journalism generally (Davies, 2008) and crime

reporting in particular (Mawby, 2010). No similar work has been done on court reporting but our research shows CPS press releases being republished uncritically. From a media perspective, the operation of the judicial process (particularly in magistrates' courts) remains, much like the physical courts, largely hidden from general view, discussion and understanding.

Methodology:

The study described in this article aimed to examine the reality of criminal court proceedings and to compare this with media coverage. It did this using two approaches: firstly, a survey of the activity of Bristol Magistrates' Court over a defined time period; and secondly, a survey of local news websites and newspapers of this court during the same time period. Bristol is the UK's sixth largest city with a population of approximately 460,000, with a diverse mix of residents representing 45 religions, 91 languages and 187 countries of birth recorded (Bristol City Council, 2018). Bristol Magistrates' Court is the largest and busiest of five such court locations in the Avon and Somerset local justice area, and the eighth busiest in E&W (Ministry of Justice, 2018).

Court survey:

A survey of the activity in Bristol Magistrates' Court was carried out during one week in January 2018. A number of trained observers were recruited to sit in each of the sitting courtrooms throughout each court day and to code each case they observed. There was at least one observer in each sitting court and there were generally additional observers or members of the research team present in court to 'double code' as many cases as possible. During the week there was at least one member of the research team present at the court centre, acting as a point of contact for the observers.

Design of coding sheet

The coding sheet was designed to capture a number of factors about each case, separated into sections. The design is outlined in some detail below as the pilot was experimental and feedback for future work is welcomed. Questions were included as to the details of the defendant – name, age, address, and gender. The next section dealt with details of the

offence or offences; the alleged facts (such as behaviour, location, and time); the prosecuting authority and plea. The next section was concerned with outcomes of the hearing observed. At times, this covered the final disposal in a case: for example, if the defendant was convicted, the sentence (such as prison, community sentences, and fines). Often there were multiple offences and a number of outcomes. This demonstrates the frequent non-linear nature of court proceedings, which in itself poses a challenge to reporters (particularly inexperienced ones). Since not all cases were resolved, this section also embraced other outcomes such as adjournments, deferment due to unforeseen factors, and decisions regarding release of a defendant on bail or detention before trial. The team also recorded any notable features cited by the defence or prosecution such as drugs and alcohol, homelessness, mental health, unemployment, family responsibilities and benefits claims. This helped identify material which could be useful for Justice Reporting, since it highlighted recurring social factors in cases - arguably a matter of public interest. As the research was concerned with media coverage there was box to be ticked if a journalist was present. Video link usage was noted as the team was interested in the frequency and operation of this new technology and its impact on proceedings, especially given the Ministry of Justice proposals to expand digital justice. Any other reporting restrictions were also noted as these can impact on media organisations' coverage.

Finally, observers were asked to fill in a newsworthiness rating from 1-5 with 1 being the low news value and 5 being the high value. This scale was devised by the research team drawing on its journalistic experience based round the model of local press coverage, and the academic work on news values discussed above (cf Harcup and O'Neill, 2016; Chibnall, 1977). A high value story would for example be a crime of a serious nature such as murder or rape. It may be a lesser crime but one involving a well-known public figure, or it may include some highly unusual factors in the evidence or brought up during the hearing. A low value story would be a very minor crime such as speeding, not involving anyone with a public profile with little additional information heard in court. There was a final free text box for observers to qualitatively note any comments or observations that they deemed important or relevant not captured elsewhere. This allowed observers to widen the newsworthiness categories. In some instances there were cases which were rated highly due to wider issues beyond the individual cases, more akin to what is envisaged for Justice Reporting

As many cases happen very quickly it was important that the entire coding sheet could be filled out quickly and efficiently. Therefore all questions were fitted onto one sheet of A4.

Recruitment of observers

The observers were recruited from third year and masters UWE journalism students, and other journalism graduates who came to the research team via Bristol Cable, a local media co-operative that covers stories of public interest to the local community. All had journalism training and legal training in court reporting and had visited and reported on magistrates' courts as part of their Broadcasting Journalism Training Council (BJTC) accredited degree programmes.

During the week various people asked what we were doing including judges, magistrates, lawyers, clerks and ushers. All were courteous and helpful throughout the week and none questioned our right to be in court.

What we saw:

Bristol Magistrates' Court building houses 12 courtrooms. During the observation week, six of these were being used for publicly accessible cases each day. Other courtrooms dealt with cases that did not require a hearing (such as driving convictions), and on some occasions youth courts were sitting, which were not included in the survey. Some courtrooms were not used at all during the week.

Overall, 240 cases were observed and coded. Business at the court was generally brisk, with most hearings being very short. 154 cases lasted less than 15 minutes with nearly a quarter being less than five minutes. Only 11 lasted for longer than an hour. This brevity can be partly explained by the fact that of those cases in which defendants offered a plea, 137 pleaded guilty to all charges. Generally, such cases were disposed of in one hearing, and a swift succession of such cases was noted by observers. Though routine and for relatively minor offences, many of these could be seen as newsworthy. Moran noted in his survey of court reporting that beginnings and endings featured heavily in the reports (Moran, 2014). Magistrates' cases overwhelmingly start and finish in one sitting – an approach emphasised and expected by the judiciary over the last two decades; although this was at times unpredictable as many cases were deferred or delayed (for example, to await pre-sentence reports from the Probation Service). It was also noted that cases tended to be listed in 'batches' or groups (one after the other) on the basis of similar types of offences (for example, crimes involving domestic violence).

Media monitoring:

Alongside the observations, a survey of local media was carried out covering the same week. Forty local press and online media outlets were included. Those listed on Nexis database were searched using the term 'magistrates' court'. Those not listed were searched using 'magistrates court' on the websites. The media outlets included were based in the same area as the local BBC definition of the 'west country' and included titles from Gloucestershire, Wiltshire and Somerset. This area would be expected to cover the Avon and Somerset local justice area, of which Bristol Magistrates' Court is part.

Findings:

Two key issues were the focus of this research project – the first being media presence, or lack of it, in court. The second aim was to see if the media are therefore missing important stories through their absence.

Media monitoring: Journalists in court:

There is a press bench in each courtroom at Bristol Magistrates' Court where it was presumed journalists would sit. This is where the legal assistant to a bench of magistrates leaves information on the details of the cases being heard that day. During the observation week only one reporter was identified. He was known to the research team being an alumnus of the UWE Journalism masters' degree. The research team had no prior knowledge that he would be attending that week. He did sit in the press box, but no other journalist was seen sitting in any press box during the week. The public gallery was generally empty except for occasional friends and family of defendants and some witnesses waiting to be called.

We cannot be sure only one journalist visited that week, but the lack of media presence was borne out by the lack of coverage in local media discovered by the media coverage survey as will be discussed in the next section.

Media monitoring: Coverage

A Nexis search accompanied by an internet search of local media only brought up 3 reports about cases heard at Bristol Magistrates' Court during the observation week. One was written by a reporter for a local town's paper. This was the reporter seen in court, outlined above. The case concerned a series of violent attacks in the town centre. The other two

articles were found in the Bristol Post, the largest circulation local paper (Mayhew, 2018). One concerned the case of a man stealing a car and driving it without a license or insurance (Yong, 2018). It was reported in the print and online sections of the outlet. No reporter was observed in the court during the hearing, and the case itself was ranked only one on the newsworthy scale as the charges and punishment were minor. The article cited the Avon and Somerset Police advice on avoiding having your car stolen, suggesting the article may have been largely based on a police press release and the listings of convictions released by the local CPS. The second “article” appeared online only and comprised a list provided by the local CPS of those convicted. The listings for the week of the observations included sixty convictions, with the headline: ‘Bristol court listings, week ending January 12: See who was convicted by Magistrates’ and the subheading: ‘See justice served in Bristol with Crown Prosecution Service South West’ (Bristol Post, 2018). This is arguably a misleading title since the list represented only a very small proportion of the totality of ‘justice served’ at the court during the observation week.

This listings article contained only the bare bones of name, charges and sentence and missed the colour and nuance of cases. For instance, one of the listings named a man who ‘pleaded guilty to assault by beating and assault on a designated, accredited person.’ (Bristol Post, 2018). In court, the observer noted how the man had attacked a paramedic and head-butted an officer after he was found at hospital shouting abuse following his Christmas party. The CPS-supplied list only gave details on defendants found guilty, leading to the impression that the CPS is a successful and effective prosecutorial body. In 2017-18, the CPS had boasted of a conviction rate of 84.1% and a guilty plea rate of 77%, and argued that such statistics demonstrated ‘the quality of our casework’ and that they were ‘making the right decisions and trying the right cases’ (CPS, 2018a). However, this interpretation provides no indication as to how fair or robust the underlying process of criminal justice was in achieving such results. For example, it takes no account of any mitigation offered by the defence during a case or whether any cases were subsequently overturned on appeal, something which might suggest an unfair or inappropriate prosecution or unlawful processes in achieving a conviction. Such nuanced points, which provide a more rounded impression of the criminal justice system, are simply not covered. By relying on press releases, the media provide a picture of justice, but a picture which does not conform to the principles of open justice expounded earlier in this article.

There are any number of potential issues that should cause us to question the legitimacy of criminal convictions, including restrictions on access to legal aid, pressures on court time, complications with technology, and forensic evidence issues. The CPS (alongside the police) has faced intensive criticism in recent years for its handling of disclosure of evidence to

defendants, a primary example being the case of Liam Allan (HMCPSI/HMIC, 2017; Metropolitan Police Service and CPS London, 2018). The Criminal Cases Review Commission (CCRC) has repeatedly stated that non-disclosure is ‘the biggest single cause of miscarriages of justice’ (CCRC, 2018). Moreover, several commentators have argued that such problems inevitably mean that innocent people will have been convicted and are currently imprisoned unjustly - a contention that former Director of Public Prosecutions Alison Saunders accepted (Evans, 2018(a)). During the observation week, some members of the bench brought up the timeliness of disclosures with prosecution lawyers in various discussions of cases. With this in mind, a press release, unchecked by local media, merely listing convictions does not represent robust and independent scrutiny of justice.

A week in court: newsworthy stories.

This research was interested to see if there is value in covering the “bread and butter” work of the lowest criminal court. It looked at two perspectives. First, are there stories that can inform the public about the day-to-day goings on in their community which are being missed? Secondly, it looked at the Justice Reporting perspective; that is, stories of wider concern with the exercise of justice and associated institutions.

The scale of one to five was used to rate each case according to newsworthiness both from the basic news reporting values of crime reporting but also from the perspective of the process of justice. One indicated little news value and five indicated high news value. Of the 240 cases, over 50 were rated at three or above.

The highly rated cases broke down into two broad categories of story. First, there were those that rated high because of the charges or the circumstances of the events as per the news values outlined on the coding sheet; the second types were rated high because of how they reflected on the processes of the justice system and other agencies.

The first group contained stories with serious charges, for example child sexual abuse, incest, rape, serious violent offences and domestic burglary. These were sent to the Crown Court for trial and therefore court reporting restrictions would apply, the cases being active. This, would mean the media’s ability to write about the case would be severely curtailed. However, being in court at the beginning would enable journalists to pre-plan for later court dates, perhaps to carry out research on the case. Typically, cases were sent for a hearing at the Crown Court for a date approximately one month away, although this could vary significantly.

Several of the cases rated highly because of the circumstances or the unusual nature of the events dealt with by the magistrates (for example, a 21-year-old who attacked an 11-year-old in a park because the boy and his friends were smashing bottles). There were other cases which scored lower but would also have made the newspaper due to some local colour such as a good quote from the defendant or from a judge. For example the man who was 'surprised' he was over the drink drive limit after taking a traditional flu remedy of honey, garlic, ginger and white rum, or the judge that commented 'no one thinks sensibly after a bottle of whiskey' when fining a woman for driving under the influence. These cases map on to traditional news values discussed above.

The journalist who attended at court that week had made two previous visits about the same case, both times the case being adjourned to a later date. This demonstrated another frequent problem in criminal courts: that hearings are often delayed or adjourned, dates and times are changed, and proceedings unfold in an often fragmented manner. This is exacerbated by the very limited publicly available advance information, either online or in court buildings. For journalists travelling to court for a specific hearing to be faced with such unpredictability is indeed costly in terms of time. Yet a local Bristol paper could have an interest in a myriad of cases heard that week. Of the cases heard fewer than 20 defendants lived outside of Bristol, and only five lived more than 25 miles away. All but two offences were committed in Bristol or surrounding areas. Therefore, there is plenty of local interest for the Bristol audience.

The second group of cases that scored highly, those we termed Justice Reporting, concerned the wider social issues of court processes. These cases are cumulative; that is, it is necessary to be in court and to observe a significant sample to see patterns in criminal proceedings. Some cases were delayed due to a lack of interpreters, others due to incorrect paperwork. Some defendants were held in custody because there was nowhere suitable to send them. There were many delays waiting for pre-sentence reports to be completed by the Probation Service; for defendants to appear; and to allow time for duty lawyers to finish work in one courtroom and move to another. Taken individually a reporter could write off such delays as unusual; taken collectively over the week it is clear that such issues are very common. As commented above, this kind inefficiency is endemic in the criminal justice system and tackling it has been a priority, particularly for the judiciary, for some time (Leveson, 2015).

The coding of "notable features" raised during observed hearings highlighted a number of recurring issues for defendants. Nearly 50 cases involved illegal drugs either as integral to the offence or as part of the general context. Alcohol featured in 21 cases. This is likely to be

an underestimate as it was coded only if it was explicitly mentioned in court or was part of the offence itself. Low level thefts of meat for example (which is an increasingly common offence) could be motivated by the need to feed a drug habit (Daly, 2015). Some of the defendants convicted of drink driving offences were ordered to do a rehabilitation course and a couple of defendants were given 20-day rehabilitation orders. However, the vast majority were fined, electronically tagged, and released.

Mental health issues featured explicitly in 37 cases as well as there being eight other cases mentioning brain injuries, learning difficulties, and other health issues. Again, this is likely to be an underestimate; in some cases observed, defendants displayed erratic behaviour but the case itself included no explicit mention of mental health issues. For example in one case, the court was told that the defendant was standing on a ledge on a bridge in central Bristol with a phone charger held to his head and a sign saying "Police are Liars" around his neck. He then took off his clothes and threatened to jump. No mention of mental health was made during the hearing, but this could be inferred. There were instances of defendants being held in custody as there was nowhere suitable to send them. One man had been in custody for more than two months for his "welfare" due to mental health issues. 11 defendants gave 'no fixed address' as an address - in short, they were homeless. However, a number of other defendants were evidently also without a stable address or had only temporary accommodation, with 20 cases explicitly mentioning this as a factor in the context of the case. This again is likely to be an underestimate as others gave caravans, hostels, or a relative's address as their home, but did not explicitly mention housing as an issue. In a handful of cases, failure to provide a fixed address meant the defendant could not be released on bail. It also resulted in defendants not receiving notices of court dates (sent physically by post) and subsequently having warrants issued for their arrest. In a number of cases, the magistrates and judges acknowledged this failure and reduced fines to compensate for this.

A number of cases provoked comments from judges and magistrates due to frustration with the competency of the system. For example, in one case where a trial date was set for a defendant accused of theft and assault, the bench inquired about the witnesses to be called in order to assess how much time to allocate. When neither the CPS nor the defence lawyer were able to answer clearly, the judge told the court that it was 'totally unsatisfactory [that] no further work is done on a case until it is too late' and that the courts should be in the business of the 'administration of justice, not justice of administration'. In another instance, a defendant who was leaving court stopped to take a selfie of himself with the judge – a contempt of court, and therefore a criminal offence. The judge pressed the panic button to call security; yet court security officers allowed the defendant to leave the building. The

judge commented: 'What is the point of a panic button if I cannot get people restrained and stopped?' Technology also caused issues. In one case it was not possible to review police bodycam footage of an alleged assault. On some occasions video link technology, connecting the court to prisons and police stations, was either not immediately available or had poor visual and/or audio quality.

Although this is a snapshot and many of the issues touched upon in court would need to be followed up by a journalist to add context and details, these are important matters of public interest. With no media presence in court, there is arguably no independent monitoring or scrutiny of these processes, or the possible impact of failures in the justice system for some of the most vulnerable people in society.

Conclusion:

The stark figures from the week of observation paint a grim picture of magistrates' court reporting - 240 cases, three articles, one journalist, and hundreds of potential stories left untold. This research looked at one magistrates' court during a week, but from this pilot it would seem that there is some justification for the perception that court reporting at this level is in a poor state. Although the research is small in scale, the lack of coverage during the week is clear when compared to the hundreds of cases heard during that period, concerning people across Bristol and the surrounding area. Effectively, this local level justice was being conducted invisibly.

However, there is need for some qualification of these results. Before we can report a decline in court reporting we need to establish a baseline for court reporting in the first instance. Much of the talk of a decline, discussed above, is anecdotal. To move beyond this to a more rigorous assessment of coverage levels, further research is needed. This project serves as a starting point on which to build a body of evidence about the state of court reporting. Further work is needed to see if these results are replicated across a wider range of locations. Longitudinal studies are needed to help track levels of reporting. The examination of media coverage nationally would help provide information about differences from one area to another and could possibly highlight pockets of high levels of coverage and/or court reporting deserts. Replicating both court observations and media monitoring on a wider scale is therefore being proposed by the researchers.

Whilst it is over-reaching to say there is an actual decline, what can be said was that there was very little reporting during that week of observation. Many cases during the week fulfilled several news values identified for crime and court reporting. However, traditional news

values have been turned upside down in the news reports, due to a lack of presence in court, with low-level crimes making it into print due to the availability of a press release, or that stories are only half told using PR. This is evidenced when the stories that were covered are examined - two out of the three stories were not originated by independent journalists, instead being provided by agencies involved in proceedings. This is hardly an example of robust and independent oversight by journalism.

We would argue there is not yet any replacement for having someone in court doing first hand reporting rather than in a newsroom churning. Importantly, the judicial process stories, what we have termed Justice Reporting, were left untold that week. This important information on the wider context of the criminal justice system (which can highlight issues related to fair trials, appropriate sentencing, rehabilitation and support for offenders and victims) are neither being reported or investigated.

In the meantime, it is worth considering how court reporting could be boosted. Getting traditional outlets to invest more in this area is difficult given the current economic challenges facing traditional media. The alternative of citizen journalists entering court is not yet apparent (with the exception of a small number of high profile, and controversial, examples such as Tommy Robinson) and no alternative reporting was unearthed in our media monitoring. Personal communications with some of the new local online and physical publications have indicated that they do not have people sufficiently confident, trained, or knowledgeable to go into court.

However, this research proposes a tentative new way forward. The coding sheets used by the researchers emerged as useful tool in telling the stories of each case and acted as a checklist for potentially writing up the cases observed for publication. The observers who took part in the project found themselves much more confident when using the coding framework as it helped capture the necessary information needed to write a story. Importantly, it also helped them reflect on the individual merits of each case, from the perspective of both being interesting to the public and of public interest. This kind of reflection helps would-be reporters not only produce more traditional court reporting material but also helps move towards a more wide-ranging form of Justice Reporting. Some of the observers who worked on the project were recruited from community-based media that are interested in telling stories with a more investigative angle and that embrace the news values of Justice Reporting, such as The Bristol Cable (Bristol Cable, 2019). Collaboration with organisations such as these could be the incubators for a new generation of Justice Reporters. As a result it is proposed a reporting toolkit be developed that would enable citizen journalists and other interested news outlets: to improve their legal knowledge;

overcome trepidation in covering courts; produce publishable copy for local media outlets (both legacy and new community initiatives); and embrace Justice Reporting to fulfil the social function of journalism

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