

Welfare versus Punishment?

**The Careers of Young Offenders
with a Background in Public Care**

By

Jonathan Wynne Evans

**This thesis is submitted to Cardiff University in candidature for the degree of Doctor of
Philosophy**

**School of Social Sciences
Cardiff University
November 2006**

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Dedication

This thesis is dedicated to the memory of my father, Donald Wynne Evans (1922-2005)

Acknowledgements

There are many people I must thank for their help and support over the years. I apologise to those that may have been omitted.

I would like to record my sincere gratitude to all of the research participants who made this study possible. For the young people and parents it cannot have been easy to discuss highly sensitive and personal matters with a stranger. I hope I have done justice to their lives in these pages. The professional staff also deserve special thanks for their help and patience over the many years of fieldwork.

My supervisor, Professor Mark Drakeford, has provided clear intellectual guidance and unstinting support. Other professional and academic colleagues have also been extremely helpful over the years. In particular I would like to thank Mr Peter Sampson (the former Chief Officer of Gwent Probation Service) and his colleagues on the Probation Committee for allowing me to take an initial career break from social work practice; Professor Ian Shaw, Dr. Sara Delamont and Professor Huw Beynon for facilitating my transition to academic life at Cardiff University; Professor Andy Pithouse and Professor Mike Maguire for their very helpful feedback at my Progress Review; and Dr. Jonathan Scourfield for selflessly covering some of my teaching while I undertook concentrated fieldwork. Thanks also to Sue Hayes (Professional Programmes Administrator in Cardiff School of Social Sciences) for patiently printing off many drafts of many chapters over many years.

On a personal level I want to thank my family: my parents, Mona and Donald Wynne Evans, for their love and encouragement over the years; my wife, Sue, for her patient support; and, of course, our children – Lewis, Menna and Madlen. They have been so patient for so long. I would like to think that, for the remaining weekends of their childhood, I can devote myself fully to them.

Abstract

Young people with a background in public care are over-represented in the criminal justice system. The subject of the thesis concerns the relationship between these two systems. The main focus of this qualitative piece of research is an analysis of the cases of thirty young people who have had experience of both systems. Conducted on the site of a Welsh Social Services Youth Justice Team that - during the course of the fieldwork – was reconfigured as a Youth Offending Team, the research was guided by three related questions. Firstly, what was the nature of the relationship between the public care system and the criminal justice system? Secondly, how did such discourses as ‘welfare’ and ‘punishment’ influence what happened to young people with care backgrounds in the youth justice system? Thirdly, how did the youth justice reforms of the 1997-2001 Labour government impact on practice at ground level? These questions were addressed by a combination of methods: semi-structured interviews with young people, parents and practitioners; focus groups with professional staff; observation; and analysis of case files and other agency documents. The analysis identified a number of social and institutional processes that criminalised children in public care and accelerated their ‘progress’ through the criminal justice system.

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Chapter 1: Introduction

1.1: Introduction: A preliminary consideration of the theoretical and policy background

The subject of this dissertation concerns the relationship between two systems that both deal with young people: the public care system and the criminal justice system. In particular it explores the way in which such principles as welfare and punishment are applied in the lives of young people who have experience of both systems. The children who co-operated with this research have been the recipients of social work – as well as other interventions - delivered by both systems. They are, therefore, well positioned to pass comment on the state's capacity to exercise *social control* and provide *social care* in relation to young people in the criminal justice system who have formally acknowledged welfare needs.

At the outset it should be explained that although the terms 'youth', 'young people' and 'children' are used interchangeably throughout the dissertation, this has been done in the interests of presentational style. Nevertheless, it should perhaps be emphasised that the young people in the youth justice system are, by legal definition, children. This is consistent with the United Nations' definition as laid out in Article 1 of the *Convention on the Rights of the Child*,

"...a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier."
(United Nations, 1989)

The essentially *political* case for constructing children in relation to the age of majority can also, of course, be enhanced by other considerations. Drakeford (2001: 43) articulates the case with reference to a 'Children First' (and, by implication, 'offender second') criminal justice philosophy.

"In comparison with adults, children do not possess a similar degree of independent agency:

Their characters are not fully formed and neither... are their capacities to frame

fully informed moral judgements.

They remain dependent upon adults for almost all the key necessities of life.

The law itself determines that they are unable to take their own decisions in a whole series of areas which are available to adults.”

At the heart of the above quotation resides the issue of power. Barred from participation in the democratic process, children are effectively disvoiced by the political system. Adults are, therefore, left with the responsibility of representing children's interests. The degree of influence children can exert over key decisions that affect their lives will depend upon how effectively adults are able to consult children. An important aspect of the power that adults hold over children includes that of definition itself. Meaningful arenas within which young people have the opportunity to define themselves tend to be limited (Democracy for Young People, 2001). It is against this background that some initial consideration will be given to dominant adult constructions of childhood.

Hendrick (1994) has argued that three main constructions of children are represented in British social policy: *investment*, *victimhood* and *threat*. The first representation - children as an *investment* - implies that the value of children resides not in what they can contribute now, but in what they can deliver in future. The projected benefits of such prudent investment will - so the argument goes - not only be realised by individual citizens; it will also 'trickle down' to families, communities and the nation as a whole. Although the value of investments can depreciate as well as grow, the optimistic forecast suggests that handsome dividends will be paid to all. A Report by the Commission on Social Justice illustrates this kind of thinking:

“Children are not a private pleasure or a personal burden; they are 100% of a nation's future...the best indicator of the capacity of our economy tomorrow is the quality of our children today”

(Commission on Social Justice, 1994: 311)

The Labour Party's 1997 General Election campaign mantra of 'Education, Education, Education' is, perhaps, a more populist example of investment values being invoked in the interests of public service and the economy.

The second construction centres on children as *victims* or *potential victims*. In this account, policies – often paternalistic in character - are designed to protect a vulnerable group from physical and moral danger. This construction often emerges in the discourse surrounding child abuse (Parton, 1985), official public inquiries investigating child deaths (Butler & Drakeford, 2004) and some media representations of young people abused by paedophiles. Parton suggests, however, that constructions based *purely* on notions of victimhood tend to appear only episodically. It is more usual for such representations – and the policies and practices that proceed from these representations – to be conflated with other constructions; most commonly the concept of *threat*.

Although many positive welfare policies may have been founded on these first two constructions, it is worth noting that there are obvious dangers in perceiving young people as ‘incomplete adults’. The pitfall of viewing children as ‘human becomings’ rather than ‘human beings’ (Qvortrup, 1994) can result in adults believing that they always ‘know best’. The consequences of not listening to children have been vividly recorded here in Wales (Waterhouse 2000).

The third representation of children is as a *threat*: a threat, that is, to *us* – adult society in general, and the respectable classes in particular (Pearson 1983; 1987; 1989; 1994a; 1994b). This threat can take the form of robust challenges to the prevailing moral order by older children or, as they are often described, adolescents. This can involve, variously: the unearned pleasures of good sex, loud music and illicit drugs; anti-social behaviour (sometimes constituting relatively innocuous misdemeanours such as gathering in large groups in public places and making offensive comments about passers-by); and, of course, infractions of the criminal code (Campbell, 1993). Pre-pubescent children also have a long history of being perceived as a *threat*. There is evidence to suggest that the children of the poor have been constructed in these terms at least as far back as Elizabethan times (Dingwall *et al*, 1983: 214). More recently, the media representations of Robbie Thompson and Jon Venables - the two ten year old boys convicted of murdering the infant, James Bulger (Smith, 1994) – have played a significant part in demonising young children in general. Indeed the satanic representation of the two boys

helped feed a frenzied debate about a supposedly more general 'crisis in childhood' (Scruton, 1997). Paradoxically, the Bulger case contained the two most potent constructions of childhood: *victim* and *threat*. Some media representations actually portrayed the horrific – but highly atypical - events of February 1993 as the day that childhood innocence was murdered.

The young people on whom this study is focused have, to varying degrees, experienced policies in all three categories. How many have received meaningful *investment* from the state is, though, a moot point. Certainly, for the most part, these young people have been both objects of concerned welfare and subjects of social control.

The policy debate about children in trouble tends to hinge on the issue of *agency* and *structure* (Giddens, 1990; 1991; Beck 1992): between those who perceive young people as being in possession of a significant degree of moral agency and others who take the view that such criminal behaviour is more usually a manifestation of other difficulties associated with personal life, family life and/or the life of the neighbourhood. Whilst this tension between *agency* and *structure* is also present as a feature of social and criminal justice policy in relation to adults, it is more acute in respect of children because there are usually at least some concessions to ideas about age, maturity and relative powerlessness. Such concessions, moreover, imply a *duty of care* to the child. Consequently, policy responses to the criminal behaviour of the young can be represented on the one hand by interventions that will deliver some form of welfare drawn from a list that includes care, protection, treatment, education, training, rehabilitation and community reintegration; and, on the other, more 'punitive' measures selected from an inventory encompassing retributive justice, control, surveillance, public protection and 'naming and shaming'. Indeed, social and criminal justice policy in this area is often represented in dualistic or 'pendulum-swinging' terms (Haines & Drakeford, 1998). Whilst the idea of a *punishment – welfare* continuum provides a certain seductive analytic clarity, its use as a narrative device for presenting the history of youth justice fails to take account of the underlying complexities and the way in which these themes interweave (Pratt, 1989; Muncie & Hughes, 2002; Smith, R, 2003). Very often such seemingly oppositional binaries

overlap. The history of child incarceration is a case in point. The incarceration of young people can be represented simultaneously as *child-rescuing care* (Platt, 1974) and *punitive custody*. Institutional regimes may be informed by seemingly diverse philosophies: *soft-centred* treatment and education programmes, on the one hand, or *hard-edged* disciplinary training, on the other. What they will have in common, though, is the turn of a key. Child confinement is just one area of practice where *welfare* and *punishment* can appear indistinguishable – especially to the child behind the locked door.

The young people in my study have been living through a turbulent period in youth justice history. It is a period in which the ‘new punitiveness’ (Goldson, 2002) has, arguably, been in the ascendancy. Nevertheless, because these young people have been ‘looked after’ by Children & Families services (located in Social Services Departments), they are also – by statutory definition – children *in need*: *in need* of support and, in some cases, protection. On that basis alone it is therefore reasonable to suppose that somewhere in the criminal justice equation, welfare needs will have entered into the relevant decision-making processes. It is likely that criminal justice practitioners will have conducted assessments and planned interventions with at least some reference to welfare-based criteria. The relationship between such principles as welfare, punishment, justice and offender-management are explored in the cases of the young people presented.

Both the criminal justice and public care systems have been routinely described as ‘failing systems’ (Audit Commission, 1996; Home Office 1997; Utting 1997; Waterhouse 2000). Whilst the case against the juvenile justice system is widely disputed, that against the public care system is generally accepted. Leaving aside the discourse of scandal that has come to dominate discussions of the care system in both tabloid newspapers and public inquiries, the outcomes for young people with a background of being ‘looked after’ are poor. On the basis of best available estimates, children who have been ‘looked after’ experience alarmingly negative outcomes in terms of poor health, homelessness, poverty and low educational attainment (Utting, 1997; Horton, 2003; Curtis, 2005). That a negative relationship exists between the care system and the

criminal justice system exists is evidenced by the fact that over half of the young people in young offender institutions have a background of being 'looked after' by local authorities (HMIP, 2002). Although these poor outcomes for young people can be explained in part by the original circumstances that precipitated their initial entry into public care (abuse, neglect, bereavement, etc.), there is a perception amongst many practitioners – including those who work in the Children 'Looked After' system - that the nature of statutory social services' intervention has also been a significant contributory factor. Although most seem to agree that there is certainly some sort of problematic relationship between the public care and criminal justice systems, the nature of that relationship is not always clear. What are these routes of passage between the public care and criminal justice systems? This, in essence, was the original research question with which I commenced this inquiry. How does a young person who was originally received into public care – often for her/his own protection - come to be languishing in a custodial institution a matter of a few years or, in some cases, months later?

1.2: Methodological Approach: a summary

The research undertaken for this dissertation is based on three related questions. Firstly, what is the relationship between the public care system and the criminal justice system? Secondly, how do such discourses as 'welfare' and 'punishment' influence what happens to young people with care backgrounds in the youth justice system? Thirdly, how have the post-1998 reforms of the youth justice system impacted upon ground-level practice - especially in respect of young people with care backgrounds?

The research strategy employed in this piece of research has been qualitative. As has already been indicated, that a relationship between the two systems exists is not seriously disputed. The 'outcomes' research suggests a strong correlation between public care and criminalisation. What is less understood, however, is the exact nature of that relationship. It is for this reason that a qualitative approach has been preferred to a quantitative analysis. An 'in depth' study of a relatively small number of cases, it was believed, would yield insights into the social processes, practitioner decisions and

institutional mechanisms that propel so many of these young people into the deeper recesses of the criminal justice system.

The research material presented here is based on an ethnographic/qualitative study conducted within a Youth Offending Team serving a Welsh urban area. Although in some respects the research strategy pursued shares some of the more salient characteristics of a Case Study design (Yin, 1994, 2003), there are also important differences (see Chapter 4). At the research site a small, but broadly representative, sample of young people was initially selected from the caseload of a Youth Justice Supervision Team located in a local authority Social Services Department. By the time the data collection had been completed, the cases of the young people under study were managed by one of the newly-created Youth Offending Teams established under the Crime and Disorder Act 1998. Although the original Team was expanded and there were significant changes of personnel, the young people remained the same in most cases.

It has to be said that the radical changes in the environment within which juvenile justice services operated had not been envisaged as a central part of my original research plan. Inevitably, however, the pace and scale of radical organisational change was such that this aspect of the research came to occupy a position of great importance; particularly in relation to the ways in which themes of welfare, justice, punishment and 'offender management' were being reformulated by practitioners and managers. This, along with the introduction of new legislation, obviously impacted on young people in important ways. The Crime & Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999 provided a raft of new Orders and powers to the courts. This legislation was also buttressed by a new set of National Standards (Youth Justice Board, 2000, 2001, 2002) that prescribed practice for Youth Offending Team Workers. The new legislation represented a radical departure in the underlying philosophy of youth justice work. The 'old youth justice' consensus founded upon diversion, minimum sufficient intervention and a belief in the dangers of up-tariffing (Haines & Drakeford, 1998: 48) were challenged by the New Labour government's emphasis on *prevention* and *early intervention*. Indeed, Holdaway *et al.* (2001) made it clear that the Youth Justice Board

took something of a 'Year Zero' approach to practice in the new agencies. Accordingly, they write,

"A Youth Offending Team should not be a re-labelled Youth Justice Team,"
(p.2).

How the 'old practitioner' belief systems fared under the New Order is an important theme of this dissertation. Beliefs may not automatically be translated into actions, but beliefs will certainly leave an imprint upon practice.

Youth Offending Teams are, of course, not merely staffed by the seasoned social workers from the 1980's and early 1990's. The Teams also include representatives from the Probation Service, Education, Health and the Police. Each occupational group has brought to the Team its own conditions of service, values, professional discourses and methods of working. Consequently, there are new practitioner cultures currently being negotiated in these Teams. How this is impacting upon young people is addressed within the dissertation.

How 'looked after' young people enter the criminal justice system, and what happens to them when they do, has been examined in a number of ways in this piece of research. Their individual paths between the public care and criminal justice systems were traced, for example, with the aid of documentary material (case files, etc.). It should be mentioned that this study has not confined itself solely to those whose progress has followed a linear sequence from public care to the criminal justice system. Some of the young people entered the public care system as a direct result of 'criminal' behaviour. The relationship between the two systems is, therefore, more complex than some might assume. Where practicable, the experiences and views of the 'key players' (young people, parents and practitioners) were sought through semi-structured interviews. Other methods of data collection included focus groups with practitioners and observation of office life in the SSD Youth Justice Team and YOT.

One disappointing aspect of the research is that it was not possible to interview the relevant social workers from the Social Services' Children & Families Teams. There have been two main reasons for this failure. Obstacles to access were encountered at senior management level in Children & Families Services. The denial of access was explained in terms of protecting over-stretched staff from additional demands on their time. It was explained that staff had also recently been subject to searching inspections. The prospect of a researcher having potentially unlimited access to staff and agency documents was – it was suggested - one that might have caused some resentment. Some people on the Youth Justice wing of the Social Services Department were more cynical in their interpretation of this explanation. Two managers – as well as a number of practitioners – implied that senior managers in Children's Services were defensive about their practice – especially in the politically sensitive area of 'Looked After' children. Whatever the truth of the matter, formal access to Children's Services was refused. I was duly advised by Youth Justice (and subsequently the Youth Offending Team) managers that access to individual social workers and additional files could be secured on a case-by-case basis via Youth Justice managers. In practice – and this leads me to my second reason for failing to access Social Services Children & Families Teams in any kind of systematic way – the social workers were generally not available to discuss cases. The extent of the high staff turnover in Children & Families teams was something that surprised even me, partly as I was to the rumours coursing around professional networks at the time: stories about high sickness rates and disintegrating teams.

Despite the above-mentioned problems with access, the Children & Families Team perspective is not totally absent from the research. I had extensive access to Children & Families documentary evidence (practitioner notes, agency forms, Case Conference minutes and other miscellaneous records) held in the Social Services Youth Justice Team and Youth Offending Team case files. In the course of securing interviews with young people, moreover, I had occasion to speak with many social workers in Children's Services. The manager and social work staff of the Leaving Care Team were particularly helpful. Some were very supportive of my research and volunteered unsolicited views about particular young people as well as more general comments about services. On

ethical grounds these comments have not been quoted *verbatim*, but – where relevant – I have attempted to convey such viewpoints in an impressionistic way. It should also not be forgotten that all staff from the former Social Services Youth Justice Team had previously been case accountable for ‘Looked After’ young people. Another important point to make is that many Youth Offending Team workers had previously worked in Children’s Services (including Child Protection, the ‘Looked After’ system and the Leaving Care Team). In one case I encountered a Youth Offending Team worker who had actually previously been involved as a Children & Families social worker with cases being supervised by the Youth Offending Team. The perspective of Children’s Services has, therefore, been represented within the Youth Offending Team to some extent.

1.3: Structure of the Dissertation

The organising principles of the dissertation are represented in the chapters described below.

Chapters 2 and 3 provide an overview of the relevant theoretical literature, research, legislation and social policy. **Chapter 2** is an introduction to the main themes of the dissertation. It includes an examination of the origins of contemporary social constructions of ‘childhood’, ‘adolescence’ and ‘youth’. A critical commentary on the thematic interplay of ‘welfare’, ‘punishment’ and other discourses is considered in relation to a necessarily abbreviated narrative on the historical development of the public care and youth justice systems up to the General Election of 1997. **Chapter 3** carries forward the aims of the previous chapter to include the criminal justice and social welfare policy initiatives inaugurated by the New Labour Government between 1997 and 2002 (the data having been collected between 1999 and 2002). As the constitutional devolution of power was one of the central reforms of the incoming Labour government, the influence of the fledgling National Assembly for Wales is considered. The 1997 devolution settlement and the creation of an elected National Assembly for Wales in 1999 has had a growing influence on both the lives of young people and, to some extent, the culture of Youth Offending Teams in this country. Although the differences with

England should not be exaggerated, there are some points of departure that possibly signpost future divergences in policy and practice. Although the focus of **Chapters 2 and 3** is essentially British, reference is made to the world beyond these islands. The United Kingdom is, after all, a member of the European Union, the Council of Europe and the United Nations. Some of the more significant policy and practice transfers from abroad - especially from North America (but also from the southern hemisphere) – are duly considered alongside home-grown initiatives. At some points, moreover, the British experience is compared and contrasted with ideas, experiences and practices in continental Europe and beyond. This overview is necessarily abbreviated and selective, but hopefully not overly eclectic.

Chapter 4 deals in depth with the research design and the methods that were used to interrogate the research questions. This includes a consideration of the ethical issues.

Chapter 5 introduces a selection of the young people who form the focus of the research. Their routes into the public care and criminal justice systems are traced in outline. Individual case summaries include anonymised personal details (family background, issues pertinent to their case, criminal history, etc.) and synopses of their trajectories through the welfare and criminal justice systems. Summaries of the remainder of the cases studied are to be found in the Appendices.

Chapters 6 and 7 focus, respectively, on the *public care* and *criminal justice* systems. These two chapters are based on documentary analysis; ethnographic observation; and interviews and/or focus groups with practitioners, managers, young people and parents. The experiences and views of all those with direct experience of the two systems are duly represented and analysed. It should be mentioned that Chapter 7 devotes attention to some of the changes in practitioner culture.

Chapter 8, the conclusion of the dissertation, draws upon the data already presented and advances a final critical commentary on the competing principles of *welfare* and *punishment* in relation to their operationalisation within the newly-expanded youth

justice. Evaluative comments are made on the extent to which 'joined up' services have been realised within Youth Offending Teams. Consideration is also given to the implications for policy and practice.

1.4: Conclusion

The dissertation may not give definitive answers to the original research questions posed. Nevertheless, it does deal in considerable depth with the cases of a group of young people who have experienced both the *care* and *control* of the state at a time of considerable change in this area of policy and practice. The experience of those young people and the adults associated with them is a story that is worth telling to those willing to listen.

Chapter 2: Children, Crime and Welfare: theoretical and policy themes in youth justice

2.1: Introduction: salient themes

This chapter seeks to contextualise the research presented within some of the competing theoretical and policy frameworks that have developed since the end of the 18th century. The object is not, though, to provide a detailed historical account. Such a project is well beyond the scope of this dissertation. Nevertheless, particular periods of history will be highlighted in order to illuminate some of the key themes that entwine the public care and youth justice systems. An appreciation of this history is critical to a proper understanding of the present policy and practice formulations of child welfare and youth justice. It will be a contention of this chapter that criminal justice policy is particularly prone to repeated attacks of historical amnesia. This is not to suggest that the selective memory disorder which seemingly afflicts every generation of politician, opinion former and moral entrepreneur results in history repeating itself exactly. Rather, elements of old policies are reincarnated in new forms or else reinvented in combination with the genuinely new and innovative.

This chapter is divided into four sections. Section 2.2 considers some of the more dominant constructions of young people. It also explores the changing material and social conditions to which they have been subjected in the latter part of the twentieth century. In particular it devotes attention to the highly influential ‘youth transitions’ paradigm (Furlong & Cartmel, 1997; Bynner *et al*, 1997). Section 2.3 identifies the discourses that have historically dominated social and criminal justice policy in relation to young people who offend; whilst historical examples are selected to illustrate the main themes. Although the main aspects of the post-1997 world are dealt with in Chapter 3, this is not intended to imply that there is no intellectual or policy relationship between the Conservative ‘past’ and the New Labour ‘present’. 1997 was in many respects a watershed year for British politics, but it was certainly not ‘Year Zero’. Nevertheless, despite sharing an ideological lineage with its right wing predecessors, the resulting

continuities in economic, social and criminal justice policy can also be contrasted with political disjunctions, departures and fresh initiatives. The nature of the 'New Youth Justice' (Goldson, 2000) is debated more fully in Chapter 3. What is not disputed, however, is that the 1998 Crime and Disorder Act heralded a radical re-organisation of the way in which youth justice was administered in England and Wales. It is chiefly for this reason that Chapter 3 is devoted exclusively to New Labour's Youth Justice project. Section 2.4 considers some of the salient issues that cluster around the related subjects of youth, crime and public care. Section 2.5 concludes the chapter.

2.2: Young People and Society: an introduction to the main themes

It has been argued persuasively that Britain is a place that does not really like young people (Haines & Drakeford, 1998). The authors discern two essentially contradictory - but simultaneously held - public attitudes in respect of young people: *envy* and *fear*. In terms of the first sentiment,

"...young people are regularly portrayed as having the times of their lives, untrammelled by responsibility or restraint, a group for whom life is simply an extension of a Club 18-30 holiday in which sex, stimulant and sleep are mixed in a cocktail which was never on the market when the commentators themselves were their age."

(Haines & Drakeford, 1998: 3)

In other words, young people are having such a good time at their wild and orgiastic parties that they forget to invite the rest of us. Paradoxically, this attitude is contrasted with a palpable sense of fear.

"These are the youngsters who are out of control, who do not know how to behave, who have been brought up by parents who are too soft, who congregate on street corners in order to intimidate passers-by, who have no respect and show no consideration. There is a physical menace which is never far from the surface in these encounters. These young people are dangerous. They need to be avoided or, better still, kept away."

(Haines & Drakeford, 1998: 3-4).

If the above analysis is accepted, it is perhaps unsurprising that the concepts of ‘youth’ and ‘crime’ have enjoyed such a long and intimate relationship. Although the term ‘juvenile delinquent’ – along with the concept of adolescence – is found in the 18th century (Hendrick, 1997), it was in the 19th century that the concept became firmly lodged in wider public consciousness (Hendrick, 1990). It is a central argument of this chapter that whilst the concept of juvenile delinquency undoubtedly gained popular currency in the 19th century, it was the creation of the administrative category of ‘juvenile offender’ that facilitated a process of conceptual concretisation. The establishment of a separate juvenile criminal justice system provided a material focus for the anxieties of a nervous middle class public. Their ‘respectable fears’ (Pearson, 1983) became ever more focused on the emerging ‘folk devil’ (Cohen, 1980) of ‘unruly youth’. As with most debates about crime, however, the populist ‘surface’ discourse barely conceals public anxieties about deeper social concerns: structural changes in society, economic instability and insecurities about personal safety. Individual narratives are inextricably linked with the grand narratives of history, though not necessarily in terms of a straightforward linear relationship between cause and effect (Lyotard, 1984).

The highly class-specific image of the ‘criminal’, especially the young criminal, is – for the most part – accepted uncritically. The same can be said for the social construction of ‘adolescence’ as an essentially troublesome and challenging condition. The psychological and behavioural disorders that are supposed to cluster around young people in their teenage years are commonly regarded as ‘natural’ and somehow an integral part of child and adolescent development. ‘Youth’ and ‘deviancy’ have thus become almost synonymous in public discourses about young people. Although most of Hall’s (1905) ideas have been jettisoned by the academic discipline of psychology, the vivid image of adolescence as a time of ‘*storm and stress*’ with hormonally driven identity crises is one that has become embedded in ‘commonsense’ folk wisdom. The traces of these ideas are also still clearly discernible in contemporary accounts of youth (Harber & Harper-Dorton, 2002). Whilst the discipline of psychology may have much to offer policy makers, clinicians and assorted professionals, the inherent risks of ‘psychologising’ youth need to be considered.

Some of the psychological labels attached to 'challenging' (a much favoured epithet in 'professional' parlance) young people have been popularised in many mass media representations of youth. The 'disturbed adolescent' occupies a prominent position in the familiar diagnostic trinity of the 'mad, sad and bad'. The mass media has not only amplified the 'problem of youth', but also played a key part in actually creating moral panics about its condition and threat: from the excitable apprentices in the London mob (Pearson, 1983) to 'mods and rockers' (Cohen, 1980) and other post-war youth cultures (Osgerby, 1998). Most people in the early 21st century are probably more media literate than their forbears and, as such, appreciate the ironised nuances of many popular representations. Less appreciated, though, is the influence of the sophisticated briefing and lobbying practices undertaken by government departments, campaigning groups and powerful stakeholders like the police (Brown, 1998). The impact of sensationalist reporting also continues to have a profound effect upon public opinion and the political process (McRobbie & Thornton, 1995). Moreover, the news media's concentration on youth offending as opposed to other forms of crime (like tax fraud and corporate crime) ensures that the diminutive, hooded figure of the juvenile delinquent looms large in the public imagination. Young people, after all, are far more visible on the streets with their distinctively 'scary' haircuts, challenging music and incomprehensible demotic street argot. Youth is highly susceptible to being represented as the dangerous 'other' and 'enemy within' the city walls. The challenges experienced by young people – the delayed and often fractured transitions into the labour market, for example (Furlong & Cartmel, 1997; Ball *et al*, 2000) – tend to be presented as social problems for which they themselves are responsible. Whilst it would be misleading to suggest that all youth crime is the result of social and economic trauma, there are dangers in overstating the '*pleasures of youthful transgression*' thesis (Katz, 1998; Hayward, 2002). The reasons underlying even so-called *expressive crimes* (a far from uncontested category) like 'joyriding' are complex and go well beyond the more reductive versions of a 'late modern teenage kicks in a risk society' account. Issues of power, inequality and masculinity require closer intellectual inspection if a more persuasive explanation of juvenile crime is to be developed.

Although there exist middle class versions of youthful delinquency and rebellion involving cautionary narratives of ‘falling’ into ‘bad company’ (Cromer, 2004) and ‘descending into drug-dependent hells’, for the most part the dominant constructions of juvenile delinquency are masculine and class-specific. The feral offspring of the Victorian ‘residuum’ bear a striking resemblance to contemporary representations of the modern ‘underclass’ (Murray, 1984, 1990, 1994). Like their 19th century counterparts, the post-modern poor are contrasted with a noble but fast-vanishing working class. According to Pitts (2000), for example, New Labour invokes a nostalgic,

“...vision of a 1950s municipal housing estate where fully employed, skilled, solvent, working class artisans took care of their families and kept their children under control.”
(Pitts, 2000: 4).

As Pearson (1983; 1987; 1989; 1993; 1994a; and 1994b) has reminded us so often, it was ever thus. In Britain we tend to selectively sentimentalise some children whilst simultaneously demonising others as folk devils. These *others*, it is contended, are the ‘usual suspects’ drawn from the disadvantaged sections of the white workless class and those minority ethnic communities popularly perceived as feckless, ill-disciplined or dangerously unintegrated (Phillips & Bowling, 2002). We thus simultaneously venerate *our* own little angels whilst at the same time seeking to exorcise the demons that animate the offspring of *others* (Evans, 2004).

It is a truism to state that whilst some things never change, other things most certainly do. The material and social conditions of British young people in the late twentieth and early twenty-first century contrast markedly with their counterparts in the 1960s and 1970s. For the purposes of contextualising the condition of young people in the period during which the fieldwork was conducted, it is useful to consider how the experience of being young has changed in comparatively recent history. It is not suggested that youth crime is reducible or explicable solely in terms of social and economic trends. Young people are not represented here as the passive pawns in a titanic struggle between capital and

labour. They are active agents in negotiating their own pathways through an increasingly complex and risk-filled society (Giddens, 1990; 1991; and 1994). Having said that, it is always important to bear in mind that if young people are fortunate enough to be invited to 'negotiations', they almost invariably do so from a bargaining position of relative weakness. An inspection of the concrete material conditions in which young people have 'grown up' over the last three to four decades is a reasonable starting point for such an analysis. In order to accomplish this task it is necessary to unpack the conceptual framework of 'youth transitions' in a specific historical context.

It is not uncommon to present 'youth', or adolescence, as a staging post between the departure point of dependent childhood and the terminus of independent adulthood: a transitional phase of shifting and uncertain status. It is, almost by definition, perceived as a time of change. There are biological transitions in terms of hormonal and bodily changes. At a psychological level, too, adolescence can be presented as a time in which important cognitive skills are developed and the emotional range of the young person is widened. The sulking, mood-winging, temperamental teenager is by now an integral and well-established part of folk wisdom in contemporary western society. A less sympathetic and more heavily pathologised version can be found in various populist versions of the identity crises that are believed by some to characterise the psychological condition of youth. It is, however, the *social* transitions to which young people are subject that will be discussed here.

Advanced capitalist society, it could be argued, does not provide the comparable rites of passage for young people that characterise 'traditional' societies. At what point do young people become responsible social actors? At what stage can they be defined as adults? The answers to these questions are not always entirely clear. Consequently the condition of youth is beset with ambiguities of status. In England and Wales the age of political majority is 18 years old, whilst the age at which taxation commences is 16 years. This, in itself, would seem to contradict the widely accepted democratic principle of 'no taxation without representation'. Moreover, at 16 years of age a young person can consent to sexual relations, marry (with the consent of their own parent/s) and parent their own

children. Perversely, though, they may be barred until the age of 18 years from entering into certain legal contracts and even viewing 'adult' films. Significantly, though, the age of criminal responsibility is ten years old. With just these few examples it can be seen that the relationship between such concepts as responsibility, freedom and power are – in many respects – complex and possibly contradictory. Whilst it can be argued that this state of affairs represents the 'developing competences' of adolescence – the so-called Gillick principle (Brayne & Carr, 2004: 127 and 241-2) – the chronological ages at which rights and responsibilities are allocated cannot be said to be entirely consistent with our knowledge of child and adolescent development (Mizen, 2004: 6-9). Whatever position one takes, though, it is fair to say that the social transition from childhood to adulthood is not a straightforward matter and, as a result, is open to contestation.

Furlong & Cartmel (1997) identify three main modes of youth transition within the social domain: economic, domestic and spatial. The economic mode refers to the movement between school (or full-time education) and employment; the domestic mode addresses the movement from family of origin to family of destination; and the spatial mode traces the accommodation journey from living at 'home' to living 'away from home'. Although the three dominant modes are inter-dependent, in Furlong & Cartmel's model the state of the economy is arguably the dominant factor in terms of influencing the course of young people's transitions.

The traditional youth transition in the immediate post World War II period – a time in which the economy and social welfare system was refashioned - can probably be best characterised as a straightforward passage from school to work (be it the local factory, colliery, office or bank); only a minority entered higher education. Young people duly earned money, spent money and invested money. They were significant economic actors and – in the 1950's, 1960's and 1970's, certainly – were transformed into conspicuous consumers. It was during this period that the concept of 'youth culture' – though not an historically new idea – became a contemporary concern. Moral panics about teddy boys, mods, rockers and beatniks gave way to skinheads, Hell's Angels, hippies and punks (Osgerby, 1998). Whilst some sections of the mass media undoubtedly focused on the

ephemeral attributes of each succeeding youth culture, the underlying economic reality was that young people enjoyed an historically unprecedented degree of economic power and, as a result, citizenship. Whilst it is important not to represent this period nostalgically as a golden era in which – in Harold Macmillan’s words – we “*never had it so good*” – after the depredations of depression and the traumas of war, young people enjoyed wider choices than had hitherto been the case. Young people could choose to spend their money hedonistically or save and invest. For many – though by no means for all - this relatively strong economic position helped facilitate for those who wanted it, both spatial and domestic transitions. Young people could, when the time was right, ‘leave the nest’ and establish their own homes and families. These traditional modes of transition obtained for the best part of thirty years. Economic and social prosperity was by no means spread evenly across the regions of the United Kingdom. Nevertheless, the above experience was fairly typical for the majority of people that ‘came of age’ during the 1950’s, 1960’s and 1970’s.

Before analysing the economic and relevant social policy changes that began to take place during the 1970’s and 1980’s, it is worth pausing in order to contemplate other related social trends. During the period under examination significant changes in family structure were occurring (Horton, 2003). There has been a steady increase in the number of births taking place outside marriage over the period in question. At the time of writing four in ten births occur outside registered marriages. This represents a fourfold increase on the 1974 figures. There has also been a substantial rise in the number of lone parent families over the last twenty-five years. Currently around 20% of all dependent children are reared in lone parent families. This is approximately three times the proportion found in 1971. The institution of marriage, though not in terminal decline, has been challenged. The 1960’s co-habitation rate of around 6% has, on most recent estimates, grown by approximately tenfold. There has also been a threefold increase in divorce rates. Some 28% of children will now experience the divorce of their parents. There has, however, been a fourfold increase in the number of re-marriages over the same period. Although in broad aggregate terms three-quarters of children and young people live with at least one of their biological parents, a significant minority do not. The threefold increase in

reconstituted families is a significant development.

In purely economic terms many of the above changes in family structure have had a profound impact upon the level of material support available to young people in transition. Lone parent families and reconstituted families are generally poorer than the traditional family model headed by two biological parents. Young people of all social classes traditionally rely upon parents to assist them in the critical life transition from dependent childhood to independent adulthood. Such assistance can take a variety of forms: financial handouts; guarantor for bank loans and overdrafts; the donation of old furniture and bedding to help establish young people in new accommodation; access to the washing machine and other essential facilities; and, of course, the provision of an emotional and practical 'safety net' when the transition is broken (in other words, providing a bolthole when accommodation is unstable or personal relationships founder). Providing this kind of assistance is resource sapping at the best of times, but for impoverished families this can be an especially acute source of additional stress. At an experiential level, moreover, these structural changes in family life are hugely significant. It means that for many young people their families have changed around them quite radically as they are in the process of 'growing up'. For a significant minority, at the point at which young people are 'traditionally' expecting to leave home, they will no longer – in effect – be living in the family in which they were born. In other words, their family of origin will have changed markedly *before* they are ready to move on to their family of destination. The relationship between changes in family structure, poverty and relationship strain is an area that probably requires further research.

At this juncture, though, it is appropriate to devote attention to the economic dimension of youth transitions. As previously mentioned, in the post-war period until the mid-1970's, the transition from full-time education to full-time employment was reasonably assured and comparatively smooth for most young people. This is evidenced by a direct comparison of those entering full-time employment in the 1970's with their counterparts in the 1990's. In 1976, of those leaving school at the age of 16 years, 53% went to straight into full-time employment (Haines & Drakeford, 1998: 7). This compares with

the position in the mid-1990's when only one in five achieved this status. It is important to emphasise the point that the 1970's figures represent what has come to be described in popular parlance as 'proper jobs'; that is to say government training schemes are not included in these figures. From the vantage point of the beginning of the 21st Century it is quite striking to consider that the expectation of full-time employment was matched by the experience of a 'proper job' for the majority of school-leavers in the 1970's. The steep decline in young people in work is related to the profound restructuring of the economy that took place in the intervening period. The decline in large-scale manufacturing industry during the 1980's triggered a collapse in the youth labour market. It is worth noting, incidentally, that even young, unskilled people in the well-unionised factories enjoyed reasonably good wages and conditions.

One effect of these sectoral economic changes was the corresponding decline in apprenticeships. In 1964 there were 332,000 young people registered in apprenticeships. By 1985 the figure had dropped to 191,000. The bulk of apprenticeships were in manufacturing industry. In 1964 there were 235,000 young males and 5,400 females. By 1989 these figures had dropped to 49,700 and 3,900 respectively (Furlong & Cartmel, 1997: 32-3). Traditionally, the apprenticeship system was a well-established route into skilled and well remunerated employment for many bright working class young people. By the end of the 1980's, however, this avenue was closed for the overwhelming majority. The loss of this career opportunity brought for many an acute sense of uncertainty. The opportunity to actively plan a future was thus lost.

Latterly it has only been a minority who have entered directly into the labour market at the age of 16 years. The majority embarked on government-sponsored training schemes or simply continued in education. Of those young people who are defined as economically active (those not in education or suffering from ill health), the unemployment rate is disproportionately high. In 2002 (the end of the period during which fieldwork was conducted) 18% of economically active males were unemployed compared with 13% of economically active females (Rahman *et al*, 2003). The 18-24 year old age group, meanwhile, experienced an unemployment rate that was twice the

rate of those aged over 25 years (Rahman *et al*, 2003).

The majority of the reduced numbers of young people actually in employment became concentrated in low-income occupations. By the mid-1990's this trend in employment patterns was well established. One report noted that more than half of all workers under the age of twenty years were employed in industries,

"...typified by low pay, limited training opportunities, high rates of staff turnover and little union protection."
(TUC, 1996: 3)

At the end of the period during which fieldwork was conducted, approximately half a million young adults aged 18-21 years continued to be paid less than half of the male median hourly income. This reflects the fact that more than half of young adults work in those sectors of the economy characterised by low pay and casualisation: distribution, hotels and catering (Rahman *et al*, 2003). These findings are consistent with social and economic trends in many other European countries (Council of Europe, 2003a, 2003b; Middleton, 2002).

At this juncture it is important to pause and consider the possible implications of youth's changing relationship with the labour market. Leaving aside the effect on domestic and spatial transitions, what are the other consequences of young people's more marginalised position within the economy? For those not in employment there is the possibility of a more tenuous relationship with other generations. The workplace is obviously a major institution of socialisation. Whereas previous post-war generations may well have used their pay-packets over weekends to purchase recreational lifestyles specific to their age group and social class, on Monday morning they re-entered the factory gate or the office and were required to negotiate a set of relationships with other generations. For many young people today, this rich network of wider social relationships is seemingly less available to them. To what extent, therefore, can such young people be said to be at risk of generational ghettoisation?

For those young people in employment, their experience of work is likely to be very different from a previous generation. The post-Fordist present means that young people are more likely to be employed in non-unionised, small-scale work units in various branches of the service industry. As has already been suggested, they are also more likely to be low paid, work casualised hours and be subject to the insecurities of short, fixed-term contracts. Young people, more than any other age group, will be experiencing directly the McDonaldisation of the economy. Whether the common – though possibly more individually lived - experiences of insecurity of work and worklessness have resulted in a shared worldview is unclear. This is not to suggest that young people living in satellite social housing estates at the edge of cities routinely discuss their acceptance of the globalisation thesis and the risk society. Compared with a previous generation, though, are they are possibly less sanguine about their collective capacity to influence their future? At a time when even most national governments are disciplined into a ‘cult of impotence’ (Pugh & Gould, 2000), it is not an unreasonable hypothesis.

The collapse of the youth labour market and the radical restructuring of the economy in the 1980’s coincided at the end of the decade with the withdrawal of meaningful income maintenance benefits (such as the old supplementary benefit) for 16-17 year-olds (apart from those who passed a stiff test for a Severe Hardship Allowance) and a reduced rate being paid to 18-24 year-olds. The changes to the rules governing income maintenance benefits were mirrored in the rules concerning Housing Benefit. The creation of a new category of claimant aged between 18-24 years - the ‘young adult’ - effectively confirmed and institutionalised an emerging social trend. The police officers might still be getting younger, but youth was getting older. Youth transitions were becoming more protracted and the period of dependency on families was extending well into the middle and late twenties. The shifting age boundaries of youth inevitably impacted upon family life and duly extended the scope of parental responsibility. The wider social responsibility for youth homelessness, for example, was reconstructed as a moral responsibility located within the family. This was well illustrated by Margaret Thatcher’s response to the problem of young people’s increasingly unstable accommodation situation and the rise of street homelessness:

“There are a number of young people who choose voluntarily to leave home. I do not think we can be expected, no matter how many they are, to provide units for them...these young people already have a home to live in, belonging to their parents.”

(Kay, 1994: 5)

It is worth noting that the measures contained in the 1988 Social Security Act were subsequently ‘enhanced’ by the introduction of the single room rent allowance amendment in the 1996 Housing Act. These changes to housing and welfare benefits – when considered against a background of profound economic change – conspired to keep young people at home, on friends’ settees or on the streets. It certainly frustrated their transition to spatial and economic independence. Blocked transitions into the labour market effectively narrowed the opportunities for independent living and the associated movement toward ‘families of destination’. This is clearly evidenced by the statistics relating to young people staying at home for longer periods (or, perhaps, the ‘boomerang effect’ of leaving home and returning at a later date). In the late 1970’s 52% of 20-24 year old males were living in the parental home; the figure for females being 31 %. By the end of the 1990’s there had been a 20% increase in the figures: 72% for males and 51% for females (Coles, 2000: 6-7). It is reasonable to assume that this trend has placed additional burdens on family life in both material and emotional terms. Whilst this will be true for all social classes, poorer families will have experienced the burden most heavily.

Poor households, especially those that are workless, are obviously less resourced and equipped to provide material support for their children. Moreover, they are also less likely to draw upon the knowledge, experience and social capital required in order to guide their offspring through the increasingly complicated world of post-compulsory education and training. Since the late 1970’s there has, of course, been a significant expansion in education for those aged over 16 years. By the late 1990’s post-compulsory education had increased its share of the age group by some 20% (Coles, 2000: 5.). post-compulsory education duly raised its share of the 16-18 year-old age group to approximately 70% (Coles, 2000: 5). Whilst some of these young people have continued

in school or transferred to the further education sector, others have been recruited to a variety of training programmes.

One of the developments in the transition between compulsory education and employment has been the rise in government-sponsored training schemes. The creation of this intermediate market has accommodated a number of programmes of dubious value. It would be unfair to represent the sector as having a completely dishonourable tradition, but the existence of murky and sometimes exploitative practices on some Youth Opportunities Programmes and Youth Training Schemes has not helped those wishing to promote a more positive image (Morgan, 1981; Coles, 1995; Roberts, 1995; and Mizen, 1995 and 2004) The suspicion that the historic purpose of the sector has been to disguise or conceal the real level of youth unemployment continues to haunt the best efforts of those committed to high quality education and training.

The intermediate sector of youth training has been segmented, with programmes probably falling into one of two main categories. There are those better quality training programmes that subsidise employers to take young people. It could be suggested that in some cases the employers would have employed the young people in the first place. Secondly, there are other, lower quality schemes that served the primary function of simply warehousing young people. Typically, these schemes offered inadequate training opportunities. Moreover, a common complaint was that there was little incentive for employers to hire these young people on a permanent basis once the subsidy had run its course. There were, after all, more young people being supplied.

The process of segmentation that has typified the history of selecting young people for training schemes continued in the early years of the New Labour government, albeit with significant improvements. The tri-partite system of Modern Apprenticeships (NVQ 3), National Traineeships (NVQ 2) and Youth Training could be said to have formalised the pre-existing stratification of the sector. The better qualified young people from more prosperous homes either stayed at school or accessed the better quality training programmes; whilst those from poorer backgrounds tended to gravitate towards the less

demanding schemes. Whether Careers Service agencies might be replicating the social stratification that had already taken place at school was a legitimate concern. There was the suggestion that there was pressure on careers service agencies (or ConneXions in England) to meet government policy objectives and duly report positive placement outcomes. Some young people (those with no qualifications, a history of school exclusion, insecure accommodation situations, etc.), it might be claimed, were duly assessed as being too 'high risk'. If targets were to be met, placement breakdowns necessarily had to be kept to a minimum. Consequently, those most in need of a high quality training package were arguably those who were least likely to receive one. Although this was obviously not the intention of government policy, it risked being an unintended effect of the 'targets culture'. As Walton (2000:74) has observed,

"Funding mechanisms, which encourage training providers to 'cream' individuals who are most likely to achieve the outputs required, can mean that the most disadvantaged are unable to access a training place..., despite the supposed guarantee of a training place."

A significant minority of young people, moreover, do not even manage to access training opportunities on a secure, long-term basis. Some time ago the problem was identified of those young people who fell between the fissures of existing provision and were registered 'Status Zero' (Instance *et al*, 1994; Williamson, 1997). In current social policy terminology, these disengaged young people are known as NEET's: that is to say, they are Not in Education, Employment or in Training. Towards the end of the period of fieldwork there were 170,000 16 and 17 year-olds falling into this category (JRF, 2003). This figure represented almost 10% of the age group. Nearly 60% of this group were not in receipt of welfare benefits and a fifth lived away from their family homes. It is this group of socially excluded young people who were – and continue to be - the cause of the greatest concern to those engaged in framing and delivering social policy (JRF, 2003). The point perhaps needs to be emphasised that it is extremely difficult for a young person to receive any form of legitimate income if they are not engaged in education, employment or training. In such circumstances it is possible to envisage how, in the difficult struggle for independence, other 'dependencies' might develop that place young

people at risk.

The changing experience of young people in the last thirty years of the twentieth century is well summarised by Furlong & Cartmel (1997). They characterise the traditional and comparatively direct route from school into the labour market in terms of a train journey (presumably in an era when the trains ran on time),

“In a context of collectivised transitions, young people were provided with clear messages about their destinations and the likely timing of their journeys and tended to develop an awareness of likely sequences of events.”
(P.37)

This clearly mapped and easily understood transition from ‘school to work’ and, thus, ‘home to independent household formation’ had the virtue of being reassuringly comprehensible. It is worth noting, however, that there was also a discernible element of social determinism: money paid for the tickets which influenced the choice of ultimate destination and the class of carriage in which one travelled. The complexities of the late twentieth and early twenty-first century required a different metaphor, though. The collective experience of the traditional ‘train journey’ of the past has been replaced by the uncertainties of the individualised odysseys of the present-day car journey,

“...despite the maintenance of traditional lines of inequality, subjectively young people are forced to reflexively negotiate a complex set of routes into the labour market and in doing so, develop a sense that they alone are responsible for their labour market outcomes. It is in this context that ...a transitional metaphor based around car journeys reflects the pattern of change. Young people are forced to negotiate a complex maze of potential routes and tend to perceive outcomes as dependent upon their individual skills...”
Furlong & Cartmel (1997: 39)

It is important to recognise that an extended period of dependency is a characteristic now experienced by the overwhelming majority of young people. This *de facto* extension of youth has the consequence of also challenging the stability of the concept of ‘adulthood’ (Lee, 2001). If our conceptualisation of youth has changed, there is also now a corresponding need to re-theorise adulthood. Today’s adults are possibly no longer quite

as 'grown-up' and independent as those of yesterday.

In England the essentially 'risk-filled' condition of youth has been recognised at social policy level with the establishment of the ConneXions (DfEE, 2000) initiative: a hybrid of Careers Service, Youth Service and voluntary sector projects in which principles of outreach and detached youth work are used by 'advisors' to guide young people through the sometimes bewildering array of training pathways and opportunities. In Wales, although a similar analysis of the problems facing youth is shared, the response has been different. The National Assembly's *Extending Entitlement* document (NAfW, 2000) aimed to co-ordinate existing provision in a more proactive fashion (via Careers Service agencies and Youth Gateway). At the time the fieldwork was conducted, Welsh Assembly Government initiatives were still in the early stages of being 'rolled out'.

Whilst all young people have been affected by the wider social trends described above, it is nevertheless imperative to recognise that some sections of the population have inevitably experienced greater and more acute difficulties in negotiating these critical youth transitions.

"Transitions have become more individualised and young people from all social backgrounds perceive their situations as filled with risk and uncertainty. At the same time, there is also evidence, on an objective level, that risks are distributed in an unequal fashion and correspond closely to traditional lines of disadvantage based on class and gender."

Furlong & Cartmel (1997: 39)

Within those 'traditional lines of disadvantage' are some particularly vulnerable groups: young people from certain minority ethnic communities and those with disabilities being just two examples. Two groups, however, are of particular significance in relation to this dissertation: young people leaving the public care system and those who receive custodial sentences. Although the position has probably improved since the implementation of the Children (Care Leavers) Act 2000 (Broad, 2005), young Care Leavers do not enjoy the same social supports as most of their contemporaries. Meanwhile, contact with the criminal justice system – attracting a criminal record let alone a custodial sentence – is

one of the greatest barriers to economic activity and social inclusion. Given that the young people who form the basis of this research fall into both categories, it is hardly surprising that their 'youth transitions' have been particularly problematic.

At this juncture it is important to consider the 'youth transitions' paradigm a little more critically. Although it shines a light on one dimension of youth's changing experience over recent decades, it remains an incomplete narrative account. There are also weaknesses and assumptions inherent in the analysis. Coles (2000: 8-14) constructs some principles of good holistic practice with young people and in so doing highlights some of the limitations inherent in a dogmatic application of the 'youth transitions' thesis. This is not to suggest that the 'youth transitions' model is invalid. Rather, it is a question of applying the analysis within the context of a more holistic frame of reference. Coles' arguments cannot be represented fully here. Instead, summarised below are just a few of the salient issues that need to be considered.

Firstly, what happens to young people before they reach 'youth' is often as significant as what happens to them subsequently. Pre-adolescent childhood will equip them with (or, indeed, deprive them of) the material, social, intellectual and emotional resources with which to tackle the challenges of key youth transitions. This is clearly evidenced in the longer-term outcomes of children raised in poor households. Approximately one in twelve pupils fail to gain GCSE qualifications. This group are overwhelmingly drawn from poor families. In terms of educational outcomes it has been calculated that low income – measured by the take-up of free school meals – accounts for 66% of the difference in GCSE attainment levels. Children from unpopular, 'hard-to-let' estates – another reasonably accurate indicator of poverty- are four times as likely to truant from school as the 'average child' (Sparkes, 1999). Living in a poor neighbourhood is, indeed, a key factor in determining children's educational outcomes (Burgess *et al*, 2001). The impact of social inequality and poverty on adult health is well documented (Black, 1980; Acheson, 1998). Although the trend is improving, life expectancy remains obstinately lower for those born into the manual working classes compared to those in the professional classes (by 7.4 years for males and 5.7 years for females) (ONS Website).

The way in which poor outcomes are transmitted from one generation to the next has been detailed by the London School of Economics' Centre for the Analysis of Social Exclusion. Those brought up in poverty as children have an increased likelihood of subsisting on a low income in adulthood. Males whose fathers were out of work were, for example, twice as likely to be unemployed themselves between the ages of twenty-three and thirty three years of age (Hobcraft, 1998; CASE Website). Moreover, there is clear evidence to suggest that long-term poverty impacts deleteriously upon the attitudes and beliefs of those growing up in such families: horizons are lowered, aspirations stunted and self-belief corroded (Shropshire & Middleton, 1999).

A second criticism that can be levelled at the 'youth transitions' paradigm is that just as account needs to be taken of childhood experiences, so the analysis of the life course should be extended to include the status of 'young adulthood'. As the journey has now become much longer and more circuitous than was previously the case, so the point of arrival has correspondingly become less certain. At which point can we describe a 'post-youth' destination as an 'adult outcome' (EGRIS, 2001)? As Coles points out, *"...statuses associated with adulthood such as domestic, housing and employment stability..."* may not really be solid outcomes, *"Rather they may be better regarded merely as the stepping stones of the 'young adult' that are as intermediate or transient as the statuses associated with youth"* (Coles, 2000: 10).

Thirdly, the linearity of the model is open to question. The assumption should not be made that 'adulthood', full citizenship and social inclusion have all been attained merely because full-time employment has been secured and independent living status achieved. Such seductive sequentialism fails to recognise the scope for experimentation, trial, error and even failure in the core activities of career and personal relationship-building. The young person concerned may deem a once-desired job unsuitable after a year or two, or perhaps the company for which s/he works re-locates to another area. At a more personal level, the young person's independent living arrangements may become unviable when a co-habiting relationship breaks down or a group of friends sharing a household together decide to pursue different paths. Research into patterns of household formation would

certainly suggest that many young people's housing accommodation careers are characterised by cyclical movement rather than linearity (Jones, 1995; Jones 1999; Rugg & Burrows, 1999). In other words, it is common for young people to leave the 'original' family home - perhaps to pursue education, training or career opportunities - and then return at a later stage. This might be due to a 'failed attempt' at independent living or else be a more tactical withdrawal from independence in order to re-train or save money. Coles also points out that the trajectories of more vulnerable groups certainly don't follow a linear progression:

"Those leaving public care, for instance, often experience forms of transitional housing at an early age, including failed tenancies. They are over-represented among young teenage parents and diverted from educational and training careers, at least in the short-term, by domestic responsibilities. Yet many, as in the case with other young parents, may well wish to re-enter education, training or employment as and when child care arrangements can be made in a way which will allow them to do so. The assumptions implicit in the transition model suggest that employment, domestic and housing transitions are ordered in a way in which employment funds domestic and housing independence. This is at odds with the experience of many vulnerable groups."
(Coles, 2000: 10)

Fourthly, the model is open to criticism on the basis of the normative assumptions it makes concerning the value of employment and independent living. For some young people getting a job and leaving home at the earliest possible opportunity is not necessarily a particularly urgent or even desirable aspiration. The domestic arena of the family of origin may be the place where they feel safe and valued. In some cultures, moreover, the obligations of family responsibilities (caring for relatives, for example) may take precedence over seeking paid employment. Other young people may have health problems or disabilities and, quite reasonably, wish to delay facing the challenges of the outside world alone. It should therefore be acknowledged that some young people may resist the push to accept jobs or training programmes that could nudge them in a direction they simply do not wish to go. Some of them, indeed, may wish to actively construct an alternative lifestyle on the margins of mainstream society. It should not be assumed that such lifestyles are necessarily always characterised by crime and social exclusion.

Fifthly, Coles (2000: 11, 13) identifies the need to “...give due regard due to the ‘two sides of the careers equation’...” (Coles, 2000: 11). Basically, this refers to the need to acknowledge the influence of not only *structure* (in the form of socially organised opportunities and constraints), but also the vital energy of *agency*. There is a tendency to treat young people as the objects of social policy concern and passive subjects of professional control. Young people are sentient individuals with their own ideas about how they will respond to social policy and the professionals who staff its agencies.

The sixth point relates to an acknowledgement of the diversity of young people’s experience. Patterns of youth transition are differentiated by social characteristics based not only on gender, ethnicity and class, but also health, disability, religion and geography. The issue of rurality, for example, is a much-neglected area of research in the United Kingdom (Pugh, 2000). In the Welsh context, moreover, there are issues of language and culture to be considered. The housing transitions of young people in rural west and north Wales has long been connected to a wider concern about the decline in the ‘naturally’ Welsh-speaking communities of *Y Fro Gymraeg* (Thomas, 1973; Betts, 1976). Indeed it has been an important aspect of the deliberations of the National Assembly for Wales’ Language and Culture Committee (National Assembly for Wales Website). The lack of affordable accommodation in such communities sometimes results in young people being forced to move to social housing estates in larger towns. This potentially involves not only relocation from a rural environment to an urban setting, but also migration from one linguistic community to another. This Welsh-speaking diaspora from West to East would appear to be borne out by an initial analysis of the latest Census figures (ONS, 2001). Whilst the number and percentage of Welsh-speakers has increased overall, the decline in ‘traditional’ rural Welsh-speaking communities has been very marked.

A seventh point is that the principle of inclusiveness should be applied to all young people. The ‘social exclusion’ agenda of the present government understandably results in a priority focus being given to those young people who are at greatest risk of marginalisation. However, it is important to acknowledge that all young people have, in

recent history, been subject to profound economic and social forces. Thus, whilst the offspring of the middle classes have been cushioned by their comparatively affluent families from the worst effects of the changes already described above, they have not been completely insulated. This is an important point to consider at the conceptual level, as it forces wider society to consider not only the problems of poor and excluded young people, but also the wider issue of the rights of 'youth' as a whole; social rights that encompass education, training, employment, income maintenance and accommodation. Mizen (2004) develops this argument forcefully and suggests that young people as a group clearly experience discrimination in the economic and social policy field. A 'rights' agenda also raises important questions about the civil liberties of young people. As I hope to demonstrate in Chapter 3, in the field of criminal justice the rights of young people have been eroded steadily in recent years. The fact that this systematic violation of civil and human rights has sometimes been done in the name of 'welfare', actually makes it appear all the more insidious.

2.3: Children in Trouble and Troubled Children: dominant discourses in youth crime and child welfare

Before proceeding to a consideration of the impact of specific pieces of legislation on welfare and criminal justice practice with children in Wales and England, it is necessary to make the obvious point that that 19th century constructions of children were not mere 'fabrications'. These constructions were a direct response to material social phenomena. Whilst Aries' (1962) work presents a rather flawed historical account of childhood – the literalist interpretation of European art being a case in point – he correctly identifies the fact that the majority of children in Western Europe once shared the same social space as adults. This included the important public space of the workplace. It should be recognised, of course, that this remains the case for many children in 'developing countries'. At the beginning of the 19th century children were certainly active participants in the economy. At the time there were actually comparatively few voices raised in opposition to their entry into the newly-developing forms of industrialised labour in Britain. However, according to Hendrick (2002) in the period 1780 –1840, a

significant shift in attitude towards child labour gathered momentum and achieved critical mass amongst the middle classes. Leaving aside the influence of evangelical Christianity and the sentimentalisation of the Romantic movement's construction of childhood (Hendrick, 2002: 24-5), there was growing recognition that children were not genuinely 'free' to enter into meaningful contracts with their employers. This recognition ran counter to one of the principal tenets of classical liberal economics. 'Reformers' duly drew parallels between the position of factory children at home and the international slave trade. Moreover, there was some disquiet that patriarchal authority – or the proper 'order of nature', as it was known – was in danger of being subverted. The prospect of children usurping a father's role as principal breadwinner risked disrupting the bourgeois 'Domestic Ideal' of 'natural' family life.

It was against this background that the movement to regulate child labour was duly realised in a series of Factory Acts. Whilst this development can be read on one level as humanitarian, at another it represented direct paternalistic intervention in working class life. In the United States Platt's (1974) analysis of the 'child-saving' movement exposed the 'mixed motives' underlying this humanitarian mission. Such analyses have, of course, also been undertaken by British commentators (Garland, 1985; Morris & Giller, 1987). In Britain the imposition of middle class assumptions and values brought benefits to children, but it also attracted hardship. Many working class families experienced 'child-friendly' legislative measures as acts of impoverishment. The loss of children's contribution to the family income meant that many parents were required by economic necessity to compensate for the shortfall in income by working longer hours. This inevitably resulted in large numbers of children being left without adult supervision. Contemporary accounts suggest that many of these children subsisted on the margins of the formal economy (Mayhew 1967). Begging and petty theft were also commonplace. It was not long before the increased visibility of unsupervised children on the streets was problematised in terms of crime, public order and parental neglect. The economic displacement of young people produced the social conditions in which the 'juvenile delinquent' emerged as a distinct and recognisable urban entity. That said, the alarm expressed about the crime and public order problems presented by these young people

was tempered with sentiments of genuine concern for their physical and moral well-being. Thus, issues of youth crime and child welfare became conceptually conflated in early constructions of 'juvenile delinquency'.

One of the state's responses to the increased presence of children on the streets was the enlargement of the criminal code. This involved the problematisation of certain street activities and the conversion of 'public nuisances' into criminal offences (a process later to be echoed in the construction of 'anti-social behaviour' in the Crime and Disorder Act 1998). It is nevertheless important to recognise that the expansion of the criminal code and the formal extension of summary jurisdiction in juvenile matters were not simply manifestations of social authoritarianism. Whilst such repressive impulses were not entirely alien to the governing classes, there was undoubtedly a clear desire in some quarters to soften the impact of the criminal justice system upon children. Peel's criminal justice 'reforms', for example, were intended to form part of a wider modernisation project in which children and other vulnerable groups were offered some measure of protection. The explicit underlying purpose of Peel's review of the criminal law was,

"...to look at all the offences which are now punishable by death, (and) to select those...which can be safely visited with a mitigated punishment."
(Peel, R. cited in Magarey, 2002: 120).

The unintended consequence of this legislative strategy was a widening of the criminal justice net. The Vagrancy Act 1824, for example, captured many children who would hitherto not have been classified as 'offenders'. The statute made it a criminal offence to be "*...a suspected Person or reputed Thief*" (Vagrancy Act 1824 in Magarey, 2002: 117) and expanded the category of 'rogues' and 'vagabonds' to include,

"...every person playing or betting in any Street...or other open and Public places...at any Game or Pretended Game of Chance."
(Vagrancy Act 1824 cited in Magarey, 2002: 117).

The criminalisation of comparatively harmless street games clearly placed children at disproportionate risk. The subsequent Metropolitan Police Acts empowered officers to

prosecute anyone loitering on the street without good reason (1829) as well as those engaged in a range of popular working class leisure pursuits (1839). Children, once again, formed a significant proportion of this troublesome working class constituency. Meanwhile the Malicious Trespass Act 1827 effectively outlawed many of the economic survival strategies deployed by destitute children.

Criminal justice practitioners (like magistrates, police officers and probation officers) have always played an enormously influential role in interpreting and applying legislation. Thus, police practice in this period was an important factor in determining which offenders were prosecuted. The police not only had as their principal objective 'the prevention of crime' (Magarey, 2002: 117) – a duty that might be interpreted to apply to the street activities of children – but also the responsibility of paying their own legal costs in the event of an unsuccessful prosecution. It is reasonable to suppose, therefore, that prosecutions were likely to be brought against those where a conviction was most likely to succeed. Unsophisticated defendants, like children, were thus particularly vulnerable to prosecution.

Such 'net-widening' practices, like those mentioned above, continued as the century progressed. The Amending Act of 1861, for example, redefined Vagrancy as:

"...virtually any child under fourteen found begging, receiving alms, of no settled abode or means of subsistence or who frequented criminal company."
(Amending Act 1861 in Shore, 2002: 167-168).

The Consolidating Act of 1866 expanded the category of Vagrancy to include those in need of care because they were, by implication, on the periphery of juvenile offending. Those 'at risk' included:

"...orphans, children of criminal parents and children whose parents were undergoing penal servitude."
(Shore, 2002: 168)

The conceptual conflation of juvenile offenders with those 'in need' was well established

by the middle of the century. Indeed, the late twentieth century notion of 'at risk' populations has its roots in this conceptual conflation. In any event, the outcome of 19th century net-widening exercises, as Crawford and Russell (cited in Magarey, 2002: 119) observe, was that half of the juvenile prison population was there as a result of the enlargement of the criminal code. This "*criminalisation of behaviour characteristic of the poor and urban young*" (Magarey, 2002:118) lends support to the assertion that juvenile delinquency was, in a very real sense, legislated into existence.

Nevertheless, a precondition to the birth of 'juvenile delinquency' was the legal system's creation of the category of 'juvenile offender'. The incremental establishment of a separate justice system, despite its undoubted merits, inevitably raised the profile of juvenile crime in the collective consciousness of the public. The emerging juvenile legal system eventually culminated in the establishment of the juvenile court in 1908; a court that dealt with **both** criminal and welfare issues. The juvenile/youth court remains, to this day, an arena in which competing discourses of welfare, justice, punishment and rehabilitation collide.

Rush (1992) has argued that the movement to establish a separate juvenile system focused on two key institutions: the adult prison and the criminal trial. It is to the criminal trial that attention will first be directed.

The need to establish the presence of *mens rea* in a criminal act had been moderated by the principle of *doli incapax* in the case of children since the 12th century. Blackstone (1796) described the principle in the following terms,

"...the capacity of doing ill, or contracting guilt, is not so much measured by years and days, as by the strength of the delinquent's understanding and judgement."

(Blackstone in May, 1973:99).

According to this principle, a child under the age of seven years (later raised to 10 years) could not be held criminally responsible for her/his behaviour. Under the age of 14 years the presumption was that a young person could not distinguish between simple

naughtiness and *serious wrongdoing* (Bandalli, 2000: 85).

The meaning and interpretation of *doli incapax* was contested until its abolition in 1998. Some, like the Recorder to the Birmingham courts, noted in 1852 that the principle had fallen “*into desuetude*” (cited in Magarey, 2002: 116). Others, however, pushed for a more liberal interpretation of the principle. The result was uneven practice and ‘justice by geography’.

The debate about the degree of ‘understanding’ and ‘moral responsabilisation’ attributed to children in criminal trials did, of course, connect with growing concerns about young people in custody – especially those held on remand in adult prisons for long periods. The main worry concerned their moral corruption. The criminogenic character of such institutions had been recognised since the 18th century (May, 1973: 99). The language of public health – another major concern of the 19th century – was invoked to denote the seriousness of the danger in which children were being placed (Shore, 2002: 161). Contact with confirmed adult criminals, it was observed, was potentially contagious and risked spreading an epidemic of crime. It was these concerns – along with possibly more pragmatic reasons associated with the cost and speed of justice being administered – that began a trend towards summary jurisdiction for such matters as Petty Larceny (Metropolitan Police Act 1829). Eventually, this culminated in the Summary Jurisdiction Act 1847 that enabled children up to the age of 14 years to be diverted from full public trial in higher courts. In line with the French Napoleonic Code and philosophy of *sans discernement* the age was raised to 16 years in 1850. Although this legislation was permissive, it did result in children being dealt with summarily by magistrates. The advantage was that children could be processed swiftly through the system and be sentenced in a more age-appropriate manner. Critics of this development, however, argued that children were deprived of the right to trial by jury. Whilst this ‘right’ was of dubious value in 19th century England and Wales – especially when many children had only the most tenuous grasp of legal proceedings – there was validity to the criticism. Certainly the new powers delegated to magistrates were not counter-balanced by adequate legal protections for defendants. The discretion in sentencing available to

magistrates was not, in the view of many contemporaries, always exercised with great intelligence or sensitivity (Magarey, 2002: 118 –119). Nevertheless, with the extension of summary jurisdiction it is still possible to perceive the foundations of a separate juvenile justice system as well as the hazy silhouette of that newly emerging category, the ‘juvenile offender’.

With the introduction of this new judicial system – and given the concern about the corrupting effect of adult prisons – it was almost inevitable that the latter half of the century should witness the establishment of separate custodial provision for juveniles. The nature of these regimes had been anticipated by the institutions established by the philanthropic societies at the turn of the century (Shore, 2002: 163-4). Nevertheless, the philosophical ideas of these new, state-run regimes had already had over half a century in which to mature. The philosophical ideas that underpinned the Reformatory (1854) and Industrial Schools (1857) are worth considering briefly. In many respects the creation of these institutions helped to define and operationalise previously held constructions of juvenile delinquency. It is to some of these ideas and discourses to which reference will be made.

Underlying the debate about the purpose of custody – whether to punish or rehabilitate – lay a deeper question concerning responsabilisation. If children were not **fully** responsible for their offending, then punishment was both an inadequate and irrational response to the problem of youth crime. The questions of ‘who’ or ‘what’ was responsible for youth crime had been debated with increasing urgency since the moral panic that engulfed metropolitan areas after the French wars. The authors of the *Report for the Committee Investigating the Causes of the Alarming Increase of Juvenile Delinquency in the Metropolis* (1816) identified four principal causes of crime:

“The improper conduct of parents.

The want of education.

The want of suitable employment.

The violation of the Sabbath and habits of gambling in the public streets.”

(Report for the Committee Investigating the Causes of the Alarming Increase of

Juvenile Delinquency in the Metropolis, 1816: 10)

In addition to these 'primary' causes were auxiliaries that could be organised under three headings,

"The severity of the criminal code.

The defective state of the police.

The existing system of prison discipline."

(Report for the Committee Investigating the Causes of the Alarming Increase of Juvenile Delinquency in the Metropolis, 1816: 11)

It is interesting to note that some of the primary and auxiliary causes are not so very distant from the contemporary academic and policy discussions around 'risk factors'.

Rush (1992: 146) has suggested that there were two main ways in which 19th century reformers responded to the problem of juvenile delinquency. One involved an explanation based on the 'narrative of place', in which the 'neighbourhood' was portrayed as a breeding ground for criminal activity. Solutions therefore involved improved housing, urban planning and communications. The second explanation for crime presented a 'narrative of life' that included parenting deficits, dysfunctional families and the inculcation of poor life habits. It was to the second narrative that the Reformatory Movement responded with missionary enthusiasm. Reformatory Schools set about the task of re-training and, perhaps, even re-parenting young offenders in accordance with sound Christian principles of honesty, self-discipline and industriousness.

Mary Carpenter's horizons extended, however, beyond those young people who broke the criminal code. The Industrial Schools Act 1857 (and the 1866 consolidating measure) was the formal embodiment of the concern felt for those young people at risk of offending: children in "*need of care and protection*" (1866 Act in May, 1973: 110) and those who were "*beyond their parents' control*" (1857 Act, in May, 1973: 111). These embryonic Care Orders effectively brought a wide range of working class children under the disciplinary control of the middle classes. Whilst the classificatory integrity of the

child 'in need of care and protection' and the 'moral orphan' or 'juvenile delinquent' needed to be maintained, it was clear that **both** categories of child were in need of comprehensive re-education. It could be argued that the introduction of compulsory education in the last quarter of the century simply completed this project of social control. Whilst the desire to improve child welfare was undoubtedly a genuine sentiment held by many reformers, public protection (or, to express it another way, the protection of propertied interests) was an equally important consideration.

The mass removal of children from their parents, families and communities actually ran counter to the classical model of liberal governance. State interference in working class life was, therefore, justified on welfare grounds. For an imperial power, moreover, the removal of children from 'inadequate' parents and morally corrosive neighbourhoods was represented as a legitimate exercise in both 'child saving/salvation' and 'nation-building'.

Like most of her contemporaries, Mary Carpenter subscribed to a class analysis based on the organising principle of moral hierarchy. This is well illustrated in her social taxonomy of juvenile delinquency (involving six classes of juvenile offender spread across three generic labouring classes: the 'honest', 'perishing' and 'dangerous' classes). Therefore, when Carpenter spoke of raising a young offender above his class or station, she was not speaking in terms of socio-economic mobility. She was, rather, describing an almost salvational form of moral mobility.

It will be clear from the foregoing analysis that the characteristics of 'juvenile delinquency' – projected as they were on to the institutionally manufactured new category of 'juvenile offender' – were closely related to the perceived attributes of the generic 'social' class from which they hailed. Interestingly, the growth of the human sciences – particularly psychology – contributed to a process in which such socially subordinated groups were pathologised. The new profession of social work, moreover, played an active part in promoting a conservative welfare model. According to Jones (2002) it was the profession's supine adoption of a quasi-psychodynamic casework model that helped to foster an essentially reactionary practitioner culture in which the

dysfunctional working class family was perceived to be at the root of most social problems. Even the current rhetoric of service-user empowerment, it is implied, is not too far removed from the Victorian belief in moral autonomy and self-help. The profession of social work, it is suggested, continues to recruit legions of willing accomplices to the cause of reactionary practice. Mullaly (1997), however, suggests that there are two main traditions in social work. On the one hand, the case-work oriented Charity Organisation Society in which individual, family and moral explanations for problems are advanced. On the other hand, there is the Settlement House Movement tradition which privileges explanations based on social structure. Sometimes, though, it can be difficult to tell the difference between the two. It is perfectly possible, for example, to smuggle reactionary social work practices under cover of welfare rhetoric and the language of service user empowerment. The distinction between twenty-first century empowerment and the mid-Victorian self-help advocated by Samuel Smiles (Smiles cited in Golby, 1986: 106-112) is perhaps not always as clear as some would claim.

It would of course be a misrepresentation of the history of youth justice to suggest that some statutes, policies and practices have not proved to be more child-friendly for young people in comparison with other measures. Nevertheless, such periods cannot necessarily be identified by whether explicit welfare principles are inscribed in the statutes of the time. One of the ironies of youth justice history is that those who desire to promote the welfare of children often do the most harm. Thus, for example, whilst the 1933 Children and Young Persons Act placed the welfare of the child centre-stage it simultaneously created the potential for intrusive state intervention into family life on the basis of 'needs' rather than 'deeds'. Girls and young women, moreover, have been placed at particular risk by assorted 'child-savers' intent on rescuing them from moral danger to themselves and, post-corruption, the moral threat they might pose to men and family life in general (Casburn, 1979; Hudson, A, 1988; May, 1977; and Shacklady Smith, 1978). The history of the social work profession might well be represented in terms of 'humanitarian ideals' and 'harmful therapies' (Smith, M, 2003: 289). The risk posed by professional welfare to children and young people is well illustrated by the contrasting juvenile justice practices

of the 1970's and 1980's. In the 1970's the road to high levels of juvenile incarceration was paved with the good intentions of liberal reformers and 'child-friendly' social workers. Clarke (1985) has identified two such good *intentions* underpinning the Children & Young Persons Act 1969, a statute widely regarded as the high watermark of welfarism: the first was the "*anti-institutionalist and decarcerationist pressure to remove juveniles from state institutions*"; and the second was recognition of the "*...class inequalities of juvenile justice*" (292). As far as the latter is concerned, the White Papers that preceded the 1969 Act (Home Office, 1965; Home Office, 1968) certainly acknowledged social problems as causative factors in criminal behaviour; however, this Act was underpinned by an individualised treatment philosophy. As Brown observes,

"Primacy is given to the family and the social circumstances of the deprived and underprivileged whose circumstances caused crime, truancy, lack of control and neglect – but it should be noted that primacy was accorded to individual factors rather than structural factors such as poverty or poor housing."
(Brown, 1998: 59-60)

The Act's language of welfare, moreover, should not distract attention from the extension of social control (Foucault, 1991a, 1991b) over children from poorer backgrounds. This was probably at its most explicit in the statute's creation of so-called 'Section 7/7' Criminal Care Orders. Thus, Care Orders were available to the Court as a criminal disposal in cases where children had offended (s.1 (3) (c) CYPA 1969). There was also the 'offence clause' (s.1 (f) CYPA 1969) available as grounds for a Care Order application in civil proceedings. In 1989 these criminal routes to public care were duly closed. As Curtis (2005: 54) comments:

"The Care Order, as a criminal disposal, and the offence clause in civil Proceedings, were seen as draconian and contrary to natural justice since, theoretically at least, after stealing a bottle of milk a child of 10 from difficult home circumstances could be placed in local authority care until the age of 18. Thus the consequences of their offending could last far longer for children than for those adults committing the same crime."

'Care' and 'control' have long been presented, somewhat uncritically, as two sides of the social work coin (Davies, 1986). The harsh language of punishment may be abjured in favour of cosier sounding 'contracts' and the maintenance of 'supportive structures' or 'healthy boundaries', but the actual practice may be no less draconian in effect. When this is understood it is, perhaps, unsurprising that the decarcerationist spirit of '69 should have resulted in a sharp increase in custody rates for young people in the decade that followed. In 1977 38% of convicted juveniles were sentenced to detention centres and borstals compared with only 21% in 1965 (Pitts, 2001a: 179). A government report (DHSS, 1981), moreover, identified a fivefold increase in the juvenile custody rate between 1965 and 1980. Part of the explanation for this upward trend lay in the pitfalls of early intervention with young people considered 'at risk' of offending (primarily working class youth). In 1977, for example, some 12,000 children were participating in the first wave of community-based Intermediate Treatment (characterised by groupwork and supervised 'youth work-style' activities); only 1,500 of these were actually adjudicated offenders. As Pitts observes:

"...early informal intervention revealed a tendency to draw youngsters further into the system as the discovery of new needs and new problems appeared to necessitate the formalisation of such interventions. In consequence, larger numbers of children were appearing in the juvenile court and a higher proportion of these was receiving custodial sentences."
(Pitts, 2001a: 179)

Whatever the noble intentions of those social workers operationalising this legislation, the outcomes were both deleterious to the interests of young people and woefully ineffective as a crime reduction strategy. It was, indeed, very much upon the outcomes of the so-called 'welfarist' movement that the slowly emerging justice movement concentrated its criticisms. The 1969 Act had delegated social workers discretionary powers of intervention in the lives of young people. This discretion – exercised in a dangerously secluded legal vacuum of professional privacy – was, arguably, scandalously misused by the 'child-savers' (Thorpe *et al*, 1980: 6). The absence of 'due process' and the deprivation of legal rights to meaningful defence effectively provided a fast track

from 'care' to 'custody'. It is often the case that when treatment appears to fail (as the 'net-widening' strategy of intermediate Treatment undoubtedly did), punishment almost invariably becomes the next destination for the young person.

Whilst acknowledging the role played by many social workers in this debacle, Clarke (1985) implies that social workers fell victim to a process of scapegoating by the justice movement. There were, he says, "*suppressions of argument*" (286) at work in their incomplete analysis. The subordinate structural position of social work within a wider framework of "*punitive juvenile justice*" (287) was, Clarke claims, widely ignored. Moreover, the sentencing practices of the time did not take place within a political and social vacuum. Well-organised briefing campaigns were conducted by influential special interest groups (the police, for example), which resulted in many politically pre-disposed journalists sounding alarm bells about a juvenile crime wave (Brown, 1998: 61; Pearson, 1983: 217).

Whilst conceding the validity of the above points, it cannot be denied that many social workers collaborated with the prevailing sentiments of the time. Some of these social workers were genuinely committed to various psychological treatment-based models of practice. Others simply failed to believe that they had the power to challenge sentencing habits or, perhaps, were uncomfortable about risking unpopularity through 'unrealistic' recommendations in Social Inquiry Reports (SIR's). Whilst it is true to say that many critics of 1970's orthodoxies were influenced by the 'Nothing Works' fallout - actually based on inconclusive evaluation studies of rehabilitative programmes (Martinson, 1974; Lipton, *et al*, 1975) - this can sometimes be over-stated. The collapse in professional social work's self-belief was possibly not of the magnitude that is sometimes claimed (McGuire, 1995). It is, though, possible to view this period as a time when a gradual paradigmatic shift occurred among many juvenile justice workers. Social work with young offenders was certainly re-cast in a 'systems' mould. One version of Fabian, treatment-based work was replaced by a more sociologically informed practice. Whilst the orthodoxy of the 1980's was informed by breadth of vision, its *modus operandi* was narrowed by the constraints of the time. Histrionic gestures of ideological purity and

full-blooded oppositionism were abjured in favour of modest, pragmatic objectives. Little victories achieved ‘under fire’ were deemed preferable to ‘glorious defeats’.

Haines & Drakeford (1998) describe the new justice orthodoxy that emerged in the 1980’s as a “*quiet consensus*” (33). Given the shrill, declamatory conviction politics that characterised the Thatcher decade, maybe its best chance of survival was to be as hushed and unobtrusive as possible. The consensus – though not without a few higher profile debates - was largely constructed fairly discreetly between academics, sympathetic senior civil servants, ‘wet’ Conservative cabinet ministers and practitioners. The academic community divided between those who focused on the ‘rights’ abuses of 1970’s practice (Morris *et al* 1980) and those others (like Thorpe *et al*, 1980; Tutt, 1982; Tutt & Giller, 1987) who examined the criminogenic mechanisms at work within the closely related systems of welfare and justice. Senior civil servants at the Home Office were particularly receptive to this research, whilst the alliance between Douglas Hurd (Home Secretary) and David Faulkner (senior civil servant) – influenced, in part, by the high cost of imprisonment – proved to be critical (Windlesham, 1993; Rutherford, 1996) in creating a conducive policy environment in which ‘experts’ occupied a pivotal position in the political process. It should not be assumed, however, that practitioners waited deferentially to receive their orders from this impressive cadre of the ‘officer class’. They, too, brought to the debate practice wisdoms and acute insights on how the various critical points in the criminal justice system could be manipulated to serve the new policy objectives. Indeed, the impact of the practitioner movement cannot be over-estimated.

Haines & Drakeford (1998: 48) claim that the practitioner movement was based on a set of core beliefs derived from a mixture of research findings and the distillation of practitioners’ collective experience. These beliefs are summarised below:

- 1 The ‘**triviality reality**’. This refers to the belief that most youth offending is petty and, for the most part, “kids’ stuff”.
- 2 The ‘**growing out of crime**’ rationale. For most young people offending was simply a transient phase and, in some cases, a rite of passage. This was based

partly on a view of child development that constructed young people as not (yet) being intellectually, emotionally or morally competent. Likewise, there was a perception that young people needed to be allowed to negotiate some very challenging social transitions without the complicating intervention of the criminal justice system. Their safe arrival at independent young adulthood, it was argued, would counteract early criminal/deviant tendencies.

- 3 **Labelling theory.** Labelling young people as ‘offenders’ is damaging and runs the risk of confirming them in a criminal career (Becker, 1963; Lemert, 1951 and 1967).
- 4 **The ‘up tariffing effect’.** The imposition of formal criminal justice interventions – such as Supervision Orders – at an early stage in a young person’s offending history increased the likelihood of more punitive, liberty-restricting sentences in the event of subsequent offences being committed. The effect of ‘breaching’ community-based orders (for non-compliance with reporting requirements, for example) could also have the effect of accelerating a young person’s ‘progress’ up the tariff system.
- 5 **The ‘school of crime’ argument.** Custodial institutions were ineffective in the sense that they demonstrably increased the likelihood of reoffending on release.
- 6 **The ‘net widening principle’.** Agencies charged with criminal justice responsibilities should not engage with those who had not committed criminal offences. Although young people who exhibited acute welfare needs (or happened to reside in socially disorganised neighbourhoods) might be considered ‘at risk’ of offending, their needs were better served via non-stigmatising mainstream welfare services. Drawing young people into the ambit of criminal justice agencies not only introduced them to those already entrenched in offending behaviour, but also exposed them to the spotlight of criminal justice surveillance. ‘Deeds’ not ‘needs’ should be the only route of access to criminal justice agencies.
- 7 **Radical non-intervention.** Given the trivial nature of most youth crime and the dangerous toxicity of the criminal justice system, in most cases the interests of young people were best served by non-intervention. The chances are they would

‘grow out’ of crime before anything really serious happened.

Arising out of this belief system emerged two main modes of intervention,

“... (i) diversion from the formal criminal justice system through the development of cautioning and (ii), the targeted provision of community-based treatment programmes operating largely with an alternative-to-custody aim and developed through the use of supervision orders.”

(Haines & Drakeford, 1998: 33)

The use of a ‘systems-management’ approach (Tutt & Giller, 1987) was instrumental in ensuring that petty and first-time offenders were diverted from the stigmatising effects of the criminal justice system whilst those who were more serious or persistent ‘offenders’, as far as possible, were dealt with by way of supervised programmes in the community. The application of principles of proportionality (later and very briefly embodied rather schematically in the Criminal Justice Act 1991) to the sentencing process helped protect young people from being sentenced on the basis of their backgrounds. This is not to suggest that practitioners were necessarily unaware of the material context and personal circumstances in which the law was broken (Asquith, 1983). It is unlikely that practitioners allowed themselves to be reduced to the role of mere actuaries of risk and offence gravity. This is not to say that such considerations did not enter the equation when Social Inquiry Report (SIR) recommendations were being prepared. Moreover, the development of these assessment practices during this period perhaps smoothed the way for the arrival of actuarialism at the end of the 1980’s.

It was, indeed, at the SIR stage that practitioners had the best opportunity to influence magistrates and judges. The Criminal Justice Act 1982 required courts to make greater use of SIR’s in the sentencing process. One common complaint about the minimalist reports beginning to appear around this time was that authors were decontextualising offending behaviour by failing to give fully rounded accounts of the young person’s social and personal background. There is legitimacy in this criticism. However, there were sound reasons for departing from the ‘personal history’ genre of report writing. SIR authors could apply the principle of minimum sufficient intervention to their conclusions

(thereby framing the desired sentencing outcome). This judgement would determine the extent of the personal background and social information contained in the main body of the Report. Authors could thus become adept at providing just enough background information on the young person in order to achieve the desired sentencing outcome. Accumulated experience showed that providing too much information (particularly when this involved a litany of personal and social problems) could work against the interests of the defendant and result in higher tariff sentences. So, for example, the child from a lone parent family on a social housing estate was considered at great risk of receiving a Supervision Order (with all the attendant risks of breach for failing to attend future appointments) for a straightforward property or criminal damage offence. If authors mentioned all her/his problems - with girls being potentially placed at particular risk in the welfare spotlight (May 1977; Shacklady Smith, 1978; Casburn, 1979; and Harris & Webb, 1987) - magistrates might be genuinely puzzled if the SIR author concluded that there was no need for the court to provide help. Many practitioners believed that the principle of minimum sufficient intervention should be applied even to those with extreme welfare needs. This was because the criminal justice system is capable of posing potentially enormous risks to children in need. In effect, a young person's problems might be multiplied by the system's propensity to amplify and stigmatise personal difficulties. Additionally, the sanctions for non-compliance or failure to respond to 'treatment' could ultimately be draconian. As Drakeford has observed.

"...welfare cannot effectively be delivered through the medium of criminal justice sanctions."

(Drakeford, 2001: 43)

It was in the light of this more self-reflexive risk assessment ("what risk does the agency, system and/or practitioner pose to the young person?") that, alongside the principle of minimum sufficient intervention, there developed the principle of 'system integrity maintenance'. In other words, it was the business of other welfare agencies (Social Services Department's Children's Services, Housing Departments, the Health Service, Education Welfare, etc.) to provide the appropriate support. Thus, it became common practice amongst many youth justice practitioners at this time to keep 'high needs' young

people as low down the sentencing tariff as possible whilst simultaneously referring them to other relevant agencies. In some cases – though this was probably a minority – voluntary work was undertaken with such people outside the statutory framework of formal supervision.

The great success of the justice movement was that it achieved a dramatic reduction in the juvenile custodial population across the ensuing decade. Between 1981 and 1989 the number of juveniles imprisoned fell from 7,700 to 1,900 (Pitts, 2001: 179). This success was attributable to both changes in sentencing culture and re-routing young people away from the courts to multi-agency diversion panels. This achievement can be presented as a tangible triumph of not only ‘justice over punishment’, but of ‘welfare over punishment’ (for how else can the diversion from a potentially brutalising and highly criminogenic institution be described?). There was, however, a downside.

The period in question witnessed an increase in child poverty, the collapse of the youth labour market and the erosion of such traditional welfare supports as housing and income maintenance (Furlong & Cartmel, 1997). In Social Services Departments, moreover, there was a trend away from supportive, preventive and therapeutic work with children and families (including work with older children and ‘adolescents’) and a concentration on acute child protection work with pre-school infants. This resulted in many poor young people in the 1980’s effectively losing their entitlement to social work and other relevant welfare services (Haines, 1997).

Against this background it is easy to see how a young person diverted from the criminal justice system, or ‘down-tariffed’ with a Conditional Discharge and sent on her/his way, might feel neglected rather than helped. At an ideological level, moreover, the virtual disappearance of the ‘social’ dimension from many Social Inquiry Reports (later reinvented as Pre-Sentence Reports by the Criminal Justice Act 1991) helped those on the political Right to de-couple social and environmental issues from individual ‘offending behaviour’ (Drakeford & Vanstone, 1996). Whilst re-focusing on the individual offender may have helped to ensure the observance of ‘legal rights’ and ‘due process’, it took only

a small step to the Right to privilege the principle of criminal responsibility. Indeed, one of Hudson's (Hudson, 1987) key criticisms of the universalist model of justice was that it assumed the existence of a notional universal citizen who, along with her/his fellows, enjoyed equal access to economic resources and social capital. Given the stubbornly enduring nature of social inequalities in Britain, she has argued more recently in favour of a jurisprudence that brings together a,

"...discourse of difference, by advocating a relational approach to rights."
(Hudson, 2001: 167).

As Stenson & Sullivan (2001) explain:

"This would shift focus away from universalist models of justice that downplay individual and group differences to one that recognises the crucial differences of class, race and gender in understanding both crime and appropriate levels of punishment."
(Stenson & Sullivan, 2001: 8).

At the time of writing, however, the realisation of this philosophical approach to youth justice appears to be quite remote.

2.4: Youth, Crime and Public Care: some preliminary considerations

Before proceeding to a critical assessment of New Labour's youth justice policy in Chapter 3, it is worth pausing to consider some important general issues that are pertinent to the main themes of the dissertation. An attempt is made to locate the relationship between young people, crime and public care within a wider context.

As has been already suggested, young people are routinely cast as the 'usual suspects' in most popular discourses of crime. It is instructive, therefore, to consider the empirical relationship between young people and serious crime. Very often the problems experienced by young people are merely appended to an agenda dominated by concerns about public order and safety. On one level this is understandable. In poor

neighbourhoods, particularly, young people's social exclusion is visible on the streets. Inevitably, young people are associated with crime, minor misdemeanours and low level 'public nuisance' (more commonly and evocatively referred to these days as anti-social behaviour' or 'disorder'). Given that only one in ten offences recorded by the police results in a caution or conviction, one cannot know with exact precision the profile of those who commit crimes in our communities (Maguire, 2002). On the basis of adjudicated offenders we do know, however, that around 80% are male and 41% are below the age of 21 years (Maguire, 2002: 362). Moreover, at least a quarter of crime is committed by young people aged 10-17 years (Newburn, 2002b: 540). It is important to make the point, though, that most youth crime is confined to less serious offences: property offences (Theft, Handling Stolen Goods, Burglary, etc.) outnumbering crimes of violence. When offences of violence are committed they also tend to be at the less serious end of the scale. As Brown (1998: 3) observes.

"Mid-life is portrayed as a time of maximum respectability, maximum productivity: the age of the solid, respectable, law abiding citizen. Crime is therefore portrayed as a problem for those in mid-life, rather than the middle-aged being portrayed as a problem for society. Rarely do we imagine middle-aged people as corporate or white-collar criminals, embezzlers, or orchestrators of sleaze politics. The fact that most serious crimes of theft and violence are perpetrated by this age group...is concealed by our cultural notions of respectable middle age and our concomitant fear and suspicion of the young."

Self-report studies, though, reveal that the actual level of offending amongst young people is considerably higher than that recorded in official statistics (Belson, 1975; Rutter & Giller, 1983; Anderson *et al*, 1994; Graham & Bowling, 1995; Flood-Page *et al*, 2000). It should be noted, though, that such surveys usually focus on populations that are generally regarded as 'at risk' or 'delinquent'. Consequently the *real* extent and pattern of offending among older people is less clear.

Interestingly, it is worth noting that some self-report surveys suggest that there is actually no significant social class difference in terms of youth offending rates, with middle class young people being just as likely to commit offences as their working class counterparts (Anderson *et al*, 1994; Graham & Bowling, 1995). One survey (British Household Panel,

2001) has even indicated that young people from higher income homes are slightly more likely to commit offences. Such surveys highlight the socially constructed nature of offending and raise questions about who is most likely to be detected, arrested and prosecuted. The surveys also undermine those methodologies that attempt to construct 'risk factors' on the basis of a population of adjudicated offenders.

The limitations of self-report questionnaires need not be rehearsed fully here.

Nevertheless, it is important to acknowledge the need to inspect much more closely the contexts within which young people tend to commit offences. Rather than pathologising them on an individual basis, or narrowing the aetiological focus and reducing their lives to de-contextualised clusters of 'risk factors', it is important to understand the different settings within which offending is likely to occur. Whilst work undertaken on the influences of peer groups and gang cultures is important, it is equally essential that we analyse those contexts that have been constructed and dominated by adults. Our focus should not merely be on young people themselves, but also on those adults in authority who have a duty of care. What do adults actually **do** to young people? Do detailed 'risk assessments' include a serious assessment of the risks posed by adults to young people?

Young people are also, of course, victims of crime. They are actually more vulnerable to all forms of violent crime (apart from spouse abuse) (Tuck, 1989; Mattinson, 2001). According to the British Crime Surveys, for example, 19% of males aged 20-24 were assaulted at least once over a twelve-month period. This could, in part, be related to a lifestyle associated with alcohol consumption in large groups in public places (Levi & Maguire, 2002: 808). The fourth sweep of the British Crime Survey, however, focused on those aged 12-15 years old. Although the data are by now rather old, it is interesting to note that in this age group one third reported being assaulted; a quarter had been victims of theft; and one in twenty had been robbed (Aye Maung, 1995). The latter offence category has risen more recently, partly because of the proliferation of mobile phones amongst teenagers – a fashionable accessory and 'soft target' (Home Office Website).

As has been mentioned previously, the range of settings in which young people are victimised should also be borne in mind. Places in which adults owe young people a duty of care are often sites where they are most vulnerable. CCTV cannot protect young people from domestic violence within the family. Such violence is, moreover, more commonly analysed in the social work discourse of 'child abuse' rather than in criminological terms (Rees & Stein, 1999). Likewise, schools – which are charged with the responsibility of acting in *loco parentis* – are often places of danger and fear. A Youth Justice Board commissioned survey (Youth Justice Board, 2002) found that 35% of children had been assaulted and 45% threatened with violence whilst on school premises.

As has already been mentioned, the public care system has been exposed as a site of danger for young people: a series of scandals in the 1980s and 1990s highlighted cases of physical, sexual and institutional abuse taking place in the public care system (Utting, 1997; Butler & Drakeford, 2003). Given that those with a background in public care are over-represented in the criminal justice system (Utting 1997), young offenders' emotional vulnerability and experience of victimisation should not be overlooked. Indeed, the high proportion of young 'offenders' with a background in public care (plus those defined as being 'Children in Need' under the terms of Section 17 of the Children Act 1989) has important implications for youth justice practitioners. Mainstream Anger Management Programmes, for example, may not be suitable for those young people who have experienced violence, sexual abuse or neglect. Such systemic indifference may, in itself, constitute a form of abuse.

That young people are placed in residential units where they are at risk of harassment, bullying and assault by peers has been vividly documented (Barter *et al*, 2004). The problems associated with behaviour management in such residential units are complex and challenging. It is not, for example, always possible to draw clear distinctions between victims and perpetrators. Leaving aside the frustrating post *hoc* inquiries conducted by staff in which they try to determine 'who hit whom first', there are also wider considerations concerning young people's own personal histories of abuse and

neglect. Having identified the principal perpetrators after an incident, the practitioner is still left with the difficult decision about what to do with him or her. The perpetrator, in common with the victim, is likely to have complex personal, family and social problems with which to deal. In the circumstances, whose interests are best served by recourse to the criminal justice system? Despite the apparent futility and potential damage of such a course of action, it will be revealed in Chapter 5 of this dissertation that this is precisely what happens to some young people. Many young people arrive in court because of incidents that occur in residential units managed by Social Services Departments. Seemingly, the hothouse dynamics of some residential units precipitate challenging behaviour with the result that young people are charged with such offences as Criminal Damage, Threatening Behaviour and Assault. Some of these young people, moreover, find their way into custody. The safety of young people in custodial institutions, meanwhile, is far from assured (Goldson, 2002a). This is a subject that will be revisited in Chapter 3.

For the most part, the nature of the public care system should not be characterised as being abusive or violent. The betrayals tend to be less dramatic. In their cumulative effect, though, the long-term effects are often no less profound. The shortcomings of the public care system and the poor outcomes for care leavers are well documented and, quite rightly, the subject of ongoing scrutiny. Reactive practice, multiple placements, planning blight and a general sense of drift are just some of the explanations advanced (Hayden *et al*, 1999; Jackson & Thomas, 2000; and Jackson, 2000). That many young people have been left ill equipped to navigate their passage safely into adult life is beyond dispute. Whilst the public care system is clearly at serious fault, culpability is not confined to Social Services. Other agencies and systems must also take a large measure of responsibility. How the criminal justice system has responded to one group of young people from public care is, of course, the subject of this dissertation.

Despite many being victims of crime, neglect and abuse, the dominant construction of young people remains that of the delinquent perpetrator. As will be seen in the next chapter, the nature of the new youth justice system reflects this construction. This is not

to suggest that welfare needs are ignored by the youth justice system. Indeed under the present arrangements, when welfare needs are coterminous with criminogenic risk factors, there is very often active engagement with children's needs. As has already been suggested, however, there are intrinsic risks associated with the criminalisation of social welfare policies. Some of these pitfalls are highlighted later in this dissertation.

2.5: Conclusion:

What hopefully emerges from the foregoing analysis is that the distinction between welfare and punishment has long been rather blurred. The conflation of the 'deprived child' with the 'depraved child' means that there exists a contested space at the heart of the youth justice system. Whilst laying the foundations for the modern youth justice system through the establishment of the youth court and the formal enhancement of welfare principles, the 1908 Children Act also eroded the boundaries between the old Industrial Schools (for neglected children) and the Reformatories (for young offenders). In doing this, it facilitated movement between these two populations (Stewart, 1995). Thus, there developed a more ambiguous public and professional reaction to young people in the care system. This ambiguity was much later exacerbated by the 1969 Children and Young Persons Act which gave magistrates the power to effectively 'sentence' children to Care Orders. As Hayden *et al* (1998) observe:

"In a direct, practical sense this was an attempt to funnel young offenders away from the juvenile justice system and into the care system. The debate on the wisdom of this approach continued throughout the subsequent decade.... What was certainly true was that perceptions of the care system began to change as the nature of its clientele changed. No longer was it an avenue for public sympathy for 'neglected' children. As child care, particularly residential care, began to house relatively older children (fostering, adoption and preventive work catering for most of the others) and more of those who had been in trouble with the law, the nature of the stigma attaching to those in care changed. Children in care (particularly residential care) began to be seen as young criminals being given an easy ride by the courts rather than as those most deserving of public sympathy." (Hayden *et al*, 1998: 24)

It could be argued that the sense of stigma described above has survived the abolition of those sentencing powers. Young people in care, particularly teenagers in residential units, perhaps still tend to be associated with trouble rather than vulnerability. Nevertheless, all of these young people will have personal welfare needs. In analysing political and professional responses to such young people, is it really a question of choosing 'welfare' *or* 'punishment'? A Foucauldian analysis would imply that disciplinary discourse extends well beyond the prison walls and penetrates the institutions of welfare and education (Petrie, 2003) to create a 'carceral society': the 'clinical gaze' (Foucault, 1973) of the psychiatrist and the welfare spotlight of the social worker respectively trained on the patient and welfare client. The warm words of the social worker, it could be argued, are merely an example of the "*anaesthetic function of political language*" and "*structured bad faith (which) allows indefensible forms of control to look more defensible*" (Cohen, 1985: 273). Whether the whole social welfare system can legitimately be described as a 'punitive archipelago' (Cohen, 1985) is a moot point, but the 'dispersal of discipline' analysis (Cohen, 1979) is one that challenges the notion of a straightforward choice between 'welfare' and 'punishment'. Whilst practitioners arguably still retain a reasonable degree of professional discretion in their daily working lives, those decisions are inescapably ambiguous, equivocal and double-edged. Doing the 'right thing' for young people is a difficult business.

Chapter 3: New Labour, Young People and Youth Justice

3.1: Introduction:

This chapter attempts an overview of developments in youth policy and youth justice in the period between 1997 and 2002. Although some references are made to the pre-election opposition years under Tony Blair's leadership along with some subsequent developments, it is this five-year period that remains the focus of the chapter. This is because this period encompassed the election of a New Labour government, a radical reform of the youth justice system, constitutional change and – rather more prosaically – the years in which the fieldwork was conducted (1999-2002). Section 3.2 introduces those Third Way (Giddens, 1998) ideas that have influenced New Labour's approach to young people. Section 3.3 provides a brief commentary on the legislative framework of youth justice as it applied at the end of the year 2002. Section 3.4 selects some of the main themes and developments in youth justice under the first Labour government for eighteen years. Section 3.5, meanwhile, draws attention to the Welsh context. This is particularly important as, since 1999, the New Labour Project has been mediated via a National Assembly for Wales which - in many respects – does not entirely replicate the Westminster agenda on youth justice. Section 3.6 concludes the chapter with a summary of the main characteristics of the youth justice context within which the research was conducted.

3.2: Young People and the New Labour Project

Although New Labour's record in office can certainly not be read as a direct translation of Third Way political philosophy, policy action in the domain of children and young people has been hugely influenced by the concept of the *social investment state* (Giddens, 1998: 99-128). Although Labour's policy in the field of criminal justice - shaped as it is by populist punitiveness (Tonry, 2004) - has detracted from the philosophical coherence of *positive welfare*, much of the child/youth social policy agenda is explicable with

reference to Giddens' ideas.

It is argued that whereas the old social democratic state was designed to protect people from the negative effects of the market, the new social investment state aims to help integrate them into global markets through investment in human capital. Thus,

*“Social democrats have to shift the relationship between **risk and security** involved in the welfare state, to develop a society of ‘responsible risk takers’ in the spheres of government, business enterprise and labour markets. People need protection when things go wrong, but also the material and moral capabilities to move through major periods of transition in their lives.”*
(Giddens, 1998: 100)

Embracing ‘risk’ in a positive spirit is central to the philosophy:

“...effective risk management (individual or collective) doesn't just mean minimizing or protecting against risks; it also means harnessing the positive or energetic side of risk and providing resources for risk taking. Active risk taking is recognized as inherent in entrepreneurial activity, but the same applies to the labour force.”
(Giddens, 1998: 116)

Whilst the redistributive functions of the old welfare state are not eliminated completely, it is to the ‘redistribution of possibilities’ (Giddens, 1998: 101) to which governmental attention is focused. This is achieved primarily through education and training.

However,

“Although training in specific skills may be necessary for many job transitions, more important is the development of cognitive and emotional competence.”
(Giddens, 1998: 125)

This fundamental reorientation in social policy is, to a great extent, reflected in recent developments in European youth policy (Council of Europe, 2003; European Commission, 2001; Williamson, 2002). The importance of non-formal education – in terms of developing appropriately flexible attitudes and good interpersonal skills - is widely regarded within the field as being a pre-requisite for this reorientation to take

place (Brander *et al*, 2002). In the UK context the ultimate aim is to re-cast welfare in an arguably more positive mould.

“Positive welfare would replace each of Beveridge’s negatives with a positive: in place of Want, autonomy; not Disease, but active health; instead of Ignorance, education, as a continuing part of life; rather than Squalor, well-being; and in Idleness, initiative.”

(Giddens, 1998: 128)

New Labour’s approach to young people is essentially twin-track: a universalist social investment approach alongside more targeted policies in respect of the socially excluded (Fawcett *et al*, 2004). Thus, for example, all children have been beneficiaries of the increased investment in such areas as education. Whilst children may well benefit immediately from such measures, the policies have been designed to also pay future dividends for wider society as a whole. New Labour’s overall level of investment in younger children has, indeed, been impressive. Lister (2003) has noted that the amount of money spent on children under the age of eleven years actually doubled between 1997 and 2002. She also points out, though, that older children have generally been less favoured under a regime of supportive ‘early years’ measures. This may be due to an element of instrumentalism on the part of the government; the benefits of investing in older young people being extremely difficult to evidence.

There have, however, been groups of older young people who have been targeted for considerable resources. The rationale for targeting groups of socially excluded young people is that failure so to do will wear away the social fabric in the short term and drain public resources in the longer term (in terms of social security benefits, health costs and crime). The Social Exclusion Unit, established when New Labour first came to power, has been the government’s *de facto* ‘Ministry for Troubled Youth’. Its early reports (Social Exclusion Unit 1998a; 1998b; and 1999) tackled such pertinent issues as truancy, teenage pregnancy and homelessness. In these reports the vulnerable position of children leaving public care was highlighted. Subsequently, of course, the education of looked after children has been reported (Social Exclusion Unit, 2003). The case of care leavers is an exemplar of a targeted approach. The response to this particularly vulnerable group

was the Children (Leaving Care) Act 2000. The statute was a serious attempt to respond to the well documented gaps in income maintenance and service provision (Goddard, 2001). The supportive measures that had, for example, been contained in Section 24 of the Children Act 1989 were bestowed on local authorities only as 'powers' rather than 'duties'. The new statute was designed to not only provide a more secure income (underwritten by the local authority Social Services Department), but also assist young people through the increasingly complex transition to young adult independence. This latter aim was to be the responsibility of a Personal Advisor who, in consultation with the young person, would draft a 'pathway plan' from the age of sixteen to twenty-one years (and in some cases beyond). Post-Care education and training was to be an integral part of this plan. Additionally, there was an expectation that these young people should be supported through higher education. Sadly, the numbers gaining entry to higher education have been disappointingly small (Jackson *et al*, 2005). Indeed, improving educational attainment for looked after children has been hugely problematic (DfES, 2003; Martin & Jackson, 2002). Nevertheless, the intentions of the Act were explicit and the impact, though maybe not as far reaching as its authors may have hoped, have delivered benefits to care leavers.

It should also be noted that the participation rights of Care Leavers have been enhanced under this government. This is partly because of the history of scandal in public care (especially the residential sector) referred to previously. The lesson has been learned that young people's voices need to be heard. The establishment of a Children's Commissioner in Wales and the requirement to establish effective advocacy systems for young people in the care system are just two examples of this trend. It could be argued that this concern for participation rights was only directed towards vulnerable groups who could not rely on their parents or families to protect their interests. That said, the advances made in respect of such groups have opened up a wider agenda regarding children and young people's participation rights. Subsequent moves to introduce School Councils and some aspects of the Youth Green Paper (DfES, 2005) are indicative of this trend.

Of course, most child and youth policy is still mediated via parents. Moreover, some young people's rights are limited and withdrawn because of their behaviour. The youth justice system makes few concessions to children's rights and instead advances an agenda of responsabilisation. The Children Act 1989 is notable for its absence in contemporary political discourse about the youth justice system. When a young person commits an offence, s/he enters an entirely different dimension - care leaver, or not.

3.3: New Labour and the New Legislative Framework in Youth Justice

Those who seek to find perfect philosophical coherence in New Labour's approach to crime and welfare issues will be disappointed. Like most elected social democratic governments, New Labour's dominant ideological convictions are diluted by a desire to satisfy competing constituencies of interest. A close analysis of its policies and - almost equally importantly - the way in which they are presented and 'spun', yield a number of themes. Some of these are explored in this chapter.

Traditionally, the English criminal justice system has – albeit grudgingly on occasions – accorded children a special and protected status. The system has traditionally taken account of such factors as age, maturity and social powerlessness. This was even reflected in Home Office advice during the 1990's, a decade that witnessed what Drakeford and Vanstone (2000) described as a 'punitiveness auction' between the two main British political parties. At the beginning of the decade the then Conservative government's attitude towards the principle of *doli incapax* - the notion that, due to lack of maturity, children below the age of 14 years cannot be assumed to have a completely developed sense of moral agency - was described in the following terms,

“The criminal law is based on the principle that people understand the difference between right and wrong. Very young children cannot easily tell this difference, and the law takes account of this. The age of criminal responsibility, below which no child can be prosecuted, is 10 years; and between the ages of 10 and 13 a child may only be convicted of a criminal offence if the prosecution can show that he knew what he did was seriously wrong. The government does not intend to change these arrangements which make proper allowance for the fact that

children's understanding, knowledge and ability to reason are still developing."
(Home Office, 1990: paragraph 8.4)

Even in the middle of the decade a Conservative government gave the following advice to juvenile justice practitioners preparing court reports on young people who had been convicted of criminal offences,

"When a pre-sentence report is being prepared on a child or young person, the report writer must take account of section 44 of the Children & Young Person's Act 1933 which requires the court to have regard to the welfare of the individual. The UN Convention on the Rights of the Child...also requires that all actions concerning children shall be the primary consideration. The report writer should therefore take account of the age of the young offender, his or her family background and educational circumstances."
(Home Office, 1995: 2.35)

In opposition the Labour Party foreshadowed a departure from these principles of child welfare in the criminal justice domain:

"Ultimately, the welfare needs of the individual cannot outweigh the needs of the community to be protected from the adverse consequences of his or her offending behaviour."
(Labour Party Media Office, 1996: 9)

The repositioning of the Labour Party on 'law and order' following the election defeat of 1992 was a crucial part of the New Labour Project being constructed by a younger generation of social democratic Labour politicians. The Blair-Brown generation drew selectively upon the insights developed by Left Realist criminologists during the 1980s on both sides of the Atlantic (Lea & Young, 1984; Currie, 1985) as well as the experience of the 'renewed' Democrats under the leadership of Clinton and Gore (Pitts, 2000). Tony Blair's assumption of the Shadow Home Affairs portfolio allowed him to use the now famous soundbite that summarised the emergent position on law and order: *'tough on crime, tough on the causes of crime'*; although it could be argued that a more accurate reflection of the media management strategy was *'loud on criminals, quiet on the causes of crime'*.

As has been mentioned in Chapter 1, the killing of Jamie Bulger by two ten year-old boys had a profound effect upon public opinion on crime, community and children (Clarke, 1994; Kemshall & Pritchard, 1996; Scraton, 1997). Whilst the mass media undoubtedly played a significant role in creating a climate of opinion conducive to the introduction of more punitive measures, the part played by the Shadow Home Affairs spokesperson should not be overlooked. Indeed, journalists such as Nick Cohen of *The Observer* have argued consistently that Tony Blair exploited the tragedy in order to portray the atypical events of February 1993 as a more general crisis in childhood and society at large. Whether this is a fair assessment of Tony Blair's role can be disputed, but there is little doubt that the death of James Bulger – and the public reaction to those convicted of his murder – created the conditions within which an agenda of child responsabilisation could be developed. The years leading up to the General Election of 1997 were characterised by a '*punitiveness auction*' (Drakeford & Vanstone, 2000) in which the Conservative government and the New Labour opposition tried to outbid one another in terms of 'toughness' towards young offenders and their parents. This long pre-election campaign most certainly prepared the ground for such New Labour 'reforms' as the abolition of *Doli Incapax*.

Although the election of a Labour government has resulted in a number of child-friendly policies – most notably in the area of child poverty with the introduction of various tax credits and such community development initiatives as Sure Start – the protected status of children in the criminal justice system was eroded by the first Blair administration. Its attitude to 'young offenders' and those who allegedly administered the old youth justice system so incompetently was well encapsulated in the title of one of the first documents to emerge from the New Labour tenants at the Home Office. *No More Excuses* (Home Office, 1997a) pithily summed up its finger-wagging brand of 'tough love' and social authoritarianism in this area of policy. The abolition of *doli incapax* was one striking example of New Labour's approach to children who offend. The presumption that children aged between ten and thirteen years do not have a fully developed sense of moral agency and, as such, cannot understand the wider implications of their criminal

actions was duly abandoned. This has effectively resulted in an untrammelled age of criminal responsibility that starts at the age of ten years. Gelsthorpe & Morris (1999) regard the abolition of this ancient principle of English law as being deeply symbolic.

For them *doli incapax*

“...was a statement about the nature of childhood, the vulnerability of children and the appropriateness of criminal justice sanctions for children.”

(Gelsthorpe & Morris, 1999: 213)

This loss of protected status for children in the courts – along with other measures contained in the legislation (Bandalli, 2000; Haines, 2000; Monaghan, 2000) – represents a process that Goldson has described as the *“responsibilisation of children”* and the *“adulterisation of childhood”* (Goldson, 2001).

The two major pieces of legislation introduced by Labour on coming to power were the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999. The Powers of Criminal Courts Act 2000 clarified and consolidated these measures. Although other important measures have since been placed on the statute book, the 1998 and 1999 Acts are those that had the greatest impact during the period of fieldwork. It has been pointed out, however, that the Labour government’s approach to youth justice did not involve *major* repeals or amendments to pre-existing legislation. As Monaghan observes, *“Reform in this sense is sedimentary rather than metamorphic.”* (Monaghan, 2000: 146). Thus, for example,

“...the new legislation does not disturb the sentencing framework provided by the Criminal Justice Act 1991 and this may result in tensions and a lack of clarity. Thus, new orders might be expected to fit into the three principal sentencing bands: ‘fines and discharge’, ‘community sentence’ and ‘custody’. The principle of commensurate sentencing, ‘just deserts’, encompassing the right of proportionality, also remains in place. The Children and Young Persons Act 1933 provides significant principles that apply to the youth court, most notably recognising the child as being in need of protection and establishing arrangements for children that are different to, and separate from, those for adults. Such provisions, together with the ‘welfare principle’ contained in section 44 of the 1933 Act, and powerfully reflected in the Children Act 1989, that every court in dealing with a child shall have regard to that child’s welfare, are not

amended.”
(Monaghan, 2000: 146)

The result of this is that practitioners actually retain – in law, at least – a significant degree of discretion in terms of both *general* judicial principles and *specific* statutes to apply to their practice. Their professional decisions, as will be discussed at a later stage, will obviously be influenced by agency diktat (via Youth Justice Board *National Standards*) and practitioner culture. Nevertheless, as has already been pointed out, in a very tangible legal sense, statute actually overrides *National Standards* and ministerial memoranda (Drakeford, 1993). In terms of constitutional theory, it is argued – and this must surely carry some weight – practitioners are still required to exercise independent professional discretion within the existing statutory framework. This is a discussion which will be revisited later in the dissertation.

The practical effects of the youth justice reforms, as embodied in the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999, are the subject of detailed analysis in Appendix 1. Nevertheless, some comment should be made about the practical effects of the new statutory framework.

The essential philosophy of the Crime and Disorder Act 1998 is enshrined in Section 37:

- “1. *It shall be the principal aim of the youth justice system to prevent offending by children and young persons.*
2. *In addition to any other duty to which they are subject, it shall be the duty of all persons and bodies carrying out functions in relation to the youth justice system to have regard to that aim.*”
(Crime and Disorder Act 1998: section 37)

The first aim, “...to prevent offending by children and young people...”, marks an explicit departure from the received wisdom instilled from the previous two decades. The notion that most children and young people usually went through a phase of offending and subsequently ‘grew out of it’ with minimal intervention was clearly rejected. The first aim of Section 37 is, quite clearly and very ambitiously, to *prevent*

young people from committing offences in the first place. The second aim, meanwhile, alludes to a more corporate, multi-disciplinary/agency approach to youth crime. The vehicles for delivering this corporate response are: local authority *youth justice plans* (Crime and Disorder Act 1998: section 40); the co-ordination of comprehensive *youth justice services* (a continuum ranging from community safety measures to post-custodial supervision); the establishment of multi-agency *Youth Offending Teams* (Crime and Disorder Act: Section 39); and the creation of a *National Youth Justice Board* (Crime and Disorder Act 1998: Section 41 and Schedule 2) in order to oversee the direction and administration of the whole system. As will be seen, the creation of **both a corporate and multi-agency** approach to youth justice is not without inherent tensions. The priorities of the National Youth Justice Board agenda are not necessarily those shared by the police, let alone the health service. That said, the corporate agenda is clearly privileged in the National Youth Justice Board's *National Standards* and the promotion of 'effective practice' guidance (National Youth Justice Board, 2002). It is also present in Sections 5 and 6 of the statute. Section 5, for example, requires the police and local authority to design and implement local 'crime and disorder strategies'.

In terms of practitioner culture, it is the establishment of local Youth Offending Teams that most clearly institutionalises the principles of corporatism and multi-disciplinarity. Whereas previously the responsibility of working with young people who committed crime rested primarily with social workers based in Social Services Departments (usually based in Youth Justice Teams), the new Act widened that responsibility across departments and relevant agencies. In addition to social workers, the new youth justice teams were required to be represented by staff seconded from the police, probation service, education and health. Other relevant agencies could also be co-opted. Thus, the intervening passage of time has witnessed the arrival of staff from specialist voluntary sector agencies in the fields of accommodation, substance misuse, training and employment. As well as managing the complex inter-professional dynamics of these new institutions, it has been necessary – though in practice this has probably not happened to everyone's satisfaction – for protocols to be developed in relation to information sharing between practitioners from the different agencies.

The two key statutes introduced a raft of new orders to an already extensive sentencing menu. As Monaghan (2000, 150-1), somewhat breathlessly, points out:

“...a child who admits, or is convicted of, an offence, can potentially be dealt with by reprimand, final warning, referral order, absolute discharge, conditional discharge, a fine, compensation order, reparation order, attendance centre order, drug treatment and testing order, curfew order, action plan order, supervision order, supervision order with requirements (at least five distinct varieties), community service order, probation order, probation order with requirements, combination order, deferred sentence and detention and training order. In addition to these, and as well as ancillary orders and driving licence penalties, the court must also concern itself with parenting orders and financial penalties against parents....”

Despite this bewildering choice, there are six features of the new statutory framework that should be highlighted. First, early intervention. This was evidenced in the replacement of cautions with an abbreviated and police managed system of Reprimands and Final Warnings (the latter containing powers to put in place intervention packages) as well as the introduction of Referral Orders. The Referral Order, incidentally, effectively replaced the highly effective Conditional Discharge (Audit Commission, 1996).

Secondly, principles of restorative justice were given greater prominence in some of the Orders (Referral Orders, Reparation Orders and Action Plan Orders). Fourthly, the criminal code was effectively widened by mixing civil and criminal law; embodied in Child Curfew Schemes and, more controversially, Anti-Social Behaviour Orders. Fifthly, principles of welfare and criminal justice were conflated within the parameters of Child Safety Orders and Parenting Orders. Finally, there was a conscious attempt to blur the distinction between punitive custody and constructive community sentence with the introduction of Detention and Training Orders. ‘Constructive custody’, as it was spun, involved part of the sentence being served in the community. The way in which all of these underlying themes interweave is explored in the next section.

3.4: New Labour, Youth Justice and Young People: Key Themes

Although New Labour's programme of government has been informed by Third Way philosophy (Giddens, 1998; Jordan, 2001), it would be naïve to expect complete ideological coherence in its youth justice policy. This is a politically sensitive area in which Labour is understandably anxious not to surrender its territorial ground to the traditional party of 'law and order', the Conservative Party. The Labour government's criminal justice policy is actually composed of a number of different strands. Some of these have already been alluded to in this chapter, but will now receive closer attention. One of the government's 'big ideas' has been that of restorative justice. Restorative Justice philosophy is certainly in possession of elements that might appeal to both a 'responsibilisation' agenda and the welfare impulse to reintegrate offenders back into communities. Moreover, many of New Labour's policies in the area of youth justice are presented as being consistent with restorative justice principles. In fact some might claim restorative justice is the common thread running through the key youth justice statutes of the government's first term. Others would suggest that the Restorative Justice brand logo has merely been sprayed on to essentially punitive packages. Whichever position taken, it is a philosophy that deserves to be taken seriously by anyone studying the New Youth Justice. In order to assess the validity of the competing claims, it is therefore necessary to engage in a brief critical summary of restorative justice philosophy.

Although the movement draws its inspiration from politically dubious and over-sentimentalised readings of Maori, Samoan and even Celtic traditions (Gelsthorpe & Morris, 2002: 243), it is important to understand that the movement has grown from the confluence of two main tributaries: 'offender-based' penal reformism, on the one hand; and 'victim'-led perspectives, on the other. Consequently, it is important to understand that – as with any philosophical movement – the manifesto is contested. Tensions certainly exist between the two wings of the movement. Moreover, despite its global dimensions, the movement places great emphasis on the importance of local practice. The privileging of the 'local' is, indeed, consistent with a faintly romantic preoccupation with prelapsarian 'indigenous' cultures (Braithwaite, 1989; 1993; Braithwaite & Mugford, 1994). Whilst such diversity may be logically consistent, it does make it

difficult to establish definitional precision about what constitutes ‘proper’ Restorative Justice practice. Thus, it is a relatively easy task for Morris (2002) to defend restorative justice against its critics by stating that, at best, local practices differ or, at worst, a particular model of restorative justice is a corruption of the ideal. Internal debates concerning the ideological purity of various models of restorative justice should not, however, detract from some of the very interesting and challenging ideas advanced by the movement.

Johnstone (2002) distinguishes the restorative justice approach from more formal legalistic justice in the following terms:

“Advocates ...suggest that once the facts of a crime have been established the priority should not be to punish the offender but (i) to meet the victim’s needs, and (ii) to ensure that the offender is fully aware of the damage they have caused to people and of their liability to repair the damage.”
(Johnstone, 2002: 1)

In practice restorative justice involves mediation between the victim, offender, members of the respective families, and representatives of the community. The way in which reparation can be made to the victim is duly negotiated between the various parties. The notion of restitution – of ‘restoration’, indeed – is extended to the ‘perpetrator’ of the ‘harm’. The reasons for the perpetrator committing the offence are also explored and strategies are devised to reduce the risk of recidivism. The rehabilitative ideal is embedded in a wider commitment to the offender’s reintegration into the community.

Johnstone (2002: 11-13) identifies five core themes that form the basis of restorative justice. Firstly, it is claimed that in pre-modern societies people did not draw a sharp dichotomy between ‘crime’ and other ‘conflicts’ within the community (Zehr, 1990; Bianchi, 1994). Apparently, such communities focused on specific and tangible wrongs rather than abstract ideas concerning crimes against ‘society’. This assertion risks misreading deceptively complex and sophisticated societies in which symbolism was hugely important. Bewilderingly, the significance of symbolism is acknowledged by many devotees in respect of ‘shaming’. That said, restorative justice’s emphasis on

tangible wrongs against specific victims (as opposed to abstracted notions of crime) is of central importance to the philosophy.

The second theme – which relates closely to the first – concerns the primary focus on how the victim should be helped. The victim – as opposed to the state – should therefore play an active, if not necessarily always decisive, part in how this question should be answered. Victims thus,

“...become more like plaintiffs in a civil law action. They have much greater control over how the wrong against them is defined and over how it should be dealt with. Hence, it is maintained, restorative justice helps to heal the wounds of the crime suffered by the victim.”
(Johnstone, 2002: 13)

The third theme concerns recognition of the essentially social relationship between victim and offender. The premise that victims and offenders are likely to belong to the same community highlights the importance of ‘repairing’ that relationship – for the good of all of the principal parties concerned and the community as a whole. The notion of criminal ‘otherness’ is inimical to the restorative justice ideal of socially inclusive communities; places characterised by solidarity, co-operation and reciprocal responsibilities. This perspective eschews ‘punitive segregation’ (Maberly, 1968: 97-8) and the demonisation of the offender as ‘folk devil’ (Cohen, 1980).

A fourth theme identified is that the ‘community’ not only becomes involved in the process of mediation but also in the post-resolution supervision, support and monitoring of offenders. The ‘community’ is understood to be something qualitatively different from modern abstractions of the community like the ‘state’, the ‘judiciary’ or even the lay ‘magistracy’. The involvement of meaningful and somehow more ‘immediate’ community is a pre-requisite for the social re-integration of the offender, it is argued. Some restorative justice advocates set great store by the symbolism of ‘rites of re-entry’ into the community. Braithwaite has popularised the practice of ‘reintegrative shaming’ (Braithwaite, 1993). Given what the sociological literature tells us about the negative effects of labelling and deviancy amplification (Becker, 1963; Downes & Rock, 1979 and

1998; Cohen, 1971; Cohen, 1980; Erikson, 1966; Goode & Ben-Yehuda, 1994; Kitsuse, 1962; Lemert, 1951; Shoemaker, 2000; Tannenbaum, 1938; Wilkins, 1964; Young, 1971) this is a potentially dubious practice. Having said that, no-one has, as yet, advocated the revival of ceremonial thigh-spearing (Iverson, 1999) as a serious policy transfer proposal.

The final theme relates to the aim of restorative justice being a 'win-win' outcome for all participants. It is argued that 'modern' adversarial systems of justice result in 'winners' and 'losers'. By contrast the restorative justice model means that,

“The criminal behaviour should be looked at in the broader context of the relations between the offender, the victim and the community. The emphasis should be on getting offenders voluntarily to accept their liability to repair the damage done. Coercion should be kept to a minimum. None of the parties should come out of the process feeling that they have been the losers; the solution should be satisfactory to all sides.”

(Johnstone, 2002: 15)

Bold, sometimes even exaggerated, claims are made for the efficacy of restorative justice. Some assert that the risk of recidivism is reduced (Braithwaite, 1999; Pollard, 2000: 17; Morris & Gelsthorpe, 2000: 21). Victim satisfaction is also said to be high (Braithwaite, 1999: 20-26). It has been stated, moreover, that community-administered justice is more cost-effective than the 'modern' adversarial variant (Braithwaite, 1999: 71). There is insufficient space here to engage in a detailed critique of such claims. I will, however, dispute just a few of the more substantive assertions.

The first point is that in much of the restorative justice literature, representations of 'community' tend to be idealised and depicted in conceptually unproblematic terms. Very few communities are 'organic' or 'sealed' in the way that tribal societies are supposed to have once existed. They are diverse, stratified and not without internal tensions and conflicts. In many metropolitan areas of developed countries, moreover, distinctive cultures occupy common neighbourhood spaces and interact with one another. There also exist, of course, 'communities of interest' (Twelvetrees, 2002) that transcend geographical boundaries. Such communities have a variety of bases: sexual orientation,

age, social class, language and faith being just a few examples. Those with access to the new technology are also conferred automatic membership of 'cyber communities' or 'cyburghs'. The fact that community is such an elusive and contested concept does not, in itself, discredit the aims of restorative justice; it does, however, present challenges about which 'community' is being referred to when the need for 'community involvement' is cited. In a multicultural society, moreover, there is the challenge of addressing the issue of representativeness; not simply in terms of ethnicity, but also in relation to social class, gender, religion and sexual orientation. Whilst the issue of representativeness is a serious problem with which more formal legal systems must also grapple (most judges are, after all, still white, male, middle class and middle aged) the question seems even more pressing in an 'informal justice' system grafted on to 'local' traditions. Finally, what if the individual offender does not choose to be reintegrated into the dominant community? What if s/he considers it conservative and oppressive? 'New Age Travellers', for example, certainly mounted such challenges to orthodox constructions of community life in the 1990's.

The Restorative Justice movement's claim for reducing recidivism needs to be treated with some caution. Meta-analyses need to take account of a number of points. Firstly, a distinction needs to be drawn between adult and juvenile offenders. Secondly, the nature of the offence committed is an important factor in any rounded evaluation of effectiveness. It is essential to compare 'like with like'. Hudson (2002) also highlights the challenges and dangers of the controversial application of restorative justice principles to such offences as domestic violence and rape. Thirdly, the point at which restorative justice is introduced in the criminal justice system is another important consideration. Are such principles applied at the point of diversion, early intervention or – as in New Zealand – much later in a young person's criminal career? Fourthly, in view of the fact that voluntarism is generally regarded as an important principle of restorative justice, there are inevitable methodological problems in comparing a self-selecting sample of presumably motivated offenders with those who are reluctant to engage with the process. Finally, any evaluation of restorative justice should foreground the local context within which restorative justice is being implemented (McEvoy & Mika, 2002:

553). Clearly, the local social and cultural context is a key ingredient of any meaningful evaluation; a point acknowledged in an early evaluation of pilot schemes in the UK (Miers *et al*, 2000). Interestingly, though, the cohesiveness of a local community does not always produce the expected reduction in reoffending. The hypothesis that restorative justice conducted in ‘communitarian’ societies (that is, societies characterised by high levels of social integration and solidarity) will produce lower levels of recidivism was not found to be the case in Iceland (Baumer *et al*, 2002). Indeed, it is suggested that the cohesiveness of Icelandic society might actually depend upon the existence of a deviant minority group of perpetrators.

Conversely, though, restorative justice appears to have met with some measure of success in societies characterised by internal conflict, social upheaval and political transition; or in settings where the state has lost legitimacy amongst the general population (Skelton, 2002; Roche, 2002; McEvoy & Mika, 2002). The relationship between restorative justice and social context is, therefore, complex. Drawing upon the Northern Ireland experience in general – and the example of a Republican Nationalist/Roman Catholic community in particular – McEvoy & Mika identify social conditions within which informalist principles can flourish:

“It is possible when it is based upon a genuine commitment to the values and practices of restorative justice; located in politically organised and dynamic communities; well managed and staffed by committed volunteers; and guided by locally developed standards of practice which are based upon accepted human rights principles.”

(McEvoy & Mika, 2002: 256)

The main implication of this demanding set of pre-requisites is that any serious effort to spread good restorative justice practice requires an accompanying commitment to capacity-building within fragmented or de-politicised communities: neighbourhoods characterised by disorganisation, demoralisation and disengagement. The relationship between criminal justice and social justice is important – if not, indeed, more important – in restorative justice than in other systems of justice.

More fundamental criticisms of the restorative justice approach are mounted from an explicitly justice or 'just deserts' perspective. Ashworth (2002), whilst acknowledging the limitations of statist models of justice, presents a particularly cogent critique. The salient points are summarised below.

The first point is that some offences are not merely 'civil torts' involving only the victim and offender (with the community as mediator). Some offences, he argues, are of wider public interest and symbolic significance. Violence, rape and sexual abuse within the family, or racially motivated attacks in divided communities might be offence categories that are more appropriately brought into the formal public domain.

Secondly, whilst the victim of an offence has legitimate grounds for being involved in influencing the form and amount of reparation or compensation undertaken by the offender, the case for victim involvement in the wider sentencing or punishing process has not been made convincingly.

Thirdly, the sentencing principle of proportionality. Two offenders who commit similar offences may receive quite different sentences on the basis that one victim takes a less forgiving stance than another or because, perhaps, the impact of the crime is experienced differentially. Alternatively, the disparity in sentencing may be because the values obtaining in one community differ radically from those in another. On the latter point it is difficult to see why local justice should be privileged above the laws of nation states and international conventions. Justice by geography is generally regarded as a problem in formal legal systems, whereas in the restorative justice philosophy such diversity is celebrated.

Finally, there are civil liberties concerns surrounding the question of due process: the right to trial by a fair and independent tribunal; and the right to proper legal representation. In the British context – where children are criminally responsible at comparatively young ages – these are acutely important issues. Indeed, Haines (2000) has argued persuasively that Referral Orders and Youth Offender Panels are in direct

contravention of European law and international conventions. Whilst the United Nations' ongoing work in this area may help to clarify the position in relation to international conventions (United Nations, 2000), the Youth Justice Board should be concerned about the vulnerable position in which children as young as ten years of age are currently being placed by Britain's rather authoritarian version of restorative justice.

Some aspects of the specifically local (that is to say, UK) implementation of restorative justice principles in England and Wales will be dealt with at a later stage in the chapter. At this point, however, I would like to consider the possible links that are capable of being forged between such ostensibly disparate concepts as restorative justice, actuarialism and managerialism. This will commence with a brief critical exposition of 'actuarial justice'.

The conceptual recognition of actuarial justice has its roots in the 'new penology' (Feeley & Simon, 1992). Drawing upon quantitative data collection techniques and probabilistic statistical models of prediction, actuarialism is concerned with

"...identifying, clarifying and managing groups assorted by levels of dangerousness."
(Feeley & Simon, 1994: 173)

As Haines & Drakeford (1998) point out, actuarial practices are applied to the population as a whole. This is exemplified in the field of insurance:

*"...how much we should pay in premiums to insure our lives are based...on statistical aggregates of how long **people like us** have lived in the past.... These decision-making processes, therefore, have little to do with us as individuals, but recast as points in actuarial risk tables: risk tables which have been calculated on the basis of what is known about the previous behaviour of large numbers of people."*
(Haines & Drakeford, 1998: 71)

Applying such techniques to the criminal justice system, however, strikes at the heart of the rhetoric that surrounds a formal justice system supposedly sensitive to the specific

nature of offences committed and the individual circumstances of the offenders concerned. Whilst no one would seriously deny that court practices have historically used other processes of classification and categorisation, the myth of individually tailored justice does bear some relationship to a genuinely aspirational principle of justice. One of the uncomfortable features of actuarial instruments is that they are so obviously explicit about this task of ascription. Implicit in the new penology, moreover, is the 'taken for grantedness' and inevitability of crime,

"It takes crime for granted. It accepts deviance as normal. It is sceptical that liberal interventionist crime control strategies do or can make a difference. Thus its aim is not to intervene in individuals' lives for the purposes of ascertaining responsibility, making the guilty 'pay for their crime' or changing them. Rather it seeks to regulate groups as part of a strategy of managing danger."
(Feeley & Simon, 1994: 173)

Actuarialism is, then, inextricably linked to concepts of risk. Risk, of course, is not a value-free or settled construction. Definitions are vigorously contested by political and social interests. That said, actuarial techniques focus on three main areas of activity: risk assessment, risk management and risk reduction.

Actuarial priorities began to achieve prominence in the criminal justice field during the 1980's when the 'Justice Movement' influenced the diversion of many young people from custody. According to Pratt (1989),

"...the whole debate about welfare and justice has been something of a sideshow while centre stage a very different play has been performed..."
(Pratt, 1989: 409)

In other words, whilst politicians and many social commentators (including academics) were exercised by debates concerning punishment and welfare, practitioners and managers (and, covertly, some government ministers) developed a corporate, 'rational' and – arguably - 'evidence-based' approach to delinquency management.

It is worth noting that society witnessed major structural changes in the 1980's and early

1990's. This, it could be argued, has shifted social attitudes towards the notion of 'risk'. In the West, it was a period that saw a decisive rupture with the social democratic post-war consensus. Policy aims such as full employment and 'cradle-to grave' welfare systems were duly discarded. Poverty and social inequality were celebrated as being an inevitable part of modern life. Whilst in many respects there was nothing particularly 'new' about the resurrected liberal economics of the New Right, there was a discernibly new shift in political attitudes by many of those who were opposed to Conservative policies. Faith in many traditional tenets of democratic socialism and social democracy – including a strong but benevolent state, for example - waned in the 1980's. Social democratic opposition to Thatcherism in Britain became increasingly piecemeal, whilst agnosticism about the 'socialist alternative' to unfettered markets began to spread. This trend seemed to accelerate following dramatic developments in the Soviet Union and 'Eastern' Europe at the end of the 1980's. The collapse of 'actually existing' communism was of great symbolic importance to social democrats as well as those on the Marxist Left. 'Actually deceasing socialism', for some commentators spelt not just the end of Marxist ideology, but also the death of all totalising theories (Mouffe, 1992).

The neo-liberal economic reality of this late modern or, indeed, post-modern condition was a 'down-sized', 'hollowed out' state (Sullivan, 2001: 29-30) serving global markets. Individuals were thus abandoned to chart their unique odysseys across unstable, ever-changing and often inhospitable social terrains. Whilst high rewards were available to those skilled and equipped to take their opportunities, the losers could only rely upon frayed and threadbare welfare safety nets. In this scenario, the concept of 'risk' has - so the thesis goes – assumed a greater sense of importance in the minds of most people (Beck, 1992; Giddens, 1990). Society's problems – unemployment, poverty and crime – are increasingly regarded by most people as insoluble. The once commonly agreed objective of full employment, for example, is apparently considered unattainable and 'unrealistic'. The important point here is that people's **beliefs** have changed. Neo-liberal economics has arguably become the new 'commonsense'. 'Risk' has been normalised. As Giddens observes,

“...it is not that day-to-day life is inherently more risky than was the case in prior eras. It is rather that, in conditions of modernity...thinking in terms of risk and risk assessment is a more or less ever-present exercise...”
(Giddens, 1991: 123-4).

If the majority of people have become attuned to the ‘new reality’ of living in a ‘risk society’ and no longer expect major redistribution of resources to alleviate social problems, then the attractions of actuarialism to both policy makers and practitioners are clear. If universal provision is regarded as being anachronistic and inefficient, then the politician need only be concerned with the instruments that deliver ‘effectively targeted’ welfare and criminal justice policies. Policies are duly designed to reduce both “*risk and expenditure*” (Muncie, 2000: 31). For the practitioner and her/his agency, moreover, it is easier to assess risk than help people overcome the seemingly intractable personal and social problems that commonly afflict most people who offend. As Kempf-Leonard & Peterson (2000) put it,

“Although still difficult, assessing risk of recidivism and assigning a corresponding level of supervision is an easier task than assessing specific needs and determining which mode of treatment is more likely to succeed.”
(p. 439)

Interestingly, whilst actuarial techniques in youth justice emerged in a period when the ‘Nothing Works’ (Martinson, 1974) philosophy was still casting a long shadow across practice, it has also flourished in the ‘Something Works’ era (Raynor & Vanstone, 2002). The same instruments can be applied with equal validity to ostensibly competing philosophies. A young offender can, therefore, be deemed appropriate for an intensive, community-based rehabilitative programme of cognitive behaviourism; ‘incapacitated’ or warehoused via custodial sentence; or simply diverted from the system altogether. Actuarialism is sufficiently flexible to accommodate a range of criminal justice philosophies: punishment, ‘just deserts’ and rehabilitation. It could be argued that actuarialist techniques are simply put to the service of a criminal justice ‘waste management’ strategy (Lynch, 1998). Whilst there are certainly signs that practitioner culture is resistant to the pressures to move in this direction (Lynch 2000; and Kemshall

& Maguire, 2001), the vivid metaphor of ‘waste management’ somehow captures something of the *zeitgeist*. It is not only suggestive of a technocratic set of practices for offender classification, but also of an underlying acceptance of the inevitability of crime. It is, in effect, ‘crime tolerance’ with computers: it implies that the most toxic waste is siphoned off to the prisons; the treatable waste is channelled into hostels and community-based programmes; and the remaining low-grade waste is flushed back into the poor neighbourhoods from which it originated. At worst, such neighbourhoods are expected to live with this low level hazardous waste; at best, they are exhorted to ‘take responsibility’ for cleaning up this mess of their own making. Whilst government can provide the tools for the job, it is only individuals and communities that can provide the labour to complete ‘the project’.

Although the uses to which actuarialism can be put vary enormously, it is erroneous to suggest that actuarialism is a value-free approach *per se*. The careful calculation and systematic assignment of scores have the seductive allure of ‘hard science’ for those struggling with the daily complexity of human behaviour. Leaving aside the fact that – in my experience as a social worker, probation officer and, latterly, researcher – many practitioners actually subvert these instruments by ‘adjusting’ scores to suit service user and/or agency interests, it is important to challenge the notion that risk assessment is a purely technical exercise. Haines & Drakeford (1998) note that most actuarial instruments are weighted by ‘hindsight’ bias’ (p.218): past ‘deeds and needs’ outweigh future prospects. An uncritical reading of previous convictions, for example, can effectively ignore discriminatory practices by the police, Crown Prosecution Service and the courts. Actuarial techniques, it is argued, have a,

“...tendency to institutionalise and exaggerate existing forms of discrimination. Thus it is known that black defendants are more likely to be sentenced to custody earlier in their criminal career than their white contemporaries. If reconviction predictors then attach significant weight to custodial sentences as an indication of future bad behaviour – as they do – then black defendants might find themselves ruled out of certain core courses of action to the courts – such as probation orders – on the grounds that they represent too great a risk of reconviction.”
(Haines & Drakeford, 1998: 219)

In light of some reports on the unreliability of 'official' criminal records (Cohen, 2002), moreover, it would seem ever more important that practitioners treat actuarial assessments with a high degree of caution.

One of the most serious consequences of the actuarial mentality has been a 'narrowing of the aetiological focus' (Pitts, 2001b: 9). Serious discussions about crime causation are in danger of being replaced by bullet-pointed 'risk factors'. Even serious scholarship is not immune from such reductionist tendencies (Farrington, 1996; Utting & Vennard, 2000). Whilst the 'risk factor' paradigm has the advantage of being "*easy to understand and to communicate, and it is easily accepted by policy makers, practitioners and the general public*" (Farrington, 2000: 17), it is not clear whether risk factors are 'causes' or 'effects'. The relationship between the individual biographies of offenders, family characteristics, neighbourhood profiles and socio-economic stressors remain unexplained. This leads to what Currie (1985) has called the 'fallacy of autonomy'. Individual actors are thus in danger of being reduced to animated 'risk factor clusters'. In the UK these risk factors - which, interestingly, bear a passing resemblance to the findings of the 19th century researchers cited in Chapter 2 - are largely constructed on the basis of some very old data (West & Farrington, 1973). The *Cambridge Study* of 411 South London boys was undertaken between 1961 and 1985. Leaving aside the fact that the world - and indeed the experience of being young - has changed fairly significantly since the 1960's and 1970's, there are other concerns about the use to which this research has been put. In UK policy formation circles the original 'risk factor' paradigm has been whittled down to fit more comfortably with contemporary political priorities. The new, 'improved' paradigm foregrounds parenting, schooling, individual cognitive deficits and peer group factors. The impact of neighbourhood poverty, however, receives considerably less emphasis than previously. This is despite the fact that Wikstrom and Loeber's (1997) research - based incidentally, on a much larger sample of young people - found that residence in a low income, high crime neighbourhood can overwhelm the best endeavours of 'good' parents. By disassembling the dynamic social context of crime into isolated or selectively reconfigured sets of risk factors there is a tendency to pathologise

individuals and their 'deviant' families. Thus, Labour's first Home Secretary for eighteen years could confidently assert that,

"All the serious research shows that one of the biggest causes of serious juvenile delinquency is inconsistent parenting."
(Straw, 1998)

Acknowledgment of complexity is, perhaps, always the first casualty of any popular political debate.

What, if any, are the conceptual links being forged between restorative justice and actuarialism? Inevitably, perhaps, the discussion that follows will touch upon aspects of New Labour's approach to governance. As previously mentioned, actuarialism has the capacity to accommodate a number of competing criminal justice themes, discourses and philosophies. Stripped of these philosophies, though, a purely risk-focused approach to justice would satisfy few people (be they punishment or welfare-oriented). If anything, actuarialism lends itself most closely to a 'just deserts' philosophy. Having said that, it needs to be understood that risk-focused actuarial justice has no particular interest in the past in the sense that it does not seek to right past wrongs, assuage public outcries for vengeance or even satisfy the victim's needs. Paradoxically, whilst actuarialism relies upon retrospective data, it does so only in the interests of the future. Risk-focused justice and security is concerned solely with predicting the future. The question asked is, "How can we reduce the risk of this sort of thing happening again?" It is, therefore, more concerned with 'situational crime' and 'community safety' measures. Whilst this forward-looking tendency is rational, it does nothing to address past wrongs. Shearing (2000) has argued persuasively that restorative justice – when linked with actuarial practice – can both "*...remedy the past and colonise a future...*" (p. 209).

As has already been indicated in this chapter, restorative justice is crucially concerned with centre-staging the victim's perspective on crime. 'How can the victim's loss be restored?', is the opening question. The emphasis placed on 'shaming' in some parts of the literature might also satisfy victims' cathartic need for some form of vengeance. The

community, too, may feel that its moral boundaries are being reinforced through symbolic acts of public repudiation. In some models of Restorative Justice victims are also supposed to have a critical say in the punishment meted out to the offender.

Meanwhile, those wedded to more rehabilitative, welfare-based approaches are attracted by the reintegrative dimension of restorative justice. Shearing (2000) notes, however, that reintegration also involves community surveillance and, *ipso facto*, risk reduction,

“...in practice the outcomes that result typically include the development of community-based surveillance networks that mobilise local resources to monitor and control the future behaviour of the wrongdoer.”
(p. 216)

He concludes:

“In rethinking justice in ways that permit an integration of past and future-focused strategies of governance, restorative justice offers a promising starting point.”
(p. 217)

On this basis it could be argued that the synthesis of restorative justice and actuarialism is capable of providing a new rationale for modern youth justice. Such an analysis, however, is possibly just a little too neat and tidy. That said, Shearing does demonstrate how – when combined – these two complementary approaches might satisfy a number of constituencies simultaneously: including politicians, policy makers, accountants, victims, practitioners and communities. It also fits well with trends in modern governance. As Sullivan (2002) observes,

“...the neo-liberal state looks like it will do less, not more, about crime; its citizens take more, not less, responsibility.”
(p. 30)

The influence of communitarianism (Etzioni, 1995) is also consistent with a strategy of family, neighbourhood and community responsabilisation. In the sphere of criminal justice, at least, citizens are increasingly expected to ‘do it for themselves’. This is

neither lynch mob nor syndicalism, though. Rather, government sets an overarching moral and- as time goes by – procedural framework within which citizens must operate. This relationship has been described as a ‘steer and row’ mode of governance (Rose & Miller, 1992). As Shearing (2000: 212) puts it,

“The state seeks to maintain control of the ‘steering’ of governance while encouraging others to accept responsibility for rowing.”

The present government’s steer, however, can sometimes appear profoundly confusing in both philosophical and practical terms. Neither the public pronouncements of ministers nor the accumulated detail of the legislation amount to a convincingly coherent approach to youth crime. Restorative justice initiatives are tacked on to the existing formal criminal justice system in an extremely unconvincing way: a ‘no excuses’ rhetoric is used to responsabilise and demonise young people and their parents, whilst at the same time others in government acknowledge many of the genuine social problems experienced by children and young people from poor families; the virtues of variety are celebrated in the creation of multi-disciplinary teams at the same time as cultural homogenisation is being engineered (Cross *et al*, 2003; Pitts, 2003); and ‘constructive custody’ is promoted by the Youth Justice Board (Youth Justice Board Website) until it becomes so ‘popular’ with sentencers that the capacity to deliver education and training within the ‘reformed’ institutions is severely reduced. None of this is, perhaps, particularly surprising. Politicians are seldom motivated solely by ideological or philosophical ideas. They will react to the representations of competing interest groups, the exigencies imposed by comprehensive spending reviews and - of course – the tyranny of ‘events’. Manufactured news stories about ‘one boy crime waves’ place enormous pressures on government ministers. When tragic events occur – such as the Soham murders and the violent death of James Bulger – the pressure to ‘do something’ becomes even more intense. In the circumstances, the search for policy coherence is perhaps inevitably futile. An analysis of any given policy initiative, statute or government press release reveals, at best, a snapshot of the balance of arguments at a given point in history. Taken as a whole, New Labour’s criminal justice policy appears eclectic. It contains welfarist, rehabilitative and socially inclusive elements (as seen in the drive for effective practice and youth inclusion

programmes) as well as a punitive and stigmatising dimension (witness the introduction of Detention & Training Orders, Anti-Social Behaviour Orders, Child Curfews, etc.). In many respects the local application of restorative justice brings all of these elements together. Empirical evaluations of the restorative justice element in the new Orders (Action Plan Orders, Reparation Orders and Referral Orders) suggest a rather unbalanced application of restorative justice principles. Holdaway *et al* (2001) found that the restorative elements in Action Plan Orders and Reparation Orders tended towards the formulaic. Meanwhile, evaluations of the pilot Referral Orders (Crawford & Newburn, 2003; Earle & Newburn, 2002; Newburn *et al.* 2001a; Newburn *et al.*, 2001b;) reported that victim involvement in the new Referral Orders has been disappointingly low. There is also a problem of representativeness on the Youth Offending Panels. As one Youth Offender Panel member commented, members were predominantly female, middle class and middle aged, “...very, sort of, *Gardener's World!*” (Crawford & Newburn, 2002: 483). As Crawford & Newburn (2002: 483) go on to comment,

“...there is a danger that community panel members come to constitute something of a ‘new magistracy’, whose normative appeal may be undermined by their empirical lack of representativeness.”

The centrally imposed proceduralism embodied in *National Standards* (Youth Justice Board 2002) also appears to work against the interests of victims. According to Earle & Newburn (2002) the unrealistic time frame set by the Youth Justice Board means that it is often difficult to engage with victims in a meaningful way. What is potentially an exciting and innovative philosophy seems to have more to do with expediting bureaucratic processes than meeting the needs of victims. Reparation and victim awareness – by implication, time consuming activities – are reduced to formulaic and ritualistic gestures by the pressure of unrealistic time limits set in those tablets of stone otherwise known as *National Standards*. The *National Standards* actually, perhaps, belie New Labour’s wilful misreading of restorative justice. For some New Labour insiders, at least, restorative justice has always been more about responsabilising the ‘criminal classes’ than helping victims,

“With the restorative approach there is no way for youngsters – or their parents – to hide from their personal responsibilities.”

(Michael, 1998, in Newburn, 2002a: 455)

As a genuinely radical reform of the criminal justice system is unlikely to be undertaken by this government, exactly how restorative justice is to be accommodated within existing formal structures remains to be seen. For the time being it is reasonable to suppose that the familiar themes of justice, punishment and rehabilitation will continue to exert pressure on these fledgling initiatives.

Whilst New Labour’s philosophical steer has been incoherent at times, the project has been held together with the adhesive of managerialism. The rise of managerialism as the *“new political rationality”* (Loader & Sparks, 2002: 88) for reconfiguring the old welfare state and parts of the criminal justice system was well established by the mid-1990’s and has since been endorsed enthusiastically by Labour in office (Jones 1993; Clarke *et al*, 1994; Clarke & Newman, 1997; Clarke *et al*, 2001; McLaughlin & Murji, 2001; and Mooney, 2004). This commitment goes beyond a belief in managers’ right to manage public services on behalf of the ‘consumer’ and involves a mission to convert the workers to the ideology. As Mooney (2004: 196) puts it:

“...all members of the organization were to become infused with the managerialist rhetoric and language: clients were now customers and public services were now businesses with mission statements, objectives and contracts. All workers were to behave differently as a result. Social workers would become, for instance, care managers. Budget control, cost effectiveness, and efficiency were now the key bywords. Through improved management, therefore, more could be had for less.”

The extent to which the New Labour project merely represents a development of New Right thinking or a genuinely new departure from the ‘failed pasts’ of the old Left/Right dichotomy is a matter for debate (Anderson & Mann, 1998; Driver & Martell, 1998; Jones & MacGregor, 1998; Jones & Novak, 1999; Lavalette & Mooney, 1999; Jordan, 2001; Fawcett *et al*; and Mooney, 2004). What is clear, however, is that the process of reconfiguring public services has involved embracing – rather than merely

accommodating - market forces. This marks New Labour from previous administrations of the Centre Left.

Whilst the retreat of the state in respect of the provision of public services has also been matched by the use of the private sector in the criminal and penal justice system (including the much beloved partnership model), the surveillance powers of the state have increased substantially in respect of the youth justice system. The establishment of the Youth Justice Board, for example, represented a major centralisation of power. Local Youth Justice Plans are duly approved by the Board, and local Youth Offending Teams are judged on their ability to meet centrally imposed National Standards and performance indicators. The potentially distorting effects of 'standards' and 'performance indicators' within in an 'audit culture' are well appreciated (Munro, 2004). Garland (1996: 458), commenting upon the first wave of 'New Managerialism' in the public sector, made the characteristically perspicacious observation that

*"...performance indicators measure 'outputs' rather than 'outcomes', what the organisation **does**, rather than what, if anything, the organisation **achieves**."*

An example of how this approach can impact negatively on the quality of service delivery has, of course, already been cited in respect of victims' experience of Referral Orders.

The trend towards micro-management of practice and governmental intrusion into areas hitherto regarded as reserved for professional judgement are representative of a more profound shift in the relationship between policy making and implementation. Invoking the spirit of Foucault, Jordan (2001: 128) writes:

"It is the role of the Panopticon minister (the Secretary of State) to preside over institutions that regulate and enforce the public good. Those who work directly with the public are trained and mandated to do so on behalf of the minister, thus applying his rules, acting accordingly to his standards, in ways he approves. The scope for professional judgement or practice-experienced creativity is deliberately narrowed to a minimum in this version. Social work is not an art or even a science, but an instrument of ministerial will."

The scenario described can lead to the routinisation of practice through the uncritical application of rules and National Standards. It can also create the conditions within which ‘crimes of obedience’ (Kelman and Hamilton, 1989) are committed whereby organisational actors participate in – or tacitly consent to – harmful acts against service users.

Pitts (2002) and Mair (2004) in particular have noted that there has also been a centralisation of authority in respect of ‘what works’. *Ex cathedra* pronouncements are thus made about admissible ‘evidence’ and what constitutes ‘good practice’ (often in the form of ‘accredited programmes’). Pitts (2002: 8-9) depicts how an authorised canon of effective rehabilitative practices (usually cognitive behavioural in character) reduces youth justice interventions to a narrow and essentially “*conservative political correctness*”. Meanwhile,

“ ‘*product support*’ is provided via a steady flow of ‘*evidence-based*’ data about ‘*what works*’.”

The uncritical fashion in which such ‘evidence’ is constructed, communicated and ultimately received by some of its consumer-practitioners and managers is well documented (Jones, 2002; Pitts, 2002; Pitts, 2003; Mair, 2004; and Muncie, 2002). The public flight from complexity is disappointing in a politician, but not entirely surprising. Politicians are elected to govern, not lead seminars. What is more disappointing is the quality of some of the evaluations commissioned and influenced by government departments and bodies, let alone the way in which some of more of the more reputable studies have been ‘spun’ by the media managers (Wilcox, 2003). The evaluation of Youth Offending Teams conducted by Holdaway *et al* (2001), moreover, appeared to base its view of ‘evidence-based’ practice on the more conservative intellectual orthodoxies in vogue at the Home Office and Youth Justice Board. Even if one sets aside the important debates about what actually constitutes valid ‘evidence’, there remains an uncritical acceptance of the Youth Justice Board’s priorities in some of these ‘official’ evaluations of Youth Offending Teams.

The Youth Justice Board's apparent desire to create a compliant and homogenised practitioner culture is also a cause for concern. The data presented in later chapters show that practitioners are generally not hostile to the 'what works' agenda. Rather, they reject some of the simplistic solutions in vogue (Tilley, 2001) and resist the idea that vulnerable young people should be tram-lined into ready made and approved 'evidence-based' packages of intervention. The consumption of such 'convenience products', though tempting, was considered by many to be unhealthy.

Thus far the government has achieved some success in shifting responsibility for crime to children, parents and communities. One suspects, moreover, that the ultimate responsibility for the government's youth justice policy will be borne by those charged with delivering it on the ground. The former Conservative Home Office Minister, Michael Howard, famously drew a distinction between responsibility for *policy* decisions and *operational* matters. Thus, the policy for a government might be that pigs will fly. The *operational* practicalities of exactly how these pigs will fly, however, is a challenge that is best met by professional practitioners: in this case, pig farmers. This is a distinction that continues to serve the present government well. The problem is that it is sometimes difficult for the wider public to appreciate where policy responsibility ends and operational responsibility begins. Overloading Youth Offending Teams with multiple initiatives and endless targets is a useful tactic for ensuring that attention is focused on those with responsibility for delivering policy. Meanwhile - to return to the 'steer and row metaphor' - everyone might be rowing very hard, but the direction and ultimate destination remain unclear. At times, it must surely feel to practitioners as if they are rowing in ever decreasing circles.

3.5: Wales: New Labour's Nuisance Neighbour?

Although England and Wales have shared the same legal system since the Act of Union in 1536, it is important to note that the constitutional relationship between the two countries has changed since 1999. Since that time Wales has had an elected National Assembly empowered to make autonomous decisions about a whole range of important

economic and social policy matters. Although the Assembly does not enjoy the same primary legislative and tax-raising powers as Scotland, operating as it does within the framework of secondary legislation, it has been possible for the Assembly to establish a distinctive political agenda. The First Minister, Rhodri Morgan, has spoken rather heretically of his desire to put “*clear red water*” between Cardiff and London. Whilst this may have been an example of pre-election ‘spin’, the rhetoric is not entirely without substance. It is worth noting for, example, that the Assembly has rejected the Blairite agenda of Foundation Hospitals, specialist and additional tuition fees for higher education students, school league tables and testing in primary schools. Instead, for example, it has introduced maintenance grants for low income students, abolished prescription charges for those aged below 25 years and provided free dental checks for those aged over 60 years and those under 25 years. Its most significant achievement for young people to date has been the establishment of the office of a Children’s Commissioner for Wales. This is a post in which extensive powers of intervention and inquiry are vested. Although Welsh Labour – the largest party in the Assembly – has not exactly been a ‘neighbour from Hell’, it has on occasions become something of a nuisance for Prime Minister Tony Blair. It could be argued that the Welsh post-industrial heartlands are incorrigibly Old Labour in outlook, particularly in their attitudes towards the public sector. This is duly reflected in many of the policies pursued by Welsh Labour in such areas as Health, Education and Social Services. When opposition parties, or dissident backbenchers, wish to irritate New Labour ministers, a favourite ploy is to ask why the Welsh and Scottish Labour Parties are pursuing different policy agendas in their respective countries. At a more serious level, though, differences in political philosophy between the two countries are becoming more marked. The nature of the debate within the Assembly is discernibly different to that of Westminster. As Davies (2003: 2) observes:

“While Tony Blair stresses the role of the market, praises the efficiency of the private sector and emphasises consumer choice, politicians’ language in Wales is more likely to refer to citizenship, equality of outcome, universality, collaboration rather than competition, and public rather than private provision.”

This is not to suggest that the rhetoric of Welsh Labour has always been translated into

action. The Welsh Assembly Government's widely praised rights-based youth policy, embodied in *Extending Entitlement*, has perhaps not been delivered as effectively as might have been hoped (Haines *et al*, 2004; and Williamson, forthcoming). Nevertheless, the sense of policy being 'made in Wales', as opposed to imported from Westminster, is palpable.

Although Home Office powers (police, probation and prison services) were not devolved to Wales in the constitutional settlement of 1998, the Assembly does hold responsibility for some of the services from which Youth Offending Teams recruit staff (Social Services, Education and Health). It is, therefore, significant that the Assembly initially chose to locate youth justice services in the portfolio of Health and Social Services rather than Crime Prevention and Community Safety; a decision made with the conscious intention of promoting a child-centred ethos in the Youth Offending Teams. The Assembly document, *Extending Entitlement*, located youth offending clearly within the context of wider social problems,

"...government policies have tended to focus on only one manifestation – the offender, the homeless young person, the school refuser and so on, and that particular policy context defines the problem rather than listening to the young person to see things more in the round and address the underlying causes."
(National Assembly for Wales, 2000: 23)

Subsequently Jane Hutt, former National Assembly Minister for Health and Social Services, in launching the Youth Offending Strategy Group, reaffirmed the Assembly's prioritisation of children's needs and added,

"It presents a real opportunity to establish valuable cross-cutting lines between the Youth Justice Board's criminal justice responsibilities and the Welsh Assembly government's devolved duties in respect of the social well-being of young people, including health, education, training and employment."
(National Assembly for Wales, 2002)

Following the Richard Commission (2004) it seems the Assembly's powers will be extended, though not in the precise ways outlined in the Report's recommendations.

However, it is widely anticipated that youth justice services will eventually be devolved to the National Assembly for Wales. This will create the possibility of another area of policy in which fissures could open up between London and Cardiff.

3.6: Conclusion: Reflections on the Policy Context

Whilst approaching the research tasks with an ‘open mind’, I have hopefully not been completely ‘empty headed’. It would, after all, be absurd to claim some kind of spurious immunity from beliefs, values and personal experience. My background as a practitioner and manager in the field has undoubtedly impacted upon the way in which the issues have been constructed in this and other chapters. It has also affected the way in which I perceive my responsibilities as a researcher. Whilst it is obviously my aim to present a cogent analysis of the relationship between the public care and youth justice systems, I also consider it important to address the practical question of, to borrow a phrase, ‘what is to be done’ (Lenin, 1964). The implications of the analysis for practitioners, managers and policy makers are never far from my concerns. What is also of great interest is the scope – albeit diminishing – for practitioners to still use a degree of autonomous judgement and *discretion* in the implementation of policy (Evans & Harris, 2005; Gelsthorpe & Padfield, 2003; Lipsky, 1980). The death of professional discretion is much exaggerated.

What preliminary conclusions and lessons, then, can be drawn from the youth justice experience in England and Wales as set out in Chapters 2 and 3? Ideally, the starting point should be the international conventions to which the UK is signatory. As previously mentioned, Article 1 on the *Conventions on the Rights of the Child* states that, a child is defined as a person who has not yet attained the age of majority. The age of criminal responsibility should therefore be raised accordingly and the *United Nations Minimum Rules for the Administration of Juvenile Justice* – more widely known as the *Beijing Rules* (United Nations, 1985) - applied. As has already been argued, the essentially *political* case for constructing those below 18 years of age as children is

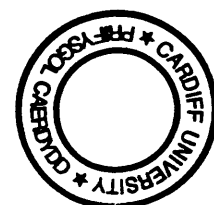
enhanced by considerations based on *personal human development* grounds as well as wider *structural* and *social* relations. This *enhanced* position implies a *Child First, Offender Second* criminal justice philosophy.

In a context in which the age of criminal responsibility is ten years, a *Children First* philosophy entails diverting as many young people from the criminal justice system as possible. For those young people whose offences cannot be ignored – because of their persistence or seriousness – a tariff of graduated community-based sentences should be available. Such sentences, however, should maintain strong community links. As far as possible, *health* and *welfare* needs should not be met by the criminal justice system; rather, *health* and *welfare* needs should be met by mainstream, universal *health* and *welfare* services. The principle of *normalisation* should underpin work with all young ‘offenders’. The aims of effective individual personal rehabilitation and community reintegration are best served by this principle.

Of course, Britain may not be an ideal place in which to promote such policies and practices. Popular culture - or more precisely dominant *representations* of popular culture (Hough & Roberts, 1998; Jewkes, 2004a and 2004b: and Mason, 2003) – is still deeply imbued with a strong belief in punishment; and for most people, punishment means prison. The ‘symbiotic relationship’ (Jewkes, 2004b: 68) between politicians and journalists results in a public discourse that reinforces punitive attitudes towards offenders. For the most part, punishment is delivered via custodial measures (Gillespie & McLaughlin, 2003). Foucault’s (1991a) observation that in the case of custody “*failure never matters*” certainly remains relevant to contemporary British attitudes towards crime. England & Wales has consistently had the highest per capita rate of imprisonment in the European Union (Howard League Website). In December 2003 the total prison population stood at 74, 084: 10, 935 were below the age of 21 years and just below 3,000 were children (i.e., below 18 years). The statistic that 84% of children are reconvicted for another offence within two years of release from a custodial sentence has done little to dislodge popular beliefs about the efficacy of prison (National Audit Office, 2004). Bearing in mind that, based on 2003 estimates, it cost approximately £21,000 per annum

to keep a young person in custody, imprisonment most certainly does not offer value for money (National Audit Office, 2004). Britain's macabre love affair with the prison distorts the rest of the youth justice system and siphons valuable resources away from community-based sentencing options and mainstream welfare support services. In 2002-03 268, 500 offences were committed by young people aged 10-17 years in England and Wales. Some 73, 700 young people received Reprimands or Final Warnings from the police. The Youth Courts administered a total of 93, 200 sentences. The sentences comprised 59,400 non-custodial sentences and approximately 7,000 detentions in custody. Custodial sentences, however, accounted for over two thirds of the Youth Justice Board's' £394 million budget for the financial year of 2003/4. By any reasonable standards of accountancy, this represented profligacy with public money. More importantly, though, it also represented a waste of young lives.

Custody is, of course, a risk-filled environment. The culture of assault, bullying and intimidation that exists in many custodial institutions for young people is well documented (Ramsbotham, 2001a; Ramsbotham, 2001b; Goldson, 2002a). The high incidence of peer abuse, self-harm and suicide is monitored closely and publicised by penal reform groups and children's charities (Howard League Website; Children's Society Website; Barnardos' Website). One of the institutional practices causing great concern is the routine use of solitary confinement. Between April 2000 and January 2002 3,776 children were held in segregation cells, of whom 976 were held for more than seven days. It was against this background that the United Nations Committee on the Rights of the Child (2002) expressed concern about the high numbers of young people detained in custodial institutions. The figures on any given day hover around 2,700 – 3,000 in respect of those aged under 18 years and 10, 800 – 11,000 (Howard League Website) for those aged under 21 years. It should be noted that there was particular concern for girls because they were denied access to separate juvenile provision. Consequently, they were compelled to mix with adult female prisoners – often a long way from home (girls from Wales, for example, have to be transferred to English institutions which, in some cases, raise issues of language services). There are also around 400-500 children in custody awaiting trial (Howard League Website). One



survey of 4,000 young people highlighted the vulnerability of a significant minority of those in detention: 340 were experiencing mental health problems; 318 had attempted suicide or self-harmed; 252 were the victims of bullying; and 27 cases involved child protection issues (Children's Society Website).

It is important to acknowledge that there have been critics of Britain's custodial arrangements for children at the heart of the British establishment. The former Chief Inspector of Prisons, General Sir David Ramsbotham, published a series of damning Reports in which he expressed concern about the safety of young prisoners. He also wondered,

"...whether child protection procedures should not apply in a situation where institutional arrangements are themselves intrinsically abusive."
(Ramsbotham, 2001b: 57)

The UK government argued, however, that children in prison were not protected by the Children Act 1989. Sir David Ramsbotham and the Howard League challenged this position. The outcome of a judicial review upheld the challenge. On 29th November 2002, the High Court judged that the Children Act 1989 **should** apply to children held in prison custody. Mr. Justice Munby said that the Howard League had,

"...performed a most useful service in bringing to the public attention matters which, on the face of it, ought to shock the conscience of every citizen."
(The Howard League Website: accessed in December 2002)

This landmark decision means that the welfare of those aged below 18 years are now of "*paramount concern*" to those charged with a duty of care. Social Services Departments now have responsibilities regarding the assessment of children's welfare needs and, where applicable, child protection.

The issue of custody, of course, is not simply about the brutalising and dangerous environment to which many vulnerable children are exposed. Rather, it is the notion that

custody is the default-setting for British society in its dealings with challenging and difficult children. Does the youth justice system's punitive response to those who offend actually expose the disciplinary impulses of an essentially carceral society (Driver, 1984; Foucault, 1977; Gandy, 1993)? To what extent can those institutions that deal with young people outside the prison walls – including those with welfare and educative functions – actually be said to be 'tainted' by the condition of carceralism? These are questions that will be addressed in subsequent chapters. At this juncture, it might be worth citing just one example. The public 'debate' about young drug addicts is a case in point. Some people regard drug addiction as a 'self-inflicted' problem that should not command the precious resources of the National Health Service. Perversely, it has now become politically easier to argue in favour of drug rehabilitation for young people when it is integrated into criminal justice packages of supervision and surveillance. What could be regarded as an essentially public health issue is now at the heart of the crime reduction/management and community safety agenda. The criminalisation of social policy makes many practitioners uncomfortable. However, there is a dilemma here. If the Youth Justice Board and Probation Service can attract money to meet at least some of the health and welfare needs of socially excluded and sick young people, then maintaining a position of ideological purity may be unhelpful to this vulnerable group. Political pragmatism does not necessarily involve jettisoning all principles. However, the application of those principles in such as unpromising policy environment requires considerable thought, care and skill if young people's well-being and liberty are not to be endangered. We must be very sure that the help offered to young people does not ultimately cause them even greater harm. The first principle of welfare is surely to avoid inflicting further damage.

The youth justice system has long accommodated the tension between welfare and punishment. Currently that system appears to privilege the construction of 'offender' above that of 'child' or 'young person'. This is not to suggest that welfare needs are ignored. Indeed, under the present arrangements when welfare needs are found to be coterminous with criminogenic risk factors, there is very often active engagement with these issues. As has already been suggested, however, there are intrinsic risks associated

with the criminalisation of social policy and welfare service delivery.

Defenders of New Labour's Third Way project point to the positive commitment to social inclusion in youth justice policy – and they are right so to do. That said, the paradoxes of policy formulation and presentation smack of intellectual confusion at worst and *realpolitik* at best. Politicians are seldom motivated solely by philosophical ideas. They will react to the representations of competing interest groups, the exigencies imposed by the size of budgets, results from the latest focus groups and – of course – the tyranny of 'events'. As has already been suggested, the search for policy coherence is possibly a somewhat futile exercise. An analysis of any given policy initiative, statute or government press release reveals, at best, a snapshot of the balance of arguments at a specific point in history. Youth justice policy has, though, long been informed by competing discourses. Muncie (2004: 302) has, for example, identified an ongoing struggle between such discourses as 'welfare-paternalism', 'liberal justice', 'neo-conservative remoralisation', 'neo-liberal responsabilisation', 'neo-conservative authoritarianism', 'managerialism' and 'human rights'. This particular taxonomy could, of course, be challenged. There are two important points that should be made here. Firstly, discourses are not static; they are always 'in development'. Secondly, whilst some discourses may be dominant at particular times in history they seldom eclipse the other discourses completely. Indeed, discourses usually exist in combination with other discourses: sometimes in a relationship of complementarity, at other times more paradoxically. Youth justice discourses have, indeed, long been characterised by a sense of hybridity (Muncie & Hughes, 2002). Taken as a whole, New Labour's criminal justice policy is essentially eclectic. It contains welfarist, rehabilitative and socially inclusive elements as well as a strongly punitive and stigmatising dimension. This state of affairs does, however, offer practitioners and managers 'free spaces' within which to construct their own discourses and professional responses to young people at odds with the law. The chapters that follow describe some of these responses.

Chapter 4: Research Design and Methods

4.1: Introduction:

This chapter seeks to show the ways in which the research questions have been subdivided into discrete discussions on Interviews (4.7.1), Focus Groups (4.7.2), Observations (4.7.3) and Documents and Texts (4.7.4). Section 4.8 deals with the Analysis of the data. Section 4.8 concludes the chapter.

4.2: Research Aims and Questions: Section 4.2 represents a re-statement of the research aims and related questions. Section 4.3 describes the research site and discusses key issues in respect of access. Section 4.4 presents the research design and strategy. Included in this is an explanation of the sampling strategy used. Section 4.5 represents a brief commentary on the preparation undertaken prior to fieldwork. Section 4.6 explores the ethical considerations. Section 4.7 details the methods used and is

It will be recalled that when the research project was originally conceived, the relationship between the two systems was cemented at an institutional level - in the sense that social workers employed by the local authority Social Services Department were responsible for children in public care **and** young offenders. What was envisaged originally was an exploration of how these different systems were mediated by a common organisation. Although the research site was subsequently 'desecrated' by reform - with the formation of an institutionally distinct Youth Offending Team - the first two inter-linked questions remained essentially the same. Firstly, what was the nature of the relationship between the public care system and the criminal justice system? Secondly, how did such discourses as 'welfare' and 'punishment' influence what happened to young people with care backgrounds in the youth justice system? A related question was how the public care system constructed and dealt with young people once they had entered the criminal justice system. As access was denied to Social Services' Children's Services Team this was a question that could not be addressed directly. Nevertheless, Chapter 5 does offer some tentative answers. The third research question emerged in the

wake of the Crime and Disorder Act 1998: how did the youth justice reforms impact on practice at ground level?

4.3: Research Site and Access:

In order to preserve the anonymity of the research participants and the local authority concerned, the profile of the geographical area it serves is presented in deliberately vague terms whilst the names of the key actors have been changed. Suffice to say, Porthglo is an urban district of Wales within which there are areas of affluence and deprivation. As such, it was selected as an appropriate research site as it was likely to produce a suitably diverse range of cases for study. A more pragmatic reason for selecting Porthglo was that the Youth Justice Team's senior manager, Robert Quinn, was known to be sympathetic to research. As noted in Chapter 1, though, access to Children's Services in the same local authority was refused. This inevitably meant that the focus of the fieldwork was the Youth Justice Team (and later the Youth Offending Team).

My initial contact with Robert Quinn was by telephone. We had a conversation about the research proposal and a meeting was arranged where we discussed the research aims, methods and access to service users and professional staff. This was followed by a formal letter to a senior manager in Social Services in which access was requested (Appendix 14). After some considerable delay, a reply was received. Whilst access to Children's Services was refused, fieldwork in the youth justice team was eventually permitted. Following a further meeting with Robert Quinn it was agreed that I could have access to case files and – subject to their consent – interview professional staff, young people and their parents. As far as service users were concerned, Robert Quinn stipulated that access should be negotiated with the case-holding social workers. I should draft a comprehensive letter to the young people and their parents that would then be delivered and explained to them fully by the practitioners. This was seen as being essential in terms of gaining informed consent. It was a requirement, moreover, that – where practicable and appropriate - at least one parent should give their consent before a young person was interviewed. In some cases, moreover, the practitioner would have a

right of veto where it was considered that service users were too vulnerable to participate in interviews. Another requirement was that interviews should be conducted in 'safe' venues. This would include interviewing rooms at offices, residential units and custodial institutions. Where a young person was being interviewed at home, the social worker (or someone delegated by the social worker) should be in close proximity. The Porthglo Office was itself divided into a number of teams. Robert Quinn suggested that the fieldwork be based in the Supervision Team as it managed the cases of young people who were subject to Supervision Orders and custodial sentences (and subsequently Probation Orders/Community Rehabilitation Orders, Action Plan Orders, Reparation Orders and Detention Training Orders). Jan Smith, the manager of this Team, was designated as the person with whom I would liaise on the day-to-day management of the fieldwork.

Jan Smith proved to be an invaluable sponsor and gatekeeper. Quite apart from having a very thorough knowledge of the youth justice system and social services, she knew the cases of the young people thoroughly. Jan Smith also provided swift feedback on such matters as the suitability of letters to research participants and interview guides. It was subsequently discovered that she was valued and liked by both practitioners and senior managers. I was duly invited to a Team meeting where I outlined the research aims and methods. The Team members were friendly and receptive. Some also made some helpful suggestions about how the fieldwork might be conducted.

The pace of the fieldwork (late 1999 – 2002) was extremely slow. Three reasons can be cited. Firstly, I was registered as a part-time student. Although I was employed by the university (initially on short, fixed term contracts with summer gaps in employment) my other work commitments were full-time. During gaps in employment, moreover, other employment had to be sought (e.g., PSR-writing for the Probation Service). This meant that even though I had full access to case files, my visits to the Porthglo Office were somewhat episodic. This created a problem of research momentum. Secondly, access to the young people was very difficult. Some young people had no interest in participating, some parents refused permission and some social workers vetoed direct contact with their clients. Even in cases where young people agreed to be interviewed, quite often they did

not materialise at the appointed hour. The chaos and instability of their lives, combined with my own lack of flexibility regarding availability, made the whole process very difficult. Thirdly, my research was not a high priority for the practitioners in the Team. It was quite clear that some young people and parents had not been contacted about my research. When, in 2002, a colleague at the university volunteered to cover some teaching for me, I was freed up to spend more time at the Porthglo office. I had, by this time, resigned myself to conducting an essentially documentary analysis. However, my almost continuous presence at the office over a four-month period not only enabled me to make substantial progress, but also reminded practitioners about the ongoing research. Gradually, opportunities to interview young people, parents and professionals were generated.

A formal re-negotiation of access was not required when the Social Services Youth Justice Team transmuted into a Youth Offending Team. Ongoing access was assured when Robert Quinn was appointed as manager to the new YOT. Nevertheless, negotiating access is, to coin a phrase well-known in Wales, 'a process not an event'. Consequently, great care was taken to ensure that the new arrivals from other agencies understood and agreed to participate in the fieldwork. Some of these access issues are dealt with in more depth in Section 4.4, whilst the subject of field relations is considered in relation to a discussion on Observation (Section 4.7.3).

4.4: Research Design, Strategy and Sampling

Hakim (1997:1) draws upon the metaphor of building construction in making the distinction between 'design' and 'methods':

"Design deals primarily with aims, uses, purposes, intentions and plans within the practical constraints of location, time, money and availability of staff. It is also very much about style, the architects own preferences and ideas...."

'Methods', meanwhile, "*...are about how to get there, once the goal is defined or chosen (and can be as dull as a description of how to bang a nail on the head with a hammer).*"

Bryman, also draws a distinction between ‘design’ and research ‘strategy’. The former is “...a framework for the collection and analysis of data” (2004: 19), whilst the latter is defined as “a general orientation to the conduct of social research” (2004: 19).

The ‘strategy’, or ‘orientation’, of this researcher was qualitative. Typically, this could be represented as “*inductivist, constructionist and interpretivist*” (Bryman, 2004: 266). In other words, theory is generated from the data; it is assumed that social ‘reality’ is negotiated through the interaction of social actors; and research attempts to understand the meanings of social worlds from the perspectives of participants who inhabit those worlds. I would, however, wish to qualify my subscription to this statement of position. Firstly, theory cannot be generated exclusively from data. Even the most innocent researcher can never embody the *tabula rasa* implied by some versions of grounded theory (Glaser & Strauss, 1968). Whilst one’s intellectual baggage can be lightened through the adoption of an open-minded and reflexive approach, the stain of original theoretical sin can never really be erased completely. Such theoretical foreknowledge should, in any case, be viewed as a resource rather than a burden. Secondly, whilst the constructionist critique highlights the limitations of empirical realism, its more extreme versions fail to make adequate connections with material conditions. My position would, therefore, be closer to Hammersley’s (1992) ‘subtle realism’: an account that acknowledges external reality, but accepts that this cannot be accessed without recourse to intellectual and social constructs of one sort or another. On the third point, that of interpretivism, I am wholly committed to the project of seeking to represent research participants’ interpretation of their social worlds and the events that occur within them. However, it is important to state that I did not necessarily privilege their accounts or interpretations above those of my own - although I tried to ensure that their voices were always respected.

The strength of qualitative research is that it can explore social phenomena in greater depth and suggest the possible nature of the relationship between different variables and factors (Bryman, 2004: 460). The production of ‘thick description’ of social phenomena during fieldwork (Geertz, 1973) makes possible the development of persuasive

theoretical accounts of social processes. Conversely, given the often very small numbers involved, how can the knowledge claims of qualitative research be tested against the traditional criteria of representativeness, reliability and validity? Some (LeCompte & Goetz, 1982; Kirk & Miller, 1986; and Perakyla, 2004) have argued that it is perfectly possible to meet these criteria. Others, like Lincoln & Guba (1985), contend that other criteria need to be applied to the 'craft' of qualitative research practice. They propose the notion of 'trustworthiness' whereby each aspect of the concept mirrors the criteria applied in quantitative research: 'credibility' in place of 'internal validity'; 'transferability' for 'external validity'; 'dependability' for 'reliability'; and 'confirmability' for 'objectivity'. Silverman (2003b: 13), meanwhile, regards 'authenticity' as a central criterion of good qualitative research as the concept contains elements of both 'dependability' and 'confirmability'.

It is recognised that there are limitations to the adopted approach. Clearly, it would be misleading to generalise about the state of youth justice across the whole of England and Wales on the basis of such qualitative data. Youth Offending Teams obviously vary in terms of internal structure, management and staff profile. This, indeed, has been well highlighted by 'national' evaluations (Holdaway *et al*, 2001). Local cultures and traditions are also likely to impact upon practice on the ground. Having acknowledged the diversity that undoubtedly exists across Wales and England, it is equally important to recognise that there will also be commonalities. YOT's do, after all, share a number of organisational features and processes. They are, for example, all bound by a common framework of legislation, *National Standards* and guidance on practice (Home Office, 2000; Youth Justice Board, 2000, 2001 and 2002). It is therefore reasonable to conclude that the experiences of a Team in one corner of Wales will not be completely alien to other places in the UK.

The multi-method design framework adopted for the fieldwork focused on the cases of thirty young people and combined the following methods: semi-structured interviews with young people, parents, practitioners and a middle manager; focus groups with professional staff; an analysis of case files and other relevant documentation; and

ethnographic notes based on observations and informal conversations. Whilst the rationale for using these different methods was to achieve a measure of triangulation, it is not assumed that such an approach necessarily yields indisputable 'truths'. Nevertheless, approaching research questions via these different routes did result in an appreciation of the multi-dimensionality of the lives led and the issues raised.

During the period of fieldwork, young people with a background in public care comprised around a third of the caseload of the Supervision Team at any given time. Sometimes this rose to nearly half. The cases chosen for study were informed by principles of theoretically driven purposive sampling (Bryman, 2004: 333-335) and theoretical saturation (Glaser & Strauss, 1968). Following discussions with the key gatekeeper, a figure of thirty cases appeared to offer the possibility of accessing a broadly representative cross-section of the diversity of young people on the Supervision Team caseload. The term 'representative' is not used here in a strictly statistical sense, of course. Rather, I wanted the study to include young people with a variety of different, but broadly recognisable profiles: those subject, respectively, to Sections 20 and 31 of the Children Act 1989; those who had entered the care system prior to engagement with the criminal justice system, and *vice versa*; males and females; white Welsh and those from minority ethnic communities; the highly criminalised and the petty offenders; and those assessed as being highly vulnerable along with those considered to be more resilient. I also wanted the sample to be spread across the different case-holding practitioners as there were likely to be variations in supervisory style. Before selecting the cases I was briefed regularly by Jan Smith on the state of the Team caseload as whole. She gave me brief verbal synopses of the cases held by the different practitioners and highlighted those that were considered by her to be 'interesting'. It should be recorded here, though, that I did not always pursue the 'interesting' or more dramatic cases. It was considered important to study the lives of the more commonly overlooked and 'ordinary'. As the fieldwork progressed and some issues of importance emerged from the ongoing analysis and inquiry, I became interested in particular profiles. Thus, I requested cases in which such salient issues as education, mental health and substance use were prominent. The research relationship with the middle manager thus assumed an importance that went well

beyond matters of access. Her advice and guidance proved invaluable.

4.5: Preparation:

Preparation for the fieldwork took two main forms. The first involved a personal cultural biography (McCracken, 1988) and a reflexive audit of my intellectual influences (see Appendix 2). Through the use of reflexivity, researchers can heighten their awareness of the influences on their work. As Hammersley and Atkinson (1995:16) comment:

“Reflexivity...implies that the orientation of these researchers will be shaped by their socio-historical locations, including the values and interests that these locations confer upon them. What this represents is a rejection of the coda that social research is, or can be carried out in, some autonomous reality that is insulated from the particular biography of the researcher in such a way that its findings can be unaffected by social processes and personal characteristics.”

The second area of preparation involved reflecting upon how I might be perceived by research participants. As far as my dealings with professional staff were concerned, my own background as a practitioner and manager helped gain me easy acceptance amongst them. Although I had interviewed many young people in my role as a practitioner, more thought needed to be given to the possible ‘interviewer effect’; particularly as there was no opportunity to establish a rapport prior to the conduct of the interviews. Issues requiring forethought included physical appearance, age, social class, accent, sexuality, ethnicity and gender. The first thing to say is that young people can usually spot a fraud at considerable distance. Any attempt to be ‘hip’, trendy or streetwise would have been met with derision and perfectly understandable evasive action (Butler & Williamson, 1994: 39). Considering the impact of one’s actual and perceived age on young participants is also important (Pollard, 1987). In terms of appearance I was middle-aged and therefore older than the parents of many of the young people. My age meant that I could also not make assumptions about young people’s expectations regarding their transition to adult status or, for that matter, other social attitudes. The world was a very different place to the one in which I had grown up. Although I have a Welsh family background and reasonable command of the Welsh language, I have a fairly standard

English middle class accent (what used to be called BBC). To some people it may sound 'posh', whilst to seriously 'posh' people it probably sounds lower middle class. In my experience it has not been a huge disadvantage to working across social classes. Whilst there is sometimes an initial reaction to being perceived as English in Wales, or higher class elsewhere, this does not usually impede relations with others. Many service users, for example, have routine contact with English and/or middle class people: doctors, social workers and solicitors to name but three occupational groups. My accent may also have confirmed a preconception of what sort of people worked in universities. My dress, like that of colleagues in universities and social work offices, was generally casual but smart. I made no efforts to dress 'down' or 'up' for these ethnographic occasions.

The impact of one's gender on fieldwork relations probably requires more conscious reflection on the part of men than women (Morgan, 1981; Mckeganey & Bloor, 1991; Padfield & Proctor, 1996; Scourfield, 1999; and Scourfield, 2003). As Morgan (1981: 95) puts it, "*...the male researcher needs, as it were, a small voice at his shoulder reminding him at each point that he is a man.*" The way one 'performs' masculinity (Connell, 1995) is not only important in relation to girls and women, but also in respect of boys and men. My own tendency, for example, to strike up conversations about football with those young men wearing football shirts was certainly a good ice-breaker. However, there may also have been an element of establishing stereotypically solid, heterosexual common ground and reinforcing a bloekish agenda. *Post-Fever Pitch* (Hornby, 1991) men can now discuss their feelings through the discourse of the beautiful game without apology. Nevertheless, the way one 'does' masculinity with young men is an important consideration in the fieldwork process.

Despite all of this preparation, it should be mentioned that some of the fieldwork had an unexpected emotional impact. Despite being a fairly case-hardened social worker, I found myself 'caught out' emotionally a few times. This happened after a couple of interviews and also whilst reading some files. On occasions I was struck by the sheer sadness of what had happened to young people. At other times I was angry about the indifference of the systems that were supposed to be serving them. Although I did not

feel immobilised by these episodes, I was surprised by my strength of feeling. It is possible that being a parent had heightened my sensitivity to the young people concerned. It is also possible that the critical distance given to me by a post in a university had allowed me to perceive things a little more clearly. When one works in the human services, the emotional labour of one's work is not always appreciated at the time.

4.6: Ethical Considerations:

It was important to identify clearly the main ethical questions that had to be addressed in this research project. In addition to the ethical guidance provided by the British Sociological Association (www.britisoc.org.uk/about/ethic.htm), the Social Research Association (www.thesra.org.uk/ethical.htm), the British Society of Criminology (www.britisoccrim.org) and the Socio-Legal Studies Association (2004), this research project has been guided by additional reading in the field (to which reference will be made in this section). Given my own professional background, it is also worth noting that the various codes of ethics and statements of relevant professional bodies have had a significant influence; in particular the British Association of Social Workers (www.basw.co.uk), the International Federation of Social Workers (www.ifsw.org), the National Association of Probation Officers (www.napo.org.uk) and the National Association of Youth Justice (www.nayj.org.uk).

Ethical guidance to researchers (and, for that matter, practitioners) is based on shared values and an acknowledgement of often competing ethical principles. A rule book to cover every possible scenario is impossible and undesirable (Fletcher, 1966; British Sociological Association, 2002: Point 2, p.1). Ultimately, ethical issues must be decided on the basis of the reflexive interpretation and application of universal principles in specific situations. A delicate balance must be struck between the advancement of knowledge and the protection of the rights of research participants. The protection of vulnerable research participants may well be a paramount principle, but in social work and criminal justice contexts the principle can be used as a lazy rationalisation for not consulting disempowered service users about their lives. Moreover, sensitive areas such

as child protection and criminal behaviour cannot be researched adequately without engaging participants who have some direct experience of the issues. Whilst the routine exclusion of such potential participants is unacceptable, it does place a large responsibility on the researcher to make nuanced judgments about ethically complex situations. It needs to be recognised that this will necessarily also involve an element of calculated risk. It is not possible for the researcher to predict the outcome of her/his carefully weighted ethical decisions with complete conviction. Some people may be compromised or even harmed by the researcher's decisions. No risk assessment is watertight. The important thing is that the researcher has taken care to explore every option and assessed the likely impact of different decisions. Ultimately, though, the best that a researcher can do is make such judgments on the basis of the available information and act in good faith.

Dienar and Crandall (1978) have organised the main themes of research ethics under four main headings: harm to participants; lack of informed consent; invasion of privacy; and deception. These themes will be considered briefly in relation to the two populations studied in this research project: young people and practitioners/managers. As the relationship with the host organisation has to a large extent already been addressed in this chapter, the main focus will be on the ethical implications for research with young people.

The issue of harm to participants is dealt with extensively within the various guidances to professional researchers. The Social Research Association highlights the main issues:

“Social researchers must strive to protect subjects from undue harm arising as a consequence of their participation in research. This requires that subjects’ participation should be voluntary and as fully informed as possible and no group should be disadvantaged by routinely being excluded from consideration.”

(Social Research Association, 2003: Point Level A 4, p. 14)

A key element of avoiding harm is to allow participants to make a judgement about the degree to which they think the research may impact upon them personally. It needs to be acknowledged that research participants cannot always be relied upon to foresee the

potential harm that may result from engagement with the research process. This is not simply a matter of cognitive and emotional competence on the part of the person concerned, though that may be an issue, but also a question of specialist knowledge. The experienced researcher will usually have a much clearer idea about some of the hazards that may lie ahead for the participant. The duty of care to vulnerable populations is a particularly heavy responsibility (British Sociological Association, 2002 p. 4) and risk assessment and protective strategies need to be put in place accordingly. The young people who form the core of this study clearly belonged to a vulnerable population. Firstly, they were all children and young people. As such, their intellectual and emotional competencies were very much in the process of development. This is not to suggest that there is a definitive point of 'adult arrival', but children and young people are by definition still very much in the process of 'growing up'. The concept of 'developing competencies' referred to in previous chapters is therefore helpful, but notoriously difficult to operationalise in terms of assessment. Secondly, the young people concerned had – to varying degrees - experienced troubles, traumas and disadvantages. This further complicated the art of assessment regarding intellectual understanding and emotional vulnerability or resilience.

To a great extent the practitioners with case responsibility for the young people were able to make these kinds of judgements on my behalf. They gatekept my access to the young people on a case-by-case basis and made decisions about whether it was appropriate for them to be interviewed. They also made similar decisions in respect of vulnerable adult parents, such as those with mental health problems or learning difficulties. Whilst it is entirely possible that some practitioners were overly protective of their service users, I was more than happy to err on the side of caution. In some cases I was advised that an interview could be conducted, but was told to steer way from certain subjects. The mere fact that the professionals upon whom I relied for access made these key decisions on my behalf did not absolve me from personal moral responsibility, of course. Just as there are power differences that exist between social workers and their service users, so too there are "*disparities of power and status*" (BSA, 2002: Point 14, p.3) between researchers and participants from vulnerable populations. I was well aware of this fact and did my best to

level those differences (see Section 4.7.1). It is also sometimes difficult to predict the impact of ostensibly unthreatening and innocuous questions. Such emotional reactions have to be detected and responded to with sensitivity. Thus, if an interview threatened to become distressing I steered the conversation away to safer subjects. It should not be forgotten that at the point at which the fieldwork commenced I had already accumulated approximately 14 years of post-qualifying experience as a social worker. Thus, whilst the research methods literature and ethical guidance provided much excellent advice in relation to the issues of engaging with children (British Education Research Association, 1992; Lewis & Lindsay, 2000; Fraser *et al*, 2004; Lewis *et al*, 2004; and National Children's Bureau, ND), my own experience of working with vulnerable young people and adults was also an excellent preparation. It should be noted, however, that some young people had developed a degree of resilience and felt able to talk about things that must have stirred painful memories.

The case-holding practitioners of the service users interviewed also advised on the setting, support and debriefing arrangements that might be required. Many of the interviews took place in the Porthglo office and at people's place of residence. This allowed the case-holding practitioner to meet with the young people afterwards in order to gauge their reaction to the interviews. This arrangement was also possible with regard to interviews conducted in secure accommodation and custodial regimes (although I did have some reservations about the latter).

Given the nature of some people's backgrounds, the importance of protecting the anonymity of people's identities is a vital consideration. This goes beyond the requirements of data protection and human rights legislation in relation to the secure storage of data and the anonymisation of participants for the purposes of presenting findings (BSA, 2002, Point 36, p. 5). The Social Research Association highlights the limitations of these minimum standards of protection.

“Neither the use of subject pseudonyms nor anonymity alone is any guarantee of confidentiality. A particular configuration of attributes can, like a fingerprint, frequently identify its owner beyond reasonable doubt” (RSA, 2003: Level B,

Point 4.7, p. 38).

This is a complex and delicate area in which the interest of advancing our understanding of complex processes meets the obligation to protect the anonymity of research participants. The obvious solution is to present data in disaggregated form. However, if research is being conducted on individual career paths and trajectories, identifying key moments and critical decisions is an essential part of the strategy. An important, though not exclusive, element of my own fieldwork has certainly involved piecing together the broad outlines of individual careers and identifying key moments. Life History work or qualitative longitudinal studies that involve in-depth follow-ups of cohorts – as in Williamson (2005) - are jeopardised by too strict an application of the guidance given by the Social Research Association. Whilst all reasonable steps should be taken to protect the anonymity of the research participants, it is never possible to underwrite absolute guarantees.

In the research undertaken on this project, participants were informed of the measures that would be taken to protect their anonymity. Not only were pseudonyms used, but the location of the research site was also anonymised. I would also suggest that the individual lives represented here could have taken place anywhere in the country. Even those cases characterised by extreme features – such as the violent death of a parent – are sadly not as uncommon as some might have suspected. I did, though, refrain from including one case – originally on my list – because it achieved transient notoriety through the media. Although the individual could not have been identified, the area might have been easier to guess. In the presentation of the cases, moreover, I have taken some care to exclude gratuitous individual characteristics that might lead to identification. These reasonable steps to protect research participants are not necessarily full-proof, but they will hopefully be sufficient to frustrate even the most determined sleuth.

Although I have mainly been concerned with protecting young people and their families from harm, it has also been necessary to consider the potentially deleterious impact of the

research on the assorted professionals who participated in the fieldwork. The main source of potential harm was the possibility of my research uncovering bad practice and thereby causing harm to individual and collective professional reputations. In extreme cases it could potentially lead to disciplinary proceedings against members of staff. Whilst Robert Quinn had indicated that if I uncovered anything that might put a young or vulnerable person at risk I should report it directly to him (in line with the agency whistleblowing policy), he considered it inappropriate to receive reports on uneven practice. Any deficiencies in practice would, he hoped, come to light through routine supervision and appraisal systems in conjunction with National Standards monitoring.

The principle of 'informed consent' has, to some extent, already been dealt with above. Nevertheless, there are some additional issues that need to be mentioned. They mainly relate to the fact that, whilst all participants should have been informed about the nature of the research, no assumption was made about this having happened. The mere fact that someone had signed a consent form did not necessarily mean that they had understood fully the implications of their participation. Thus, obtaining permission from the various gatekeepers (managers, parents, etc.) was recognised as being the beginning of an ongoing process of negotiating access and obtaining consent (BSA, 2002: Point 25, p. 3).

When children and young people were interviewed I went through the details of the letter I had sent them via their case-holding practitioner and did my best to ensure they understood all of the implications. I also made it clear that they could decline to answer questions and even terminate the interview at any time. This procedure was also followed with parents and professionals. Likewise, although an assessment of competence of the young people concerned had already been made by the case-holding practitioner, I made my own judgements about their understanding and emotional resilience when I met them prior to the interview. If, during the course of the interview, the young person showed signs of being uncomfortable the line of questioning would change accordingly. Whilst social workers and other professionals may be capable of making judgements about general competence, the young person's reaction to the situated event of an interview with a stranger cannot be predicted by anyone with complete confidence. Competence is

not a fixed state of being; it is both relational and socially constructed. As France points out, “*Competence is variable and very much determined by processes of social interaction and negotiation*” (France, 2004: 181). Moreover, there are obviously different domains within which different levels of competence will be performed (Dockrell *et al*, 2000). Thus, the cognitively advanced 15-year old who presents as very ‘streetwise’ and ‘knowing’ can also be emotionally immature and vulnerable. The importance of being an attentive listener and watchful observer are fundamental in all interviewing, but with children and young people it is vital. During the course of interviews I did my best to track the responses (including visual cues and body language) and checked out how the young person was feeling at appropriate intervals. The unexpected rawness of some parents’ emotions about past events also had to be handled with the same degree of sensitivity.

The issue of privacy and confidentiality was dealt with in terms of the secure storage of data and the protection of anonymity. However, there are some aspects of the research process that could conceivably be considered as invading participants’ privacy. It is possible, for example, that interviewees might reveal more about themselves and their actions than they had planned. In all candour, I don’t think that this happened in any of the interviews conducted. Apart from the fact that great care was taken to handle the whole process sensitively, no complaints or issues arose out of the debriefing sessions. The fact that there were no complaints from the practitioners - a generally self-confident, assertive and articulate population – suggests that these interviews did not transgress the said boundaries.

One area of some concern, though, relates to my access to agency files. Although the letter to research participants mentioned that I was studying case files, the young people and their families had no right of veto. They were, in effect, presented with a *fait accompli*. Although the agency had given me permission to study the files, and this form of research access did not in any way breach Data Protection legislation, the Social Research Association guidelines issue some challenges to this form of fieldwork practice (RSA, 2003: Level B, Point 4.3.C, p.32). On a practical level, it would have been

extremely difficult to secure the permission of those on whom the files were maintained. Frustrating access to this rich source of data would probably have jeopardised the whole research venture. Nevertheless, it has to be acknowledged that these files contained highly sensitive personal information. The knowledge that I had perused the painful details of their personal lives must have felt, at the very least, uncomfortable – particularly as the service users would have been denied access to some parts of their files.

My defence of documentary analysis without actively seeking prior permission is essentially pragmatic. The research project would have been virtually unviable had I been denied access to files. However, the way in which I presented the research project to young people and their families hopefully made it clear that this was not an exercise in voyeurism. The focus was on the way two powerful systems managed young people with often severe problems and difficulties. Implicit in my letter was a critical stance towards those systems. When I met with young people and parents, I mentioned the files in passing but made it clear that I wanted to hear their side of the story that may, or may not, concur with the official version of events. It was also made clear that I wanted to know their views about the ways the two systems worked. By presenting my approach in this way it was hopefully clear that I was not there as a prurient judge of their lives, but as someone who simply wanted to know how they had been affected by the public care and criminal justice systems. As such, this was an exercise in redressing power imbalances through giving them a voice that would not be muffled by official accounts. Whilst one would not wish to over-state the extent to which service users actually felt empowered by this process, the stance taken by this researcher was hopefully perceived as being committed to representing their views accurately.

The issue of privacy did not arise so much in the case of professionals. Whilst the interviews probed areas of practice that may, at times, have felt uncomfortable, the questioning was directed at professional issues rather than personal matters. Likewise, professionals may have felt exposed by the files for which they were responsible. Poorly maintained files may well have been mildly embarrassing for practitioners, but were

hardly intrusive. Unlike managers, I had no power or interest in reprimanding staff for poor record-keeping. These files, though confidential, were not the private property of individual practitioners. They were the property of the agency and could be accessed by colleagues. The issue of privacy did not, therefore, arise with any great significance in respect of this group.

Diener & Crandall's (1978) final area is the use of deception in social research. The Social Research Association urges "*extreme caution*" (SRA, 2003: Level B, Point 4.3.D, p. 33), but does not rule it out completely. The case for covert research can be made in such cases where if the researcher were to declare herself/himself openly, then it would endanger personal safety and preclude the successful completion of fieldwork. This argument could be used for Fielding's research on the National Front (1981; and 1982). There is also, of course, a responsibility to "*...minimise disturbance both to subjects themselves and to the subjects' relationships with their environment.*" (SRA, 2003: Level B, Point 4.4, p.35). Moreover, "*Clear methodological advantages exist for deception ...where revealing the purpose would tend to bias the responses*" (SRA, 2003:, Level B, Point 4.3.D, p. 34). Deception, however, does not necessarily have to be on the grand scale of the 'undercover researcher'. The minor deceptions of the average researcher are comparable to the daily dissimulations of everyday life. It is, therefore,

"...unrealistic to outlaw deception in social enquiry as it would be to outlaw it in social interaction. Minor deception is employed in many forms of human contact (tact, flattery etc.) and social researchers are no less likely than the rest of the population to be guilty of such practices. It remains the duty of social researchers and their collaborators, however, not to pursue methods of enquiry that are likely to infringe human values and sensibilities."
(SRA, 2003: Level B, Point 4.3.D, p. 34)

On the whole I believe the research undertaken on this study was conducted in a transparent and ethically sound fashion. However, the strategy of observation was not declared in the original proposal and nor was it disclosed when it was used covertly at a later stage. This aspect of the fieldwork occurred mainly during the latter period when I was able to base myself for extended spells in the Porthglo office. Eavesdropping informal conversations between practitioners and overhearing them make telephone calls

most certainly contributed to my understanding of the way the job was done as well as the processes at work in the Team. It was impossible for my view of practice not to be influenced by these interactions in the workplace. When I started writing these comments down and adding my own questions and ideas, I was effectively formalising the process of covert observation. At the time I justified this to myself as merely being an extension of Jan Smith's invitation to 'get to know the team' through team meetings, social events and generally hanging around as much as I could. I was also concerned that if I told people I was jotting down quotations and ideas based on their informal conversations, then I would affect the dynamics of the workplace adversely: people might avoid me, stay quiet or move their discussions to the tea-room. My presence would thus risk becoming an unacceptable intrusion into the normal and healthy operation of the workplace environment as well as hampering my own research. In the circumstances, I kept quiet and kept notes. Pithouse's study of a social work childcare team, based on individually taped interviews with practitioners and participant observation techniques, confronts the same ethical conundrum (Pithouse, 1998: 185-186). The kind of office 'case talk' analysed by Pithouse ultimately helped to reveal how difficult judgements and decisions were made about complex cases. One must always be cautious about advancing a 'means justify the ends' argument, but the means should in part be judged by the overall importance of the research aims.

Two further areas of research practice require some comment: sensitive issues that relate to research in the criminal justice system (King & Wincup, 2000); and, the question of making payments to research participants. Firstly, the fact that one is conducting research with people who have broken the law means that there is a possibility that they are still involved in offending. Merely placing a person on a statutory order does not automatically remove the reasons for offending. A supervisee may be receiving help for an addiction problem, but the risk of re-offending will still remain high. Thus, it was my assumption that many of the young people I interviewed were probably still involved in crime. As a researcher I was not concerned with interrogating them about their current involvement in criminal activity, nor did I wish to know if they were planning a burglary. Any passing allusions to current involvement in offending (such as use of illicit drugs)

were ignored by this researcher as the principle of confidentiality was applied in such confessions about lifestyle. In the unlikely event of being made aware of serious offences involving injury or severe harm to the service user or others, then the public interest principle would clearly need to be considered. My first point of referral would have been the case-holding practitioner. It should also be borne in mind that offenders, particularly young people, are vulnerable to having their rights violated by those in authority over them. It is not, therefore, a question of thinking in crude terms about the ethical dilemma thrown up by contact with the 'criminal classes'. The Socio-Legal Studies Association (2004) incorporates this insight into its ethical guidance on issues of confidentiality and the public interest (Socio-Legal Studies Association, 2004: Point 5.1.3).

Secondly, the young people were offered music store vouchers if they participated in an interview. 'Payment for participation' is not an unusual principle in social research – even with young people. Nevertheless, a curious double standard sometimes emerges in respect of those participants who live on the edge of the law. Funding bodies sometimes refuse payments to such populations on often spurious ethical grounds. Wardhaugh responds to such attitudes in relation to a research project amongst street homeless people.

"In paying homeless people for their time we were reversing the more usual emphasis on the researcher entering the world of the researched, and instead brought them a little way into 'our' world, with its emphasis on the dignity of employment and economic reward for labour."
(Wardhaugh, 2000: 319)

Of course, the concern with the particular population with whom I was involved was about whether they might be tempted to 'sell their stories' for music store vouchers when it was not in their interests so to do. The additional point therefore needs to be emphasised that the young people were, to a very great extent, in control of how much they told me. One young person asked me whether he would get the voucher if he refused to answer all of my questions and then walked out after two minutes. I replied that would be fine. In fact he gave me thirty minutes of his time. On balance, therefore, I

felt the offer of a voucher rewarded young people for their involvement in the research project without compromising ethical principles of sound research.

4.7: Research Methods:

In this section of the dissertation the research methods used in this study are considered in turn.

4.7.1: Interviews

Whereas observation permits the unobtrusive collection of data about everyday routines and interactions in the workplace, the semi-structured interview facilitates a more focused form of inquiry. It also, of course, affords research participants the opportunity of speaking for themselves. Overall, a total of 41 one-to-one interviews were conducted: 27 with 15 professional staff; 11 with young people; and 3 with parents. Additionally, three focus groups/group interviews were undertaken (see Section 4.3.6). The focus groups included professionals who were not interviewed on a one-to-one basis. The number of interviews fell within the range stipulated by Warren (2002), but was well short of Gerson & Horowitz's (2002) recommendation of a minimum of sixty. Having said that, of course, the interviews represented only one dimension of the data. Apart from four interviews, all were tape recorded and transcribed. Of the four interviews that were written up on the basis of notes, three were with young people and one with a practitioner. Only one of the interviews written up *post hoc* was verified afterwards by the interviewee, although all were offered this option. The young people and their parents proved to be a difficult population with whom to engage. Consequently, it was not easy to arrange such follow-up sessions where my notes could be checked against their recollection of the interview. Most simply seemed happy to trust me to record the encounters accurately.

Semi-structured interviews were preferred to a more structured format for a variety of reasons. Firstly, it enabled questions to be put in an age appropriate manner. Secondly,

the use of an interview guide (with optional prompts and probes) - rather than an interview schedule - allowed for greater freedom and flexibility for both interviewer and respondent. Thus, whilst common topics were covered in all interviews, subjects could be covered in a different order and interviewees had wide discretion to answer questions on their own terms. By the same token, the interviewer could pursue new lines of inquiry that opened up during the course of the interview. Semi-structured interviews simultaneously offer the advantages of breadth and focus.

The initial drafts of the interview guides (Appendices 6-10) were developed mainly on the basis of my own research questions. The areas covered in the guide were based on reading of the relevant literature as well as my own experience as a practitioner. These initial drafts were shown to Jan Smith who provided useful comments on how to improve the guide. Although the core elements of the guide remained the same, it did go through several versions in light of the experience of actually conducting the interviews. This process is captured by Beardsworth and Keil (1992: 261-2):

“...the open-ended, discursive nature of the interviews permitted an iterative process of refinement, whereby lines of thought identified by earlier interviewees could be taken and presented to later interviewees.”

The interview guides represented the ideal format for an in-depth interview. It will be noted that the guides combine questions concerning basic information (e.g., age, how long in current post, etc.), knowledge of important matters (e.g., why received into public care) and opinions (e.g., from specific topics to the very general). Some use was also made of basic scales and rank ordering and participants were then invited to elaborate on their answers. It should be noted that the use of scales was dropped from the interview format as it seemed to disrupt the natural flow of the dialogue.

It should be mentioned that in the case of young people and parents, the interviews were adapted to the individual. Beforehand I briefed myself on the case of the young person by consulting the file and discussing the salient issues with the case-holding practitioner. Although it could be argued that this could have affected my ‘open-mindedness’ in the

way I approached the interview, the paramount concern here was with the welfare of the young person and/or parent. It was obviously essential to know the age, maturity, emotional resilience and general level of competence of the participant. Moreover, it was also helpful to have an idea of how to broach (or, indeed, avoid) certain sensitive subjects.

Advice on how to construct guides and conduct interviews is widely available to the researcher (Argyle 1978; Becker & Geer, 1970; Kvale, 1996; Phillips, 1973; and Spradley, 1979). Specifically, there is also good guidance on how to engage young people in the research process (Butler & Williamson, 1994; Finch, 1987; Hazel, 1996; Oakley *et al*, 1995; and Pridmore & Bendelow, 1995). Avoiding, for example, the traditional 'I-R-E' (Initiation – Response – Evaluation) interview pattern identified by Edwards & Westgate (1994) in favour of a naturalistic conversation (Tizard & Hughes, 1984) is generally recommended. In all candour, though, it was my experience of social work practice that had a more profound influence on my approach to interviewing. The ability to establish a rapport with bored or nervous young people and go on to conduct sensitive, responsive and focused interviews within comparatively compressed periods of time was assisted by the years I'd spent writing pre-sentence reports. In those cases where it was not possible to use an audio-cassette player, it was helpful to be well-practised in taking interview notes (recording key information and significant phrases).

It is not, of course, assumed that the interviewer-respondent relationship is a straightforward social transaction in which the question is answered with an honest, considered and comprehensible reply. Interviews are performed by the interviewer and the research participant. This performative aspect of the interview is duly influenced by the setting, temporal context and respective perceptions of the social actors (Pithouse, 1998: 187).

It is also important to remember that young people and parents were at some points being interviewed about events that had happened some time ago and, unlike the professionals, without the benefit of case files. Memories will have been clouded by the passage of

time, strong emotions and privileged viewpoints. In such cases we are dealing with reconstructions of events made with the benefit of selective hindsight. Wright Mills (1959) made the point that everyone reinterprets and re-presents their personal biographies in light of present circumstances and future intentions. Every interviewee will therefore have an agenda other than that set out by the researcher. A parent might wish to be critical of a specific social worker, or a practitioner may wish to gloss over a poor decision. The rhetorical strategies used by research participants within such accounts should not be viewed as dissimulation or unreliable testimony – although in some cases this might be true. The important point is to read all accounts critically. Even a lie can reveal a great deal. For some people, especially those who have experienced acute difficulties, a plausible ‘cover story’ can be more serviceable than the truth. All of these points need to be borne in mind when conducting ‘retrospective interviewing’ (Pettigrew, 1985: 40).

Pithouse has made the piquant observation that “...*social workers are veterans of the interview*” (1998: 187). It should be borne in mind that this can also be said of most of the young people I interviewed. They were used to the police interview, the case conference, the social work interview and the PSR interview. It should not therefore be assumed that artfulness in the interview setting is the exclusive preserve of the professional.

The interviews were duly transcribed as soon after the event as possible. In the margins, or in the text, I made additional notes about such matters as the tone of voice (sarcasm, laughter, etc.). I also added my own notes as an additional commentary regarding the disposition of the participant (nervous, engaged, etc.). The conversion of a semi-structured conversation into a document that can be analysed along with other documents is not a straightforward matter. Decisions about how to represent the nuances, pace, flow and pauses of such an encounter will inevitably distort the representation of that person to some extent. There is also a danger of ‘reducing’ the sheer life and three-dimensionality of a social interaction into a rather flat account. For all of these limitations, there are huge advantages (Heritage, 1984: 238). The process does allow the researcher to listen

more carefully to the interview. First impressions can be confirmed, but also disturbed as one becomes aware in retrospect of the missed opportunities in the dialogue that drifted away teasingly. It can also help the researcher to refine questions and interview techniques for future occasions.

The semi-structured interviews yielded some important insights into the experiences, thoughts, feelings and views of the participants. Used alongside the other methods, they helped form a more rounded picture of events.

4.7.2: Focus Groups

There were three main reasons why focus groups were used. Firstly, I wanted to capture a sense of the internal debate within the office about the then imminent changes being brought about by the implementation of the Crime and Disorder Act 1998. This was not only in terms of the philosophical shift in the way that social workers would be expected to work in the new Youth Offending Team, but also at the practical level of being joined by new colleagues from other agencies (particularly the Probation Service, Police Force, Education and Health). Secondly, I also wanted to record early impressions from the new arrivals at Porthglo. This was actually undertaken with probation officers. Thirdly, because for the most part I was unable to spend a great deal of time on the research site I was keen to gain a sense of the way in which meanings were negotiated within the context of the workplace. Pithouse's (1998) account of the way in which social workers in the workplace discussed cases and built up shared understandings of issues certainly resonated with my own experience of practice. As such, I was keen to conduct a loosely structured discussion within the context of a naturally occurring group (i.e., the Supervision Team). Three focus groups were duly conducted. The first, as planned, was with the Supervision Team of the Porthglo Social Services Youth Justice Division. Eight members of staff attended this focus group, including the manager, Jan Smith. The second focus group took place after Porthglo had become the site of a newly constituted Youth Offending Team. It was conducted with recently arrived secondees from the Probation Service. The fact that only two participants took part in this joint discussion

places some strain on the definition of what constitutes a proper focus group.

Nevertheless, the event proved to be an interesting and valuable exercise. The third Focus Group took place after the Youth Offending Team had been formed and involved five participants and included only those who had been part of the original Youth Justice Team. Other members of staff at Porthglo were invited, but sent apologies. The questions, probes and vignettes used in all three focus groups can be found in Appendices 11-13.

The use of focus groups added a helpful dimension to the research strategy, especially in the early stages of fieldwork. Although practitioners retain a high degree of individual professional discretion in their work, they still operate within organisational structures and in group settings such as offices, case conferences and courtrooms. There is, perhaps, a tendency amongst social workers to discuss peer influence only in terms of the social world inhabited by service users – especially young people; but practitioners are not exempt from peer influence. Indeed, some research has shown that practitioners are actually as susceptible to group processes that lead to risky decision-making behaviour in such areas as child protection case conferences (Milner & O'Byrne, 1997; O'Sullivan, 1999; Kelly & Milner, 1996 a and b; Janis & Mann, 1977) as offenders are to commit criminal actions in groups (McGuire & Priestley, 1985). It is important, therefore, to explore the way in which assessments, decisions and normative behaviours are negotiated within naturally occurring groups. To some extent all focus groups, even those conducted with naturally occurring groups, are contrived in that the group is convened and directed by a facilitator with a particular purpose in mind. Nevertheless, the element of pre-affiliation that characterise such groups does allow some insight into the way in which decisions might be made.

It will be noted that vignettes (Barter & Renold, 1999; Hughes, 1998) were used in one of the focus groups. This followed the experience of some participants speaking solely in terms of general principles. To some extent this was because the questions asked by this researcher invited such responses. Nevertheless, some participants did place great emphasis on certain philosophical principles and values when discussing their approach

to practice. Anti-discriminatory practice (Thompson, 1997), for example, was cited as being of paramount importance to a particular participant. This was actually challenged within the group when someone joked that the participant was merely trying to impress this researcher. It was helpful, therefore, to present the group with vignettes that teased out their approach to a specific, imaginary case. In fact, anti-discriminatory practice was in evidence, though not quite in the way headlined by the said participant. In the case of practitioners, therefore, vignettes proved helpful in moving discussion beyond the recitation of stock responses to standard questions.

Focus groups are not necessarily superior to interviews, but they do provide certain advantages - particularly in terms of contextualising the ideas that might be expressed (Bloor *et al*, 2001; Morgan, 1998; Wilkinson, 1999) and gaining a sense of the group dynamics that might influence decision-making processes. Participants are much more likely to be challenged on their views and modify their opinions. Kitzinger (1994) has highlighted the importance of reporting the interaction that takes place between participants and, in particular, the ways in which views expressed can be both reinforced and modified. The transactions that take place within a group therefore need to be read closely if the views articulated are to be understood properly.

Many of the disadvantages of focus groups are actually closely related to the strengths of the approach. If one takes the above-mentioned point, for example, the scope for misreading social transactions in a group can be considerable. Humour, banter and role play, for example, can all be misread easily by the researcher who does not know the group's history. Of course, the problem of certain participants being more dominant than others can be experienced by some as intimidating. The role of the facilitator in such circumstances is not to stifle the reality of such social relations, but there is an ethical obligation to ensure that participants are not harmed by their involvement in such research. Although guidance on the management of groups (Douglas, 1988; Doel & Sawdon, 2002) proved helpful, it was my own experience of running groups as a social work practitioner that stood me in good stead in managing the focus groups. Nevertheless, it should be acknowledged that some research participants were more

reticent in the focus groups than the individual interviews, just as one of those engaged in grandstanding and general banter within the group was far more reflective in subsequent one-to-one encounters. The different effects of group dynamics on individual performances have been noted by other researchers (Morgan, 2002). In the last analysis, focus groups shed light on individuals' behaviour within the context of social groups. It should not, though, be assumed that this is the final word on how they behave within the office setting. Practitioners may be quiet in Team Meetings, abstain from conflict and withdraw from general office discussions. Alternatively, they may only seek out those colleagues who are likely to be sympathetic to their viewpoint.

One of the major practical problems with focus groups is transcription. Although I didn't have a problem identifying those who spoke in the sessions, this can often be a challenge. The main problem I experienced related to participants speaking across one another. Consequently, only partial transcriptions were undertaken. Nevertheless, whilst some contributions were lost entirely, it was possible to infer a general sense of the ebb and flow of discussion.

On balance, focus groups provided a valuable additional dimension to the research strategy. It was particularly helpful to conduct them at an early stage in the fieldwork and at a time when I was unable to spend a great deal of time on the research site. At a later stage, when I was spending more time in the Porthglo office, the need to engage in focus group fieldwork became less urgent. By this time I was spending more time in the office and was therefore better placed to observe and ask apposite questions at the most appropriate times.

4.7.3: Observation:

Observation had not been a part of my original research proposal. This was because I thought it unlikely that I would be in a position to spend significant blocks of time at the research site. In the latter stages of my fieldwork this position changed, but even then my intention had been to devote more time to file-reading. It transpired that my increased

presence in the office actually resulted in being presented with more opportunities to conduct interviews with staff and service users. It also gave me the opportunity to meet staff informally and chat with them about the issues (as well as non-work related subjects). Inevitably, I was placed in a position where I eavesdropped on the conversations and telephone calls that took place. These were those off-stage whispers in the wings that remain inaudible to the main auditorium of public accountability. The experience was invaluable.

As I was a visitor to the office I 'hot desked' during this period of fieldwork. This gave me the advantage of moving between different rooms within the office and helped me to get to know all members of the Supervision Team reasonably well. Although some people were initially wary of me, I soon established an easy rapport with the majority of Team members. Although one person seemed more reserved in my presence, she was perfectly friendly. Some practitioners even occasionally asked my advice about aspects of law and research. Sometimes I also took telephone messages. I thus became an additional, albeit minor, resource within the office. Pithouse's experience of gradual acceptance within the research site echoes that of my own.

"I took messages, made beverages and generally tried to be of practical help if the occasion arose. This was a mild form of reciprocation for the data that I was gathering and it assisted in shifting my identity towards being seen as a regular and sometimes useful visitor to the office."

(Pithouse, 1998: 185)

My movement between the different rooms within the office also exposed me to the subtle (and sometimes not so subtle) differences in culture and interpersonal dynamics that obtained. It was interesting to note, for example, that one room was a 'probation service' room. In another, a police officer shared a room with social workers and there were jokes about her 'going native'.

Although I became aware of the fact that my understanding of the way the Youth Offending Team operated was increasing, almost through a process of cultural osmosis, I was slow to realise that I was actually engaged in observation in a formal research sense

of the term. As I sat at whichever desk I could find on the day to study case records, I always had two research files with me. One related to notes I was taking on whichever specific case file I was reading. This file contained narratives, comments on significant events and quotations from records, case conference notes and pre-sentence reports. The second file contained notes on emergent themes arising out of the documentary data. Initially, these 'scratch notes' comprised only phrases, odd words and sentences. Later, usually the same day, I would work these jottings up into more coherent paragraphs. All of these Notes were initially arising solely out of the documentary data. However, incrementally, observational material began to find its way into the Themes file: an insight shared over a cup of coffee, a fragment of office dialogue or vivid phrase used in an overheard telephone conversation. As I became aware of this process, I divided the Themes file into two: one relating to the documentary data; the other in respect of observation. At a later stage I would integrate the insights and analytic memoranda derived from the two data sources and attempt to construct the themes that were taking shape. These field notes may not have been as thoughtfully structured as those proposed by some ethnographers (Lofland & Lofland, 1995; Sanjek, 1990), but the file did achieve a degree of internal coherence as a result of the daily practice of trying to make sense of the data.

The point has already been made that the phase of fieldwork during which I was able to spend an extended period on the research site permitted a degree of immersion in the office culture that had hitherto not been possible. Although my role as researcher within the Team was well established, it has already been noted that I was involved in everyday social transactions with practitioners and even offered advice on some matters when invited. However, as far as possible I tried not to exert too large or disproportionate an influence on interactions within the office. For the most part I withdrew from most conversations and worked through the case files at my desk whilst at the same time being alert to events unfolding around me. The ethical dilemmas involved in such subterfuge are not unique to my research (Ditton, 1977; Hobbs *et al*, 2003; Fielding, 1981 and 1982; Holdaway, 1982 and 1983; Patrick, 1973; Pithouse, 1998; and Winslow *et al*, 2001) and have already been discussed within this chapter. The point also, perhaps, needs to be

made that any dissimulation on my part was not as extreme as some of the cases cited above. Moreover, the practitioners in the office were well aware of the fact that I was a researcher gathering data in the workplace. Although there was an element of subterfuge involved in the conduct of the research, my role as researcher was overt.

A key consideration in respect of ethnography and observation is the degree to which the researcher is actively participating in the social phenomena which s/he is studying. Most attempts to classify participant-observer and other fieldwork roles suggest a continuum of detachment and involvement along which the researcher moves according to the demands of the situation. This was certainly my experience, although I generally occupied the typologies of 'participant-as-observer' (Gold, 1958) and/or 'researcher-participant' (Gans, 1968). Perhaps as Collins (1984) suggests, though, these typologies of participant observation are less important than what he terms 'participant comprehension'. For this researcher, certainly, the period spent in the office 'taking messages', 'making beverages' (Pithouse, 1998, 185) and quietly studying case files at my desk was important in terms of heightening my understanding of the way in which the Youth Offending Team worked. It consolidated my hunches and provided me with a tacit knowledge of the Team that I would not otherwise have possessed.

4.7.4: Documents and Texts

The documents used for research purposes included case files, official documents, internal memoranda and groupwork programme files. By far the most important document studied, though, was the case file. Case files contain a variety of documents: narrative summaries; running records of events and decisions; messages; pre-sentence reports; psychiatric reports; case conference minutes; Looked After Children Forms; ASSET Forms; letters; assessments by educational psychologists; internal memoranda; handwritten notes; and many other miscellaneous documents.

A few preliminary comments should be made about the nature of the specific case files studied – as opposed to those more general philosophical questions about the ontology of

documents within organisations. It should be made clear at the outset that the structure, scope and accessibility of files changed over time. There was a particularly important change when Porthglo moved from being part of Social Services to a multi-disciplinary Youth Offending Team that was accountable to the Youth Justice Board. This was to be expected. Files are not authored individually: they belong to – and are largely structured by – the host organisation. The Social Services Department case files were always child and family-centred, and often voluminous (running into two, three or even four large physical files). Some of the early files on the case were archived and could only be accessed on request from the case-holding social worker. There was, however, no problem in this researcher accessing these files.

The Youth Offending Team case files were more clearly-structured and streamlined. The comprehensive ASSET form was a central part of the file and the records shorter and more geared to inspection in relation to National Standards. Although this made them easier to negotiate for the researcher, the files were less rich in detail and revelatory incidental data. Moreover, the file was focused on the social identity of the young person as offender, rather than as a child with a family background: thus welfare needs were replaced by criminogenic needs. This is not to say that welfare issues and social welfare documents did not find their way into the files. However, it was quite clear that the central organising principle of the file was youth offending.

After the Youth Offending Team had been established, access to Social Services files was increasingly blocked to YOT practitioners. This included both live Child & Family case files and historical case files from the archives (files that had until recently been stored in the Porthglo Office). Seemingly, no policy decision had been taken by the Social Services Department. Apparently, it was a practice that developed over time. Thus, even social workers who had been seconded to the Youth Offending Team could not access the whole case file of young people under their supervision. Any information provided on child welfare and LAC issues was released -and often rationed to Minutes of meetings – at the discretion of the case-holding social worker in the Social Services Department. This practice flew in the face of the contemporary rhetoric about sharing information and

'joined-up services'. Many Social Services Department YOT workers complained bitterly about the erection of this 'iron curtain' between the organisations. Some also pointed out that whilst someone from the old Youth Justice Team would have dealt with all of the LAC system and the welfare issues of young people on supervision for criminal offences, the Social Services Department had to appoint someone else to hold the case. This could be represented as good practice (as it involved a clear demarcation of roles) or confusing, wasteful and unnecessary duplication. The restricted flow of information between the YOT and the Social Services Department was perceived by all YOT workers as a terrible frustration. It was, indeed, an issue that was being discussed at management level, but it was certainly not resolved during my period of fieldwork.

For reasons already outlined, it was not possible to interview social work staff in the Social Services Department after the YOT had been established. It should be acknowledged, though, that there were two very good reasons for restricting access to Social Services files. Firstly, the agenda of the YOT was different to that of the Social Services Department. Secondly, the YOT was staffed by personnel from different agencies – including Education, Probation and the Police. Organisational boundary maintenance in respect of confidential and sensitive information is a perfectly legitimate professional concern. Police officers, for example, might regard confidential information as legitimate intelligence for other operations. In the circumstances, a case-holding social worker in Social Services should obviously be concerned about sharing only that information which is deemed 'relevant'. That said, the frustrations of the YOT workers were entirely understandable.

One further development in case file conventions and management should be noted. Towards the very end of my period of fieldwork, practitioners were being trained to use computerised records (YOIS). My fieldwork did not encompass this mutation into 'virtual' documents. It is, however, important to point out that the technology of record and file maintenance - from the quill to the keystroke – structures the nature of the document and its accessibility to others (including service users, colleagues and the Youth Justice Board). All documents structure the information that is recorded. A paper

form, for example, will comprise specific questions within pre-ordained categories. Some computer programmes actually allocate a restricted number of keystrokes to each category. Thus, in some cases at least, complex problems and situations are reduced to simplistic and formulaic categories. Of course, other programmes empower practitioners and service users to store and retrieve large and complex data. The point is that every technology imposes conventions and categories on documentary practice. As I did not inspect these virtual records this development in the YOT need not detain us here.

Before discussing some of the more general theoretical issues related to documentary analysis, it is important to point out that my interrogation of documents had two main purposes. Firstly, there was the ostensibly simple objective of extracting a reasonably coherent narrative account of the young people concerned and the key professional decisions that influenced their trajectories. Secondly, the documents were read for what they revealed about the discourses that informed professional judgements and decisions. More will be said about this aspect of the research at a later stage – particularly in the data analysis chapters. Implicit in both aims, though, was a desire to expose the underlying social processes and power relations that were played out in these individual cases.

As far as the first point is concerned, it should be declared at the outset that it proved remarkably difficult to discern a clear narrative of key events and decisions. As will become clear, this researcher was well aware of the fact that narratives are social constructions that need to be deconstructed. Narratives inevitably involve selecting certain factors and events whilst excluding others. They also make connections between such factors and events in often quite artful ways. However, with regard to some cases, the presented narratives were so incoherent and fragmented that there was very little to deconstruct. Some files were sprawling, poorly structured documents within which there were large lacunae in the narratives. This researcher spent many forensic hours in the role of a sleuth trying to piece together handwritten telephone messages and scribbled notes in order to make sense of what had happened. I also spoke to some of the longer-serving practitioners about puzzling episodes. In some instances, practitioners appeared

to have 'total recall' of events. Others, however, either knew nothing or could only offer unreliable testimony based on office folk memory. The young people and their parents, moreover, often had only hazy recollections of events. The frailty of human memory and the transience of tacit knowledge highlight the importance of keeping accurate records. More worryingly, though, there was conflicting and contradictory evidence from 'official' data sources. The most glaring examples were in respect of criminal records. Thus, convictions appeared in some lists and disappeared in others. The instability of these official criminal records is particularly worrying because, with the growth in actuarial practices, previous convictions are used as the basis for calculating risk scores. This can have a material effect on the outcomes of criminal justice processes. Other records, many of the newer YOT files for example, were well-maintained within the defined organisational parameters but somehow lacked the depth and detail that the better Social Services files provided. In summary, therefore, it can be concluded that many case files -for a variety of different reasons – failed to provide accessible and cogent narrative information about the young people and their families. Consequently, the narrative accounts of young people's lives presented in Chapter 5 carries a 'health warning'. They have, though, been constructed on the basis of the researcher's best efforts to ascertain the most likely 'truth'.

Given the above comments, were the case files under scrutiny simply the result of poor professional practice? In some instances an unequivocally affirmative answer can be given. The real problem, though, resides in the nature of documents themselves. It really goes well beyond Scott's criterion of documentary 'credibility' (1990:6). There are always absences, silences and distortions within documents. Garfinkel (1967) pointed out that there are many reasons for missing or distorted data in case files. Indeed it is asserted that there are 'good organisational reasons' for 'bad records'. Garfinkel cites two main reasons for this phenomenon. The first he described as 'normal, natural troubles'. For example, busy practitioners may only complete those parts of an assessment form that appear important to them and their colleagues. A second reason cited concerns what Garfinkel termed 'contractual issues'. One reason why records are kept is to justify actions taken. The notion that there is a linear and sequential

relationship between initial assessment and subsequent action is in many cases a convenient fiction. Practitioners will often start with a desired outcome in mind and work backwards to the assessment. Thus the action taken will appear to follow logically from the assessment. The young offender, for example, will often appear to fit the criteria for the available and under-subscribed groupwork programme. Social work files are replete with such examples. Another important point about the 'contractual relationship' as represented in a file is that the act of writing something down usually commits someone to doing something. It is what Prior calls 'action at a distance' (Prior, 2003: 57-58). By the same token, not writing something down commits no one to anything. It is surely quite likely that hard-pressed practitioners sometimes do not write things down precisely because it saves them work. Many will strive to honour the unwritten contract, but they will wish to avoid the embarrassment of failing to implement recorded action plans. In some cases it could even lead to complaint and ruinous disciplinary action. If social work is an 'invisible trade' (Pithouse, 1998), then records are one of the means by which the practitioner has control over what is revealed and what is concealed.

The above examples of recording practice should not be taken to mean that all practitioners are lazy dissemblers. In fact the ones that I met at the research site impressed as committed, hard-working and over-stretched. Some disliked case-file recording intensely and, in the familiar defensive rhetoric of the professional under pressure, declared that they had entered the occupation with a view to helping people rather than 'filling in forms'. Most, though, kept serviceable records that fell somewhere between commitment to the service user and self-protection (better known as 'covering your back'). The above examples do, though, raise fundamental questions about the purpose of files. For whom are they designed? Who has access to them? How are they used?

What is clear from the discussion so far is that case files cannot be understood in isolation. They need to be contextualised and linked to webs, fields and organisational networks of activity (Prior, 2003: 2 and 103). Case files can only be understood in relation to their organisational context and the fields of action to which they are linked.

For this researcher it was extremely helpful to have both informal and formal interview access to case-holders who could explain why certain things had been recorded and why others hadn't. Getting the full story behind the record or the PSR proved invaluable. Filling in the gaps can only be done by talking to people.

A point that has already been made is worth underlining: case files are the property of the organisation. Whilst case files may well bear the imprint of individual authors they actually belong to the organisation rather than the case-holder. This is, indeed, evident in terms of content. A case file will not only contain the records and assessments of the case-holder, but also include documents authored by others: colleagues within the agency, letters from other agencies, psychiatric reports, Crown Prosecution documents, referral forms to other agencies, school reports, case conference minutes, service user comments on the ASSET forms and many other miscellaneous items. Whilst the case-holder may well occupy the position of hegemon within the cardboard folders, there will be dissonant voices contained in the file. These challenges to the author cannot be stifled or distorted completely. Thus, the service user who wrote "*Bollocks*" in an ASSET form opened a window on to a harsher and more chaotic world than the comparatively ordered milieu inhabited by the professional. It is also striking to note that different professionals use different 'talks' in their records and assessments: the prose of the psychiatrist, social worker and police officer is infused with different sets of assumptions and preoccupations. Case-holders, of course, do not always carry a case from inception to completion. When cases are transferred it is interesting to note which elements of assessment and supervision continue under the new case-holder and which are quietly dropped.

As organisational documents, case files are also the site of a set of powerful contractual relationships. The contractual relationship between case-holder and service user was touched upon earlier. That relationship – as represented in the case file - will be characterised by a set of explicitly stated responsibilities and obligations on both sides. There are also tacit and unwritten agreements that develop between practitioner and service user over a period of time. Key documents within the case file do, though,

represent the 'bottom line'. In the case of a Youth Offending Team file, for example, it would contain the signed and dated Order to which the young person would be subject. Although the power relations between practitioner and service user are undoubtedly tilted in favour of the former, it is important to recognise that the case file is also a mechanism of accountability in respect of the individual professional. The case file is the primary means through which colleagues and the organisation can access and monitor the performance of the practitioner; case files are used to evidence annual appraisal and monitor *National Standards*. Thus, *National Standards* not only regulate the relationship between practitioner and service user, but also between practitioner and the managers within the organisation. If a young person fails to attend the stipulated number of appointments within a given period and the practitioner fails to take breach action, then that failure to enforce will be scrutinised by the local managers. Likewise, the local Youth Offending Team is subject to independent inspection. This chain of accountability – or, if one prefers, *surveillance* - is linked by the evidence contained in case files. When the practitioner writes in her/his file, therefore, there will be a number of constituencies considered. Firstly, the case file is used by the practitioner as an *aide memoire* to practice. A well kept record can keep the busy practitioner on track with tasks that need to be undertaken. Secondly, there is the service user who will – or certainly should – have access to most of the file. The notion of 'client accessible records' emerged in the late 1980's and 1990's and, in my own experience at least, changed practice. Apart from having to write in a clearer and more accessible style, the practitioner was compelled to be more thoughtful and judicious in the conduct of assessments and the ways in which events were represented. Client accessible records opened the way to more collaborative forms of social work in which the file could be used as a working tool where possible agreement would be reached on assessments, plans and records. Where this was not possible, disagreements would be recorded. The third constituency comprise immediate colleagues in the office. Thus, if the case-holder is away from the office then colleagues can provide effective cover by accessing the file. The fourth constituency is the generalised 'official other'. Although this might include the middle manager, in Porthglo I found practitioners were happy to be open with Jan Smith about their records "being a bit of a mess". It will, though, certainly include the Inspectorates and – in all probability

– senior managers. Practitioners who fall behind in their records live in dread of a file being ‘called in’ following a major incident. Case files do, therefore, matter.

Although case files are owned and structured by the organisations within which they are maintained, the point has already been made that they contain a diverse range of documents. Whilst the hosting agency may dictate the design and central spine of a case file (with initial assessment, review and running narrative records), it will also contain much of the supporting documentation already described in this section. When reading these additional documents it is therefore essential to understand the circumstances and conditions of their production and consumption. A referral to an accommodation agency is written in a specific context, for a specific audience and will have a specific outcome in mind. The information will be selected carefully (and selection necessarily implies the act of editing) and presented according to the conventions of the genre. A pre-sentence report will be written according to the stipulations of National Standards and within the prevailing conventions of local courts. A sense of appropriate intertextuality (Kristeva, 1980) – of how documents relate to one another – is crucial in criminal justice and welfare settings. The ability of practitioners to move between different authorial voices and registers to achieve specific outcomes in different settings is remarkable. There are, however, pitfalls awaiting the short-term tactician (as opposed to long-term strategist). Referring a young person to a psychologist with a view to obtaining the diagnostic label of ADHD may access additional educational support and help keep a young person out of custody when they appear in court. However, it may be an unhelpful label in the field of employment and training. Indeed, the ADHD label could also prevent a young person from subsequent attendance on a cognitive behavioural programme. It is important to bear in mind, therefore, that whilst documents are situated in specific historical circumstances they often have a long afterlife that go well beyond the original context. The various destinations of a single document can lead to unanticipated recontextualisations and reinterpretations. Moreover, a brilliantly executed report that achieves its immediate objective can be reanimated to haunt the author and subject at a future date. Prior (2003: 168) has compared the capacity of documents to take on lives of their own to *The Sorcerer’s Apprentice* and *Frankenstein*. One truly Frankensteinian

way in which pre-sentence reports can turn on their creators and subjects is through the use of 'cut-and-paste'. In my fieldwork there were clear examples of very old reports being disinterred from the archives and whole paragraphs transplanted to new documents. Although there were certainly cases where this seemed to do no harm, in others old assumptions did appear to be recycled somewhat uncritically.

As previously mentioned, different sets of power relations are represented and played out in case files. One of the central tensions represented and mediated through case files is that between the individual professional discretion of the practitioner and the organisational pressures to standardise and regulate practice. One obvious example, already mentioned, is the introduction of *National Standards* that are designed to not only regulate the behaviour of young offenders but also that of practitioners. Another would be the introduction of standard instruments for the assessment and case management of service users. The introduction of the ASSET form in Youth Offending Teams would be an example of this trend. This is not, in itself, a sinister development. To replace idiosyncratic practices with tested and thoroughly evaluated assessment tools is to be welcomed by anyone who subscribes to an evidence-based agenda in social welfare. The specific strengths and limitations of the ASSET form need not detain us here as these have been reviewed elsewhere (Baker, 2004). It is, though, necessary to pause and consider the nature of such documents along with how they are used and abused. As Prior notes,

"Abbreviation, abstraction, scaling, grouping, pattern identification; these are essential human activities..."
(2003: 167)

However, when these perfectly natural activities of 'defining' and 'categorising' are formalised in assessment documents they are at risk of mass producing social facts and sharply defined social identities. This process can include the production of new social phenomena and new categories of young offender. Such documents may, indeed, be likened to 'machine tools' (Prior, 2003: 167):

“That is, tools used to produce other manufactured goods. Such documents are, by their very nature, implicated in endless circuits of production.”

There is, therefore, a risk of individual professional judgements being replaced by assembly-line assessments. The complex personality, history and social circumstances of the individual service user may thereby be reduced to a ‘type’: the personification of an aggregated set of social and behavioural characteristics. Assessment forms, like all documents, are linked to fields of activities. In social work and Youth Offending Teams these forms will be linked to pre-sentence reports and supervision programmes. That service users become defined by the interventions to which they are subject is also a risk. TS Eliot (1990: 5) may never have been a service user, but the process of being defined by those who hold power is well expressed by the poet:

*“And I have known the eyes already, known them all –
The eyes that fix you in a formulated phrase,
And when I am formulated, sprawling on a pin,
Then how should I begin
To spit out the butt-ends of my days and ways?
And how should I presume?”*

In my fieldwork I did encounter some practitioners who appeared to use assessment and case management instruments in fairly mechanistic ways. For the most part, though, this was not the case. As Silverman (2003b: 130-131) has observed in the context of forms used to assist the process of selection for employment amongst final year university students.

*“It is tempting to treat such completed forms as providing the **causes** of selection decisions. However, ... important points must be borne in mind before we rush to such a conclusion. First, such forms provide ‘good reasons’ for any selection decision. This means that we expect the elements of the form to fit the decision recorded. For instance, we should be surprised if the ‘reject’ decision had been preceded by highly favourable comments about the candidate.*

*Thus the language of ‘acceptability’ provides a rhetoric through which selectors define the ‘good sense’ of their decision-making. It does not **determine** the outcome of the decision.”*

There is rarely a perfect fit between service users and the categories into which they are placed (Prior, 2003: 57), so enhancing adjustments are often made to the way in which they are represented in such documents. This type of behaviour is inevitable when the 'street-level bureaucrat', who routinely exercises individual professional discretion, is forced to deal with a form produced within a technical-rational framework. The practitioner is not exactly lying, but nor is s/he exactly telling the truth. These compromises with complexity are an integral part of daily practice and need to be recognised when researching documents.

It will hopefully have become clear that documents have not only provided a rich source of data, but also shed light on the surrounding fields of action. Indeed, documents can only be understood within situated contexts. The conditions of production and consumption need to be appreciated before they can be properly evaluated. Sensitivity to both authorial intentions and the constraints of context is important.

The point should also be made that it is usually only when post-hoc readings are undertaken that the connections and links between different documents become apparent. They will not always have been appreciated at the time of their production. The practitioner who inherits a case file, the servant of the public inquiry and – of course – the researcher will all alight upon seemingly obvious issues, events and connections that escaped the original author. Sometimes retrospective readings of documents are startling because they fail to address issues that appear prominent to the retrospective reader. I am not simply referring to the silences that one might note in older documents in respect of such themes as gender, ethnicity and disability. The comparatively recent 'invention' of 'anti-social behaviour' is a case in point. Anti-social behaviour was not a concept that troubled practitioners and the public too much before 1998 – and this is reflected in the files. The unwitting testimony of such silences has long been well recognised in the disciplines of history (Marwick, 1988: 43-45) and literature (Macherey, 1978). All authors and audiences are socially and historically situated; and all readers will read with particular purposes in mind. Drawing upon a literary education, this researcher has always attempted to be sensitive to the different readings to which all documents are

open. It is to be hoped that this is duly evidenced in subsequent chapters.

4.8: Analysis

Although the purposive sampling strategy was theoretically driven and - through an iterative relationship between ongoing analysis of data and the direction of new fieldwork - was grounded in the emerging themes, it is important to declare that grounded theory (Glaser, 1978 and 1992; Glaser & Strauss, 1968; Strauss, 1987; Strauss & Corbin, 1990) was not the dominant intellectual framework. Of course, grounded theory has had a profound influence on the wider qualitative research community and many of its insights and techniques have been duly adopted. Certainly, the type of recursive movement between data analysis and the selection of new cases for study was a feature of this research. It will be apparent to the reader that grounded theory has also left impressions on other aspects of the research process, too.

There are some crucial differences of emphasis and approach that will also be apparent. Two such differences should be mentioned by way of illustration. Firstly, the pure and original version of grounded theory (Glaser & Strauss, 1968) implies an initial open-mindedness which, as far as this researcher is concerned, is unsustainable. Although grounded theory now embraces a diversity of approach that was not present at its inception, the original emphasis on 'discovery' is quite different to that of the preferred approach of 'knowledge construction' from the materials made available through different discourses.

Secondly, grounded theory analysis - particularly with the development of such computer software packages as QSR NUD*IST and QSR NVivo - has a tendency to fragment and decontextualise data (Coffey & Atkinson, 1996). The strength of this tendency is that it can provide quite sophisticated coding frames and confront the partisan researcher with uncomfortably disconfirming data. From the viewpoint of the discourse analyst this strength is also its weakness. Social interaction, documents and practices can only be understood fully within context. Distancing devices are important in the process of

analysis for the reasons already mentioned. However, the researcher also needs to be able to re-immense her/himself in the original contexts within which speech was used and reports written. Speech acts, texts and practices can only be understood fully in context. The possibility of 'losing touch' with the original frameworks of meaning is at odds with the traditional anthropologist's concern for 'having a real feel' for data through immersion. Grounded theory is, of course, much more than the sum total of its technical practices. It is important to appreciate the relationship between the necessary mechanical activity of coding and that of analysis. There should be more to grounded theory than merely re-presenting codes and categories with illustrative quotations from the data. Although Tesch (1993: 25-6) illustrates this point with regard to the use of computer technology, it is an insight that applies equally to more traditional methods of coding. Having recognised the important contribution of Grounded Theory to good qualitative research, it is important to acknowledge again that Discourse Analysis has proved to be more influential in this researcher's approach to analysis.

The actual analysis had two main foci. The first involved an attempt to construct a reasonably accurate narrative of critical events and decisions in the young people's lives. This included a reading of the social processes at work in these narratives. The second was concerned with the ways that the different discourses represented, constructed and shaped the young people's lives; and how these discourses were connected to wider social relations. Although it cannot be claimed that discourse analysis has been applied rigorously, the intellectual influence of this approach will be apparent.

As far as the first focus is concerned, as Potter & Wetherell (1994: 50) put it,

"...it would be counter to our practice as discourse analysts not to be self-conscious about our own methods of constructing a factual account."

The point has been made that all narratives involve editorial decisions about what constitutes 'relevance' and what theoretical assumptions can be made about the connections between different factors and events. It is appreciated that my own construction of the narratives of these young lives has been socially and historically

situated within existing discourses. It is also understood that my own biography will have shaped my account. It is for this reason that I have been explicit about my background and the main discourses I have inhabited over the years (Appendix 2). The inevitable weakness of this approach is that I can only read what I recognise. Others, though, may well be able to identify other readings and connections in the data presented.

The second focus of analysis has involved the identification of the discourses that have informed the social interaction, key texts and practices (including key decisions) in respect of the young people's lives. This analysis has also attempted to relate these discourses to wider power and social relations within the social services and criminal justice systems and beyond. It is important to make the point that this dissertation relates not only to professional constructions of clients' lives, but also the different ways in which service users represent their past lives, current social identities and constructions of those professionals who intervene in their lives. Service users will have available to them alternative cultural resources and discourses, too.

The analysis was undertaken following a thorough review of the literature. An awareness of the dominant discourses in social welfare and youth justice was, therefore, developed before analysis was undertaken (see Chapters 2 and 3). My own daily practical engagement with such discourses when working as a practitioner also informed the direction of the fieldwork and the subsequent analysis. It will already be appreciated that the analysis was conducted through the interrogation of documents. These included the contents of case files, office documentation (e.g., memoranda), field notes and transcripts of interviews and focus groups. It will be recalled that the conversion of interviews and focus groups into texts is not a straightforward process in which 'reality' is mediated on to the pages of a transcript. Nevertheless, on balance it can be claimed that every effort was made to produce an 'accurate' representation of the dialogues that took place. Whilst those passages selected for analysis were influenced by the inevitable biases of this researcher, one can only be explicit about these biases (Miles & Huberman, 1994: 278).

The advantage of a literary education is that one is used to working with texts in a variety of ways. One is taught to celebrate complexity and search for multiple layers of meaning. Literary criticism involves close attention to detail as well as an appreciation of the structure and form within which such detail is embedded. There is also recognition of the allusive, intertextual quality of documents along with the importance of genre, tradition, influence and innovation. In literary criticism, subjecting texts to multiple reading strategies is encouraged. The skills acquired in literary criticism were found to be transferable to this social scientific enterprise. It is difficult to describe the precise way in which I immersed myself in the texts and then stepped back to create a sense of critical distance: the film-making metaphor of the 'close-up' and 'wide-angle lens' probably comes closest. As previously mentioned, discourses and themes were identified through the existing literature on the subject as well as insights based on my own practice experience. These discourses and themes were duly highlighted in the texts along with the surrounding passage and context. In respect of documents contained in case files (PSR's, etc.) this was a process that was undertaken manually with highlighter pens, scissors and boxes. It is important to make the point, however, that this analysis was not simply a question of playing 'spot-the-discourse'. Rather, the use of named themes and associated keywords ('welfare', 'punishment', 'rights', 'help', 'empowerment', etc.) helped unlock the processes through which the discourses were being manipulated, developed, subverted, countered and hybridised. Because discourses are dynamic processes there can never be complete closure: there are always openings through which the individual can make a difference.

One of the pitfalls of working alone is that personal biases can close off alternative readings. One way in which the lone researcher can be challenged is through the use of computer software technology. An example of this approach – using basic Microsoft Word function - is given by Potter & Wetherell (1994: 51-64). Applying the same principle, I used the more sophisticated computer assisted qualitative data analysis software package NVivo 2 (see Bryman, 2004: 417-434) on interview transcripts. Initial coding was undertaken by creating Nodes that corresponded with the initial themes identified through the literature review as well as those that emerged through case file

reading and interviews ('Punishment', 'Welfare', 'Care', 'Justice', etc.). Keywords associated with these themes ('Help', 'Vulnerable', 'Structure', etc.) were duly used to browse the documents. When a 'hit' occurred, the surrounding text was highlighted and stored under the relevant Nodes/themes. In some cases the passages were stored under more than one Node/theme. Thus, some of the passages retrieved by the keyword 'boundaries' and 'structure' could be stored under the 'Welfare', 'Punishment' and 'Justice' Nodes/themes. New themes and Nodes were also constructed as the process progressed (e.g., 'Responsibility'). The Coding Stripes and Boolean functions were useful in, respectively, identifying overlapping codes and locating nodal intersections. One example used in the latter case was the identification of passages where both 'Care' and 'Control' appeared. This allows the researcher to go beyond 'content analysis' and facilitate the discursive relationship between themes. The real value of the package, though, is its capacity to confront the partisan researcher with disconfirming data or data in which s/he may be less interested. On the advice of my supervisor, I duly made an inventory of those themes in which I was less interested (e.g., 'victim', 'restorative', etc.) and browsed the interview transcripts. This process did yield a theme to which I had hitherto not attached a high degree of significance: the role of excitement in offending and challenging behaviour. This theme is reported more fully in Chapter 8. By the same token the selection of the keyword 'framework' also unearthed a passage that is discussed in the same chapter (the 'widening framework' and the diminishing child).

Although it is entirely possible that I did not identify the most appropriate Nodes or type in the 'correct' keywords, it was nevertheless helpful to highlight randomly selected passages and read the surrounding texts. This practice, in itself, can act as something of a corrective to the personal orientations of the partisan researcher. Ultimately, though, discourse analysis is not reducible to a repertoire of technical procedures. As Potter & Wetherell comment,

"Much of the work of discourse analysis is a craft skill, something like bike riding or chicken sexing, which is not easy to render or describe in an explicit or codified manner."
(1994: 54)

However, they do highlight five types of analytic consideration that should be borne in mind: using variation as a lever; reading the detail; looking for rhetorical organisation; looking for accountability; and cross-referring discourse studies (Potter & Wetherell, 1994: 54). Using variation as a lever involves seeking to identify the differences in the way people describe the same or similar things. Reading the detail requires one to engage with the specificities of the text rather than being swept away in groundless grand theorising. Examining the rhetorical organisation of the way in which arguments and knowledge are constructed includes the identification of strategies used to counter or avoid alternative truth claims. Shifting an argument to more secure home ground (sometimes known as 'terrain shifting') is one such strategy for dealing with uncomfortable counter-claims. Looking for accountability refers to people's accounts of their own actions and the reasons for such actions. Finally, cross-referencing with other discourse studies is a useful way of finding possible connections and points of departure with similar research studies. The introduction of these procedures and habits of mind help to improve the rigour of such research.

Discourse analysis is not merely a textual activity, though. The relationship between knowledge, power, social agents (those, like social workers, who have the institutional power to define the identities of others) and the subjects of knowledge needs to be analysed (Smith 2003: 290-291). It is argued, therefore, that six questions should be posed. Firstly, how is the subject (the 'young offender', for example) constructed within the wider discourse or discursive regime? Secondly, how does the social agent of knowledge (the social worker/YOT worker) operationalise the discourse in practice? Thirdly, how does the act of operationalising the discourse actually affect the social agent of knowledge? Fourthly, where do their interventions locate them in the wider discourse? Fifthly, what is the effect of this whole process on the subject? Finally, what are the opportunities for resistance and re-negotiation on the part of both subject and the social agent of knowledge? These questions are posed in different ways throughout the discussion that takes place in the chapters that follow.

4.9: Conclusion

Having presented the main issues involved in this piece of research, one question should be answered succinctly and honestly: knowing what I know now, what would I do differently? Four things spring to mind. Firstly, I should have not been deflected and distracted by the organisational changes that took place on the research site. The focus on young people and their families was what was important. Secondly, that the discourse analysis could have been applied with greater rigour (though this would have impacted upon the more empirical analysis of young people's careers). Thirdly, I should have tried to negotiate access to practitioners' face-to-face meetings with young people and their families. I did observe some interaction between service users and practitioners –usually before or after I'd conducted an interview with a young person. These brief interactions were fascinating for the privileged glimpses into that largely hidden relationship between practitioner and service user. Frustratingly, the tape recorder was always switched off. Had it not been, perhaps Conversation Analysis (Sacks *et al*, 1974; and Sacks, 1992) could have been used as a complementary strategy to both discourse analysis and ethnomethodology (Garfinkel, 1967) - although whether these two approaches can be married together is debatable. The greatest regret, though, is that – despite the years of fieldwork, analysis and writing up – I actually had so little time to do the job as well or as thoroughly as I would have wished.

Chapter 5: The Young People: Careers and Trajectories

5.1: Introduction:

Although thirty full case summaries have been completed, not all are reproduced in this particular chapter. This chapter presents critical narrative accounts of the eleven young people who were interviewed for this study, whilst Appendix 3 contains seven full summaries that cast light on the nature of some of the cases where interviews were not possible. It will be appreciated that some of the young people who fall into this category were assessed as being too vulnerable for interview. Appendix 4, meanwhile, contains four full summaries that relate to cases discussed by practitioners in subsequent chapters. Appendix 5 contains the remainder of the case summaries. It will be noted that reference is made to some of these cases in the conclusion of this chapter.

At its simplest level the purpose of the chapter is to introduce the young people in terms of their personal histories. Before dealing with some of the overarching themes in Chapters 6 and 7 it is necessary for the reader to understand something of the issues and circumstances that have shaped their lives. Additionally, an attempt has been made to identify some of the key decisions in the public care, criminal justice and other systems that have influenced their subsequent trajectories. Moreover, the relationships between the different systems are highlighted. It will also be noted that this chapter involves the initial identification of some of the themes that are taken up in later chapters. Some of the biographies are more detailed than others. This is for two reasons. Firstly, because once a theme or an issue has been identified and discussed, there is less need to labour the point in subsequent biographies. Secondly, in some cases there was simply less documentary evidence on which to draw.

Although data gleaned from interviews and informal conversations with staff have influenced the analysis that follows, this chapter draws mainly on documentary sources of evidence. The reader should be reminded of the 'health warnings' issued in Chapter 4 in respect of the documentary materials on which these case summaries have been

constructed. There is, moreover, the ever present risk of hindsight bias: it is very easy to be wise after the event. It should always be borne in mind that in most cases the researcher could not know what was on the practitioner's mind or desk when certain decisions were made. What makes sense in the pressurised present can sometimes look ill-considered in retrospect. It should also be emphasised that these necessarily brief biographies are *selective* accounts of very complex lives. The judgements about which details to include and which to exclude were difficult. It will be noted that some individual decisions (by parents, practitioners and sentencers) are highlighted because they are considered influential in terms of subsequent developments. Indeed, the power, significance and far-reaching consequences of individual decisions are underlined heavily in this chapter. Inevitably, perhaps, what has been included here will reflect the concerns and preoccupations of this researcher. Nevertheless, every reasonable effort has been made to do justice to the young people concerned.

5.2.1: Anthony Turner:

Anthony Turner had recently attained his 18th birthday and was subject to a Detention and Training Order Licence when this case was being analysed. At that point he was living with his girlfriend in a flat located on the social housing estate on which he had been reared. This is a low income, high crime neighbourhood. His mother and stepfather also lived on this estate. His father resided in a nearby neighbourhood with his new partner and their young child.

Anthony is the only child of his parents' marriage. When Anthony was five years old his parents separated and he remained with his mother. Although Mr. Turner was, and indeed remains, a significant presence in Anthony's life, contact between father and son has actually been somewhat erratic over the years. There have been periods of close involvement interspersed with quite long spells of absence.

Anthony's mother formed a relationship with her present partner three years after the demise of the first marriage (when Anthony was aged eight years). From the outset there

were difficulties between stepfather and son. Anthony never accepted his stepfather's place in the family home and was deeply unhappy about the situation. At times this manifested itself in difficult behaviour. It would appear, however, that there was low tolerance for such behaviour within the home. As time progressed Anthony's behaviour and unhappiness deepened and his behaviour deteriorated. At the age of 11 years he began experimenting with a variety of 'soft' drugs. At the age of twelve years Social Services became involved in a Child Protection investigation in respect of alleged physical violence perpetrated by the stepfather on Anthony. The investigation appears to have been inconclusive, but the injuries sustained did raise concerns about Anthony's safety. The problem was resolved – temporarily, at least – when Anthony's grandparents agreed to Anthony living with them. Although they provided a warm and caring environment for their grandchild, they were unable to enforce acceptable boundaries of behaviour. Consequently, Anthony failed to attend school and spent much of his spare time in the company of older boys. This situation led to Anthony being accommodated (Section 20 CA 1989) by Social Services. Apart from the briefest of interludes, Anthony has not really returned to the family home since that time. There was a short stay with his father (along with his new partner and their young child), but this proved to be unsuccessful and Anthony was asked to leave. Anthony's perception was – and to some extent still is - that he was effectively rejected by both natural parents. It is, though, his mother whom he resents most. This is because he believes his mother's primary loyalty was to her partner rather than to him. Given the stepfather's alleged violence towards him, the sense of betrayal ran very deep. Nevertheless, it should be noted that Anthony's mother was always a regular visitor to her son during his subsequent placements away from home and whilst serving custodial sentences. The relationship between mother and son appears close, but troubled by a history of resentments and perceived betrayal.

As Anthony's history in the care system is long and complicated, the precise details will not be documented exhaustively here. Nevertheless, a few points should be made. Firstly, Anthony experienced many different placements, both community foster care and residential. The latter category included out of county residential units not only in Wales, but also the north of England, the Midlands, the West Country and London. At the age of

13 years there was a seven month period when he averaged a different placement every month. Unhappiness, home-sickness and dislike of most of the regimes in which he was placed precipitated absconsions which, in turn, resulted in secure placements under Section 25 of the Children Act 1989. During his time in residential care he appears to have experienced some intimidation from other residents. One exception was a small unit in England that specialised in dealing with 'difficult to place' young people. The regime was activity-based and encouraged problem-solving on the basis of co-operation and teamwork. Anthony responded very positively. Unfortunately, funding problems led to the closure of the unit. He was transferred to another unit, but lasted there only one day before absconding.

It was whilst being accommodated that Anthony first became involved in crime. It was also at this time that his use of drugs became more problematic. By the age of 14 years he was assessed as being 'addicted' to heroin. His initial forays in offending were committed with other children with whom he was accommodated. Some of these were older children. After two cautions (Burglary of a non-dwelling house and Going Equipped for Theft) he had his first three convictions at the age of 13 years. The first was for an offence of Criminal Damage (committed in a residential unit) for which a 12 months Conditional Discharge was given. The second was for a cluster of offences including two counts of Theft, three counts of Criminal Damage (related to the residential unit) and two common assaults (on members of the residential staff in the context of disputes in the unit). These matters were dealt with by way of an Attendance Centre Order. The third court appearance was for his part in a joint dwelling house burglary. This offence attracted a 9 months custodial sentence (under Section 53 of the Children & Young Persons Act as enhanced by the Criminal Justice and Public Order Act 1994).

It is worth pausing here to make some comment about the brief criminal career of a thirteen year-old child. How does the 'object of concern' in a child protection investigation at the age of twelve find himself behind bars at the age of thirteen? Three points should be made. Firstly, the risks posed to young people entering any residential

unit need to be identified and acknowledged openly. Homesick, upset and vulnerable, children are not simply susceptible to peer bullying and intimidation (Renold *et al*, 2002). It is, of course, important to recognise that they will also find friendship and support from peers. However, they will also be open to influence and suggestion in respect of experimentation and risk-taking in such areas of activity as substance use, sex and crime. These influences are, to varying degrees, exerted upon all young people. In a children's residential unit, though, these preoccupations tend to be concentrated in an intense and inward-looking environment. The problematic nature of the children's backgrounds (bereavement, abuse, neglect, etc.) will often create a combustible set of conditions within which to live and work. That children's homes are sometimes regarded as the preparatory schools for the custodial colleges of crime is hardly surprising. This is not, of course, an argument against residential provision. It is, though, an argument in favour of assessing the inherent risks of placing any child in such a setting. Anthony, certainly, entered children's homes within which there were young people with criminal histories. That he subsequently engaged in co-offending with some of these young people is not to say that he was coerced or easily led (although there is some evidence to suggest that he was). Rather, it should be properly acknowledged that the group dynamics at work amongst troubled young people will inevitably impact upon a new arrival at a home. Another risk that faces the young person in the residential unit is the fact that the behaviour of the residents is closely observed by staff. The risks of labelling under the scrutiny of the 'clinical gaze' (Foucault, 1973) and the welfare spotlight have been mentioned already. The relentless recording, filing and categorization of behaviour are part of an insidious process in which the mass of accumulated 'evidence' is capable of being organised in different ways to justify virtually any future decision. In the case of many children's units, moreover, there is the risk of any behaviour within the home being defined as criminal. Thus, damage to local authority property can result not simply in internal sanctions, but also criminal prosecution. There are few parents who would call the police when a teenager damages property at home during the course of an emotional outburst. In Anthony's case, it is clear that many of his offences were committed in the context of difficult conditions within residential settings. In pointing this out, such behaviour is not being excused. It is hardly surprising, though, that such incidents occur

amongst a young and emotionally volatile population. That the troubled behaviour of often vulnerable and damaged young people should be transferred for adjudication from the hothouse atmosphere of the residential unit to the gravitas of the courtroom is surely open to question.

Secondly, one wonders whether it would not have been possible to have considered cautions for some of the early offences that were brought before the court. Young people's offending is often situational and transient. A sudden change of circumstances (bereavement, ill health in the family, separating parents, change of school, removal from the home, etc.), membership of a new friendship group or the breakdown of a relationship can all precipitate a short spell of behaviour that might attract the attention of the police. When young people go through such phases it is possible to accumulate a large cluster of offences within a comparatively short space of time. How the authorities categorise and respond to this type of juvenile offending can have a huge effect on what happens to young people at a later date.

Thirdly, even for a dwelling house burglary – an offence taken very seriously by the courts – it is remarkable that a 13 year-old boy should be sentenced to a custodial sentence for a third conviction (the first one having only been attracted six months previously) and a first serious offence. Perhaps a Supervision Order was considered by the court to be pointless when the young person concerned was already in the twenty-four hour care of Social Services.

The rest of Anthony's offending career will not be recounted in detail. It can be glossed by quite simply stating that before reaching the age of eighteen years he had acquired 39 convictions for fifty offences (overwhelmingly for offences of dishonesty) and three consecutive custodial sentences (for a total of four years and three months). Of course, the custodial sentences included periods served in the community. Nevertheless, since Anthony was first received into Care he has spent most of this time deprived of his liberty. Given the pressing welfare, health and welfare needs of this young person it is perhaps surprising that only four months of this time has been spent on a Supervision

Order. Five points should be made about this whole period. Firstly, although his previous convictions do include a few dwelling house burglaries, the overwhelming majority involve minor offences of dishonesty (Theft, Handling, etc.).

Secondly, most of the offences were committed whilst being on Licence. This added a weight of seriousness to even the most trivial offences and triggered recall and/or remands in custody. The starting point in weighing up the sentencing options, therefore, was inevitably custody.

Thirdly, from the age of 14 years onwards his offending was clearly driven by the need to feed a burgeoning drug habit. His use of heroin on release from his first custodial sentence proved to have a profound effect on his personal life and the trajectory of his offending. What is curious about this development is that Anthony's problem is acknowledged by all concerned and yet it is addressed solely through the criminal justice system. The possibility of a community-based health response is not canvassed properly until he is seventeen years old (when, in fairness, drug treatment options are explored). It is not clear whether this is because of inadequate or age-inappropriate services in the locality, lack of funding or the absence of motivation from Anthony (although it has to be said that Anthony is on record as asking for help with his drug problem on a number of occasions). In one pre-sentence report (see below), it would appear that it is Anthony himself being blamed for a failure to take full responsibility for his actions. The notion that custody can provide the necessary and most appropriate detoxification and drying-out facilities for young substance misusers is possibly a view still held by some sentencers. What is surprising, though, is that this belief is not always challenged with consistent vigour by welfare professionals.

Fourthly, the whole period under review has had a devastating effect on Anthony's education. The almost continuous placement changes in public care and the periods spent in custody have meant that he has been outside mainstream education since the age of twelve years. Given the magnitude of the disruption, it is unsurprising that this "able boy of average ability" (as one PSR author described him) should have under-achieved

educationally. Although his Statement of Special Educational Needs identified emotional and behavioural issues, it is important to point out that the standard of educational work produced in custody was considered to be very good. This was certainly consistent with my impression of a bright, humorous and engaging young man.

Fifthly, the unstable accommodation situation has been a huge problem for Anthony during the period in question. Although his mother and stepfather initially provided accommodation for him on release from custody, these arrangements quickly broke down. The volatile nature of relations between Anthony and his stepfather precipitated his departure from the family home on more than one occasion. His homelessness forced him to rely upon old networks of peer support (sleeping on friends' sofas, etc.) which, in turn, exposed him to drug use and criminal activity. The fact that he failed to notify a YOT worker of his 'change of address' also put him in breach of his Licence. On this occasion Anthony was only back in the community for two weeks before using drugs, and three weeks before being remanded in custody.

The importance of establishing Anthony in stable accommodation was certainly recognised by the YOT worker supervising him at the time of my analysis. She made vigorous efforts to involve Social Services' Leaving Care Team in helping to secure such accommodation for Anthony. In fairness, Social Services had responded positively by placing him on various waiting lists for social housing (council and Housing Association) in the hope that something could be secured by the time he attained the age of eighteen years. His history of drug use was an obstacle in respect of some housing associations and projects, but he was eventually found council accommodation in due course.

What is striking about the six year period during which Anthony had been caught in the 'penal-welfare complex' (Garland, 1985: 262) is the powerlessness of this young person and the difficulty he experienced in getting his voice heard. Whilst the Children Act 1989 and subsequent developments in the public care field (noted in Chapters 2 and 3) have raised awareness about the importance of consulting young people who are looked after by the state, the failure to listen is much evidence in this case. Two examples of

powerlessness will be highlighted briefly here: one took place in custody, the other in the community.

At the age of sixteen years Anthony was settled at one custodial institution and was making good progress there. Whilst the institution was located in England, it was reasonably accessible for his mother's visits. When there were plans to relocate him to another institution further away from home he made strong representations against the move. He was particularly concerned that his mother would not be able to visit him as often as previously. Given that Anthony was a young person with a background in public care and needed to maintain close links with his family, this should have been a compelling argument. In desperation Anthony took to extreme measures in order to get his voice heard. He subsequently explained his actions in a letter to a YOT worker:

"...they tried to ship me out to X institution in XTown. But I put a razor in my mouth and threatened to swallow it if they took me so they had a emergency review and they say I can stay for the time being. I really don't want to go up to that jail as it could cause problems for me and my mum."

The re-classification of Anthony as a 'suicide risk' enabled him to have to achieve his objective, but the price was high in terms of the upset and risk to his own health and well-being. Moreover, it saddled him with another diagnostic label.

Anthony's vulnerability and powerlessness in the community is highlighted when, shortly before his seventeenth birthday, he and an adult acquaintance (another drug user) were arrested for questioning by the police one evening. They were taken to a police station in another town some twelve miles away. Anthony, who was once again dependent on heroin, was held for a few hours in a cell and began to experience withdrawal symptoms. According to his account he pressed on an emergency bell continuously and was ignored. In frustration he broke a light bulb in the cell and was duly charged with Criminal Damage. Later that night Anthony and the adult male were released without charge on the original matters. Without money for transport back to their home neighbourhood, Anthony was threatened with violence by the man if he didn't use his 'skills' to break

into a car in a car park adjacent to the police station. Anthony began to do this rather ineptly and the two were re-arrested and charged with Attempted Theft of a Car very shortly after their release. The nature of the two offences for which Anthony was convicted illustrates the situational nature of much youth offending. More importantly, it provides an example of how powerless many young people are in influencing so many of the situations in which they find themselves.

At this point it is worth considering two critical PSR proposals. At the age of fifteen years, when Anthony had been on a Supervision Order for just three months, the PSR author – having presented considerable personal background information concerning family history and drug addiction - writes,

“Whilst there have been issues in Anthony’s life that may have contributed to his offending, it is behaviour which is far from acceptable and for which Anthony must take responsibility.”

Having flagged up the issue of personal responsibility for offending behaviour, the author shows the full extent of Anthony’s culpability, albeit in a rather challenging idiom:

“Anthony acknowledges this is an immature manner by looking to a Custodial Sentence to bring a halt to behaviour over which he is unable to exert control. This naivety demonstrated Anthony’s age, lack of self-esteem and inability to grasp earlier opportunities. Therefore the sooner that Anthony can integrate positively and constructively into society he will curtail the possibility of a future spent in prison.”

Having not only pointed out that Anthony was responsible for his offending behaviour and all of those missed opportunities, but also his own age and lack of maturity, the PSR author denies the immediate possibility of integrating him into society “positively and constructively”:

“...the variety of community options to divert Anthony from a criminal path have been exhausted. In light of this, there are no other available or suitable community based penalties to offer the court.”

Given the contemporary professional preoccupation with personal responsibility, the 'Pontius Pilate' option is surprisingly popular with PSR authors.

At the age of sixteen years Anthony received his third custodial sentence. At the time of the offences he was addicted to heroin, effectively homeless and offending in order to both survive and support a drug habit. The details all of his health, family, welfare and personal problems were, once again, presented in the PSR before the symbolic washing of hands:

"...I am unable to offer an appropriate disposal at this stage. I trust this will be helpful to the court."

Of course, this type of 'proposal' is neither helpful to the court nor the young person. Courts do not like to be told what to do, but they do like to be given choices. In effect the PSR author is telling the court to send the young person to custody. There may well have been very good reasons why 'credible' (a term that can be debated at length) community-based sentencing options were not available to the court: long waiting lists for drug treatment, age-inappropriate services or lack of suitable accommodation to name but three. It is the duty of the PSR author to share such information with the courts whilst at the same time offering some kind of community-based alternative to custody. Judges, in particular, are perfectly capable of summoning consultant psychiatrists and Directors of Social Services to court to explain why appropriate services are not available. Of course, the PSR author may not wish to draw attention to shortfalls in service provision because this may disturb future good relations with colleagues in other agencies. These are very real professional dilemmas. Is it not, though, an act of bad faith to disguise such dilemmas beneath the rhetoric of offender responsabilisation? In the case of the last quotation the PSR author would have been aware of the fact that Anthony had, on his previous sentence, been categorised as a suicide risk. How might this PSR 'proposal' have looked had Anthony actually swallowed a razor blade on his third sentence? A proper sense of perspective is required here: upsetting one's colleague professionals in another agency is one thing; condemning a vulnerable child to another custodial sentence is quite another.

What is striking about the failure to offer constructive community-based sentencing options in the above cases is that they were preceded by quite detailed accounts of Anthony's family background and personal difficulties. This is a dangerous, though often necessary, strategy to adopt when attempting to persuade a court of the wisdom of a non-custodial option. When such a strategy is pursued with no such endgame in sight it is somewhat baffling. Perhaps it is hoped that by supplying detailed personal background information this will somehow provide mitigation for shortening the 'inevitable' custodial sentence.

The reasons why welfare professionals appear to simultaneously buy into the discourses of welfare, punishment and offender responsabilisation in their PSR's will vary. Very often PSR authors play with these discourses self-consciously and very skilfully. There are some practitioners, though, that collapse these discourses somewhat haphazardly with the result that welfare concerns become contaminated by harsh moral judgments. Another tendency in the PSR genre involves the assumption of an 'officer of the court' authorial voice: a dispassionate, rational and balanced arbiter of competing claims. This authorial tactic can be very effective in getting short-term results in court, although it can work against a broader, long-term strategy of changing judicial attitudes to the way children are sentenced in court. The most dangerous development is when a PSR author mistakes the authorial affectation of objectivity for the real thing. In an arena in which power relations are weighted against the least powerful and articulate, the person who genuinely believes that s/he is an objective 'officer of the court' is probably the most dangerous. To misapprehend the theatre of the court role-play for the truth of the matter is to commit a professional error.

Some of the above-mentioned themes will be revisited in Chapters 7 and 8. At this point, though, the narrative on this biography should be concluded. As mentioned initially, at the time at which this analysis was concluded, Anthony was living with his girlfriend in a council flat and had been free of drug dependency for a matter of a few months. At the time I interviewed him, he was doing well and was reasonably optimistic about the

future, but wise enough to recognise that things could unravel again very easily unless he was careful. Indeed, the fragility of his stability was all too apparent. He was living with his girlfriend and the continuing health of that relationship was clearly an important factor in his long-term plans. Against his better judgment he was also living in the neighbourhood where he had grown up. Consequently, he was accessible to his old friends. They were, for the most part, genuine friends; but nearly all of them were still involved in drugs and offending. Some of the more significant figures from his past were in custody at the time. That made things a little easier for the time being.

5.2.2: Brian Giles

Brian was 17 years of age and subject to a Supervision Order at the point at which this analysis was conducted. He was in the early stages of living in supported accommodation. Although he was still living in Wales, the project was located in a large urban area some fifty miles from his home. The accommodation project was managed by a voluntary sector agency and, as well as providing welfare support in respect of health and personal issues, also arranged training placements. The funding for his placement was split equally between the Youth Offending Team and the Social Services Department. Supervision was being provided by the Porthglo Youth Offending Team, but the local Youth Offending Team also provided some support. If the placement proved successful then the process of transferring the Supervision Order would be effected.

Brian was the only child of Mr and Mrs. Giles. His mother left the family home when he was a year old and there had been no contact between mother and son since that time. Mr. Giles subsequently moved to his own parents' home in an owner-occupied terraced house in a working class neighbourhood. This enabled Mr. Giles to continue in work while Brian's grandmother assumed the main caring role. This arrangement worked quite well and Brian developed a particularly close and loving relationship with his grandmother. Perhaps the only criticism that could be levelled was that the child was a little over-indulged. This hardly constituted a major problem, though.

When Brian was aged eight years he left this familiar environment when his father remarried. Mr. Giles' second wife had a daughter of Brian's age. The couple - who lived in social housing on a low income, high crime neighbourhood estate – also had a child of their own within the first two years of their marriage. Brian did not settle well into the reconstituted family and spent the next few years moving back and forth between his new family and the grandparental home. It should be mentioned here that there were also problems within the marriage from quite an early stage. This made it a difficult place to live at times.

When Brian was aged thirteen years his father separated from his second wife. Mr. Giles left the family home with Brian and took up residence temporarily with his parents once again. However, this was a difficult arrangement as Mr. Giles became very ill with severe depression and other associated mental health problems. When Mr. Giles entered a psychiatric hospital on a voluntary basis for a period, the grandmother effectively took sole responsibility for Brian. Despite the best efforts of the grandmother, this was an inevitably difficult and distressing episode in Brian's life. It was also a period during which relations with his father deteriorated markedly. Whilst Brian was provided with a high level of unconditional love and support by his grandmother, she was less well equipped to enforce behavioural boundaries in respect of a teenage boy. Brian's behaviour deteriorated as he began to associate with peers who were involved in drug-taking, drinking, truancy and petty crime. By the age of 14 years there were fears that he was becoming 'out of control'.

At the age of fifteen years, towards the end of his final year at school, he was accommodated under Section 20 of the Children Act 1989. He was placed in a local authority Children's residential unit. This proved to be an unsuccessful placement and Brian experienced difficulty in settling into this new environment. His first offences (minor Theft and Dishonesty) were committed at around this time. He was dealt with by two cautions. Later the same year he made his first court appearance for Using Threatening, Abusive and Insulting Behaviour for which he received a Conditional

Discharge. At around this time, although he was 'officially' living at the unit, he was actually very seldom there. Within a matter of weeks he was a minor player in joint burglaries of dwelling houses. He received an Attendance Centre Order which was very quickly breached. On attaining his sixteenth birthday he absconded from the Unit. Shortly after his sixteenth birthday the breach, along with further burglaries, resulted in his being remanded to secure local authority accommodation under Section 23 (1) of the Children and Young Persons Act 1969. At this point it is worth pausing to illustrate how, because neither a Care Order nor the provisions of the Children (Leaving Care) Act 2000 were in place, Social Services were somewhat ambivalent in respect of their responsibilities towards Brian. In the PSR, written one month after his sixteenth birthday, the situation is summarised as follows:

“Brian was accommodated on a voluntary basis by the local authority but once he attained the age of sixteen he removed himself from care. Although he is currently remanded to local authority accommodation, this does not guarantee that he can receive a service from the local authority as an accommodated young person. He will be entitled to help and advice to seek his own accommodation if he chooses not to live with his father.”

For all its imperfections and loopholes, the importance of the Children (Leaving Care) Act 2000 is underlined by this passage (Broad, 2005). In fact Brian was not abandoned completely by Social Services. Having said that, there is very little sense of case ownership by the Department. Most of the subsequent services put in place were driven by Youth Offending Team workers.

Since his remand in local authority accommodation Brian has actually received three Supervision Orders. Although it is possible to take issue with some aspects of the PSR's written in the intervening period, all have highlighted both Brian's vulnerability and the need to support him constructively through difficult times. The possibility of custody is not entertained and the case for supervision is made explicitly on all three occasions. Whilst Brian's chaotic and increasingly drug-dependent lifestyle resulted in his missing many appointments, he stayed in touch and kept turning up at the office for help. For the supervising YOT workers, this was enough to justify the continuation of statutory

supervision. It is interesting to note how this PSR author presents Brian's failure to comply properly with the terms of his Order. Whilst she uses the highly questionable authorial tactic of interposing the persona of the experienced and weary practitioner to make her point, there is an undeniable commitment to continue working with this young person.

"Your Worships, I have struggled to engage with Brian but I do not believe that his lack of cooperation has been deliberate. From wherever it is that his problems derive, Brian has been so badly affected that he has been unable to sustain anything in his life this year, which he must find distressing and unnerving. Whenever I have seen him I sense that he is at the point of emotional breakdown which tempers my exasperation towards him somewhat."

Three key points should be made in respect of this case. Firstly, Brian graduated to use of heroin by the time he was sixteen. The response was counselling by a drugs worker from a voluntary sector agency that worked in partnership with the Youth Offending Team. This did not lead to abstinence, but it appeared to help Brian to conduct his drug use in a safer way. Whether more radical and robust measures should have been taken is a matter of debate. It will also have depended on which services were available to young people and whether Brian was prepared to co-operate with such measures.

Secondly, Brian's offending was related to the instability of his accommodation situation, no/low income and drug use. Although Brian did spend some time with his grandmother and father, for the most part his accommodation situation was highly unstable. In one four month period when he was aged sixteen years there were six different addresses. He lived with friends and in various homeless project hostels. Some of these were wholly inappropriate for a person of his age as they were occupied by adults with severe mental health problems and street-hardened drinkers/drug users. These were intimidating and potentially violent places. Brian's unstable accommodation meant that it was difficult for him to attend training programmes. This resulted in his going through periods when he was not in receipt of any income. Consequently, many of the offences committed were essentially survival crimes. His offending also funded his burgeoning drug habit. Debts to drug dealers were a source of almost constant anxiety to him. He responded to threats

to his safety by 'borrowing' money and, on one occasion, stole goods from his grandmother. At one stage he apparently owed dealers approximately £600.

Thirdly, there were growing concerns about the state of Brian's mental health. Increasingly he appeared depressed and overwhelmed by his problems. Before his seventeenth birthday he had already self-harmed and made two suicide attempts. The second attempt, a drug overdose over the Christmas period, was regarded as 'serious' and led to his admission to the Poisons Unit in a local hospital. He was referred to a psychiatrist but, for reasons that are not entirely clear, the promised follow-up appointments were never offered. The Youth Offending Team re-referred Brian and, in the meantime, arranged appointments with a community psychiatric nurse who had been seconded to the Team. This seemed to help. A referral to an outpatient therapeutic unit in the community was also made. The theoretical orientation of the Unit placed great emphasis on family background and group dynamics. Consequently, the referral contained much material that could be interpreted psychodynamically. Whether this type of approach would really have benefited Brian is debateable. As it turned out, this option was not pursued.

At the point at which I interviewed Brian, he was living in the afore-mentioned supported accommodation. On the positive side he was well away from those people who had been pursuing him for debts. He was living in good quality accommodation, had commenced a training programme, enjoyed having money in his pocket and had made some friends. The support workers also seemed good. Significantly, he'd made progress in cutting back on his drug use. Although he was no longer taking heroin, he admitted to binge drinking and taking some drugs recreationally. Nevertheless, he was in a better state than previously. On the negative side he missed his family and home area. The people there were nice enough, but it was still strange. The accommodation project was good, but it was full of residents with similar backgrounds. There may have been new friends, but there were also old temptations. Having said that, he hadn't reoffended since his arrival.

5.2.3: John Calvert

John Calvert was 17 years of age at the time he was interviewed and the case file analysed. At this point he was subject to a Detention and Training Order Licence which involved strict conditions (including, for example, attendance at Employment Training placements). He was living in a supported accommodation living project. The voluntary sector agency that ran the project also managed the Employment Training placement.

John's family history, and Social Services' involvement, is long and complex. Only an abbreviated account of salient events will therefore be presented. Mr. and Mrs. Calvert had five children (three boys and two girls) and raised their family on a low income, high crime social housing estate. The marriage was extremely volatile and characterised by episodes of violence. The children not only witnessed violence against their mother, but also experienced it directly themselves. Social Services first became involved when John was two years of age. The children were duly placed on the child protection register. At a later stage John's older sisters were accommodated by the local authority. They did not return to the home.

When John was 12 years old his parents separated. A year later his father died. Despite the fact that his father had been violent, John was naturally distressed by his death. This was, by all accounts, an extremely difficult period for him. His mother's subsequent marriage to another man and the birth of a child proved emotionally difficult for John. Although his stepfather generally had a stabilising influence on family life (indeed, Case Conference records indicate that the children were taken off the Child Protection Register when John was fourteen years old), establishing a good relationship with him proved problematic in the immediate aftermath of these major life events. The relationship with his mother also deteriorated significantly at this time.

John's behaviour in the home became difficult and, from the age of twelve years, he was excluded permanently from school. The education he received in the intervening period was part-time and episodic. His involvement in offending also began at around this time. His first offence (Arson) attracted an Attendance Centre Order. Further offences

followed quickly (Burglary, Theft, Criminal Damage, less serious Public Order matters, etc.) and these attracted a day's imprisonment, a Conditional Discharge and Supervision Orders. Episodes of aggressive behaviour caused problems in the immediate neighbourhood and, apparently for his own protection against retaliatory violence by other young people, he was accommodated in a Children's Residential Unit under Section 20 of the Children Act 1989 at the age of 14 years. In the company of other children from residential units he initially committed burglaries and offences of dishonesty. These offences attracted a Conditional Discharge and Supervision Orders. Despite moving between children's residential units (including one placement in a neighbouring county) his offending actually tailed off and he complied with his Supervision Order. It is worth mentioning that he generally maintained good relations with social workers and Youth Offending Team workers. For the most part he also socialised well with other young people in the units where he lived. Whilst relations with his own family were troubled, he almost always engaged positively with others – including those in authority.

At the age of sixteen years the transition from local authority residential unit to independent living proved extremely difficult for John. The concerns about his lack of maturity in handling life outside public care were quickly realised. The level of support available to John was insufficient to maintain him in independent accommodation. Before long he was moving between different addresses and recommenced offending. The Courts dealt with these offences of dishonesty with community-based sentencing options (including a Supervision Order with specified activities and a Community Service Order). Although his unstable circumstances also affected his appointment-keeping, the essential spirit of co-operation was still present in his dealings with the YOT worker and the social worker from the Leaving Care team. As one PSR author expressed it:

“...the immediate months following the making of the Order were chaotic and unsettling and might not adequately reflect John's capacity to co-operate with the aims and objectives of supervision.”

The Courts' willingness to support supervision in the community ended abruptly when, at the age of 16 years, he was involved in two acts of violence. At the time John and his girlfriend (a girl he knew from the Care system) were staying at the family home of another friend he had met in Care (Michael Ross: 5.2.4). The three of them had arranged to meet up with another friend from a Children's residential unit. After the four of them met, they walked into town together. Apparently, John and his girlfriend were walking some twenty yards behind Michael Ross and the other friend when the latter pair robbed a man of his wallet. The robbery took place in the street after an apparent altercation. The man, in his thirties, appeared drunk at the time. Neither John nor his girlfriend participated in the violence. Although John and his girlfriend claimed they did not know this was going to happen beforehand (and did not share in the proceeds), the fact they subsequently stayed in the company of their friends was presented as evidence of acting in concert. Although John's girlfriend wasn't charged, he was convicted and received an 18 months Detention and Training Order.

The second act of violence occurred when, in the town centre, a young adult male allegedly made inappropriate advances toward his girlfriend. John pushed him away and was struck by the man. John retaliated and was deemed to have used unreasonable force as the injuries to the man were very severe. For this offence of Grievous Bodily Harm he received an additional 6 months (to be served consecutively).

Although John's time in custody was a difficult experience, the reports from the institution where he served his sentence were extremely positive. He co-operated fully with staff, engaged in education and reconnected with sporting activities for the first time since his early teens. As will be made clear later, John is a naturally gifted athlete and sportsman.

Although John complied with the DTO Licence, it is worth pointing out that the supervising YOT worker showed great diplomatic skill in managing a potentially difficult situation developing on the Training Placement. One of the support workers, for whatever reason, took a very negative view of John. A number of memoranda were sent

to the YOT worker concerning John's alleged 'manipulative behaviour'. Apart from being totally inconsistent with the YOT worker's experience of John, there was a danger that this situation might precipitate a 'walk out' from John (and thus result in loss of accommodation and a recall to custody). It is to the credit of the YOT worker and, of course, John that this situation was defused.

At this juncture it might be helpful to reflect on one hitherto neglected aspect of this case. As with so many of the other cases, John's education suffered badly when he went into local authority care. What has not been mentioned before is that between the ages of 12-14 years he was signed to a local professional football club. At this age he was said to have had the potential to develop into a professional footballer. With everything else that was happening at that time, this was one of the few positive things he had in his life. When he entered public care the necessary arrangements to get him to the training sessions were not organised. After several warnings his contract with the club was duly terminated. This episode has been a source of great regret to John. When I met him he made it clear that he didn't necessarily think that he would have succeeded as a professional, but it had been an important and enjoyable part of his life. When the club released players, moreover, they tried to refer them on to other good, semi-professional clubs. Perhaps if this one link to the world outside care and the criminal justice system had been maintained, things may have turned out a little differently. Participation in an activity he loved and the maintenance of pro-social friendship networks could have proved very important.

At the point at which I interviewed John he was optimistic about life. The accommodation was good, the employment training enjoyable and he hadn't reoffended since his release from custody. He was also delighted that his girlfriend (whom he had met in Care) was pregnant. He hoped they would find somewhere to live together and perhaps his mother might help out with the baby-sitting. Needless to say the professionals involved with John and his girlfriend were less sanguine about how things might turn out.

5.2.4: Michael Ross

Michael Ross was aged 17 years at the time the interviews were conducted (with Mrs. Ross and Michael) and the case records analysed. At that point he was serving his second custodial sentence (for a street robbery) at an English Young Offenders' Institution.

Michael is one of eight children (seven boys and one girl) born to Mr. and Mrs. Ross. Mrs. Ross is from a Welsh Italian background but has anglicised her name. Four of his siblings are younger than Michael. The family originally lived in cramped conditions on a social housing estate in a low income, high crime neighbourhood. Mrs. Ross and the three of the children were forced to sleep downstairs (on the settee, chairs and a pushchair). When Michael was thirteen his father left the family home. Mrs. Ross suffered from depression, for which she was medicated, and experienced problems in coping with the demands of relentless housework, childcare and managing on a very low income. A PSR written at this time captures the family's situation well. Both the internal dynamics of family life and the social context within which they lived are presented with great clarity. This was,

"...a family who exist on the margins of mainstream society. The household is dominated by lack of money and the persistent problems of attempting to exercise control or supervision over a large number of children in an area where opportunities for petty vandalism and other crime are plentiful. In the midst of such disadvantages, I was positively impressed by Mrs. Ross' attempts to do her best for her children in adverse conditions. She seems to me to have a clear grasp of the very complicated sets of circumstances in which different family members are involved. Physical conditions in the home, while displaying the long-term effects of living on a subsistence income, nevertheless reflect the continuous efforts which it must require to keep such a large family fed, clothed and clean."

Social Services' Children and Family Team records, whilst acknowledging both the corrosive effects of material social deprivation and the efforts made by Mrs. Ross, tend to be more severe in their assessment of the quality of childcare and cleanliness of the

house. Mrs. Ross is presented as not coping with the younger children, partly because of her failure to enforce boundaries with the older ones (including Michael), and not maintaining the home to an adequate standard of hygiene (the kitchen, bathroom and toilet being identified as areas of particular concern). Social Services provided practical support in terms of helping to re-house the family (to a larger house in another low income, high crime neighbourhood), providing additional bedding, assistance with housework and guidance in respect of what was termed 'parenting craft'. Nevertheless, one of the main concerns remained that of Mrs. Ross' inability to enforce acceptable boundaries of behaviour in respect of the older children and how this impacted on younger siblings. Michael and his older brothers' involvement with local children in nuisance behaviour outside the home (what would probably now be termed 'anti-social behaviour') and petty crime caused problems with some neighbours. Some local people would engage in abusive public arguments with Mrs. Ross about her failure to control the children. The family's notoriety was thus quickly well established. Michael's offending actually commenced when he was ten years of age. Mrs. Ross commented that the police were, "*just waiting for his tenth birthday so they could get him*". Whether this is true or not, it is certainly the case that he graduated from Cautions to court appearances very quickly. Most of his early offending comprised petty theft (shoplifting, etc.), criminal damage and minor public order offences.

When Michael was thirteen he and his younger siblings were placed on the Child Protection Register. Michael and his younger sister were placed on the register on the grounds of Neglect and Emotional Abuse. Michael spent an eight week period with his father and this was assessed as having been successful. His enuresis, general behaviour and school attendance all improved. When he returned to his mother, though, the old patterns of behaviour were resumed and Mrs. Ross complained that the older boys were "*running wild*". At the age of fourteen, under Section 20 of the Children Act 1989, Michael and his ten year old brother were accommodated at a Children's residential unit. This was a distressing time for both boys who initially settled badly. The distress turned to trauma when, a month later, their father was murdered. The effect of this event on Michael cannot, of course, be over-estimated – although one PSR author did manage to

write some particularly insensitive passages within a month of Mr. Ross' violent death. After commenting upon Michael's criminal activity "*escalating unchecked by any course of action*" and "*self-destructive attitude and seeming desire to experience prison*", the author reports on his client's response to supervision. It is noted that two recent appointments had been missed.

"The first of the failures to comply was put down to the death of Mr. Ross and the assumed grieving of the family. The second missed appointment by Michael Ross appears to be an intentional act."

The PSR concludes that this recently bereaved fourteen year-old boy,

"...appears to be a young man out of control and has no worthwhile direction in life."

This chapter, along with Chapters 7 and 8, discuss - *inter alia* - the different discourses that are used in PSR's in order to achieve particular outcomes for service users. The above PSR, however, stands in a category of its own.

This narrative of Michael's family life and offending career is a complex one and there is insufficient space here to explore every twist and turn of its passage. Moreover, despite the existence of voluminous files, there are still significant documentary lacunae. Summarised below, therefore, are the salient issues on which some comment should be made.

Firstly, Michael's experience of public care was exclusively in residential units. On the basis of my reading of the evidence there were three main placements. On the whole, Michael was complimentary about most of the staff who worked at these units. There were exceptions, but generally he felt the staff were kind, supportive and concerned about him. For the most part they, too, were positive about him. This is not to say, of course, that these placements did not have a downside. He was, for example, exposed to a peer group of young offenders (as they, of course, were exposed to him). Much of his subsequent offending – which became progressively more serious (burglaries, car theft,

etc.) – was committed with other residents. Many of these young people became close and reliable friends, but most of them also appeared as co-defendants. Another consequence of being accommodated was that much of his criminal record actually stemmed from behaviour that took place within the various units. Thus, for example, on one occasion Michael was upset and barricaded himself in his room. In the process he damaged property. This incident resulted in his being charged with a public order offence and Criminal Damage. On another occasion he stole the Unit’s playstation and was duly charged with Burglary. It was not that Michael was always badly behaved in the units but, as he put it, sometimes *“things would just kick off”*. This is confirmed in a Progress Report prepared by a YOT worker.

“The problems at the unit appear to stem from finding the right mix of children who can live together amicably, rather than ‘winding each other up’ to behave criminally.”

Many sentencers appeared to be generally understanding of the problems inherent in Michael’s situation and, until he was fifteen, gave him community-based sentences. It was his perception that, *“... the courts gave me loads of chances.”* In fact he possibly had fewer ‘chances’ than he deserved, but this is an interesting perception.

The fact that the influence of life in the residential units was increasing his propensity to offend did lead to a decision to place him in a foster care environment. This part of the Child Care Plan was never realised. This was a cause of concern to the psychiatrist who interviewed Michael. She was also concerned at one stage that Michael’s younger brother, Carl, was being accommodated in the same environment. Whilst the rationale for keeping the brothers together was sound in itself, the setting was entirely inappropriate. Ideally, foster care was needed for both children (possibly separately, because Michael was bullying his younger brother).

“This is most important for Carl who at only ten years old is in a teenage environment. It is not surprising in this situation that Carl is reported to be smoking and using drugs. When I last saw him he had most of his hair shaved off. He said that friends had done it.... My biggest concern for Carl is that he is not

forming any close relationships with adult carers. I consider it quite urgent that an appropriate foster family is sought for Carl.”

It is appreciated, of course that the dearth of suitable foster carers is a major problem for most Social Services Departments. By the same token, the shrinking residential sector had - as Utting (1997) observed – left Social Services Departments bereft of choice. The little that was available close to home was all that could be offered.

Michael had been assessed as having Special Educational Needs before entering public care. The precise nature of those needs was difficult to ascertain from the documentary evidence available. Despite his short attention span, though, he generally applied himself well in education. Apart from periodic outbursts and the time he stole a teacher’s car from the school park (which resulted in his exclusion) he was well regarded by most teachers. The good progress he made at his special school was repeated later in classes at custodial institutions.

Contradictory impressions of Michael emerge from the available documentary evidence. These go well beyond the nuanced delineation of the usual subtle paradoxes of personality. Michael is thus described in unequivocally clear terms as both “communicative” and “uncommunicative” by various practitioners and teachers. It really seems to depend on whom he is speaking to at the time. There is a plethora of evidence to support radically different assessments because, like any upset and confused young person in Care, he behaves both well and badly. What is worrying is that this is not really always acknowledged. The critical arenas within which the struggle to ‘construct’ Michael took place were in the case conferences and statutory review meetings. Despite the availability of other evidence that could be used to create a more balanced assessment, the non-compliant, anti-social and criminal elements of his behaviour are assembled to construct a more negative Report for one Review meeting:

“Mrs. Ross cannot cope with his behaviour. Michael continues to be enuretic and has ...refused to attend for Appointments with Dr. Croft. He also rejected/failed appointments to see her when they were arranged at ...School. Michael has also rejected the opportunity for Bereavement Counselling.”

What is being constructed below is an 'artful dodger'.

He is very 'streetwise', a wheeler and dealer and watchful of authority figures. However, when staff stand their ground he will eventually comply despite a good deal of foul language."

That Michael could be challenging, taxing and testing at his worst is beyond doubt, but - as has already been suggested - there are other accounts provided by unit staff that could have been used to paint a more three-dimensional portrait. What seems to be happening here is that the more negative written material available to the Reviewers is beginning to be put to the service of a wider strategy with the family. At a very early stage in Michael's Care career the following point is noted at a case conference:

"The overview from the Chair was that Mrs. Ross' ability to cope with the two younger one's (Maria - 6 years; Jacob - 21 months) has been greatly enhanced by many changes in her environment, not least of which is the absence from herself of the four boys. This was evidenced by the observation that the aggressive behaviour of Jacob has subsided and the withdrawn presentation of Maria is replaced by normal social responses, particularly noticed at school."

That an improvement in the younger children's quality of life took place is not disputed. What becomes clearer in subsequent records, though, is that there is a damage limitation strategy being constructed. Sadly, it is suggested, the older children are already severely damaged. The hope is that it is not too late for the younger siblings. The sense of drift in Michael's case is in sharp contrast to the more proactive interventions with the younger children.

As with a previously mentioned case, Michael did not benefit from the provisions of the Children (Leaving Care) Act 2000. This proved to be highly significant in the events that followed.

It would appear that following the commission of some offences a few months before his sixteenth birthday, Michael was allowed to return to his mother's home. How this

decision was taken is not at all clear. A summary from the records of the YOT worker describes the confused circumstances.

“I received a call from Michael’s child and family social worker....She informed me that the...unit, where Michael had been accommodated had, without reference to her or myself ‘closed’ Michael’s placement and Michael was now living at home full-time. It was anticipated that this would cause problems due to the added childcare burden it placed on Mrs. Ross. This decision also meant that the ‘Leaving Care’ package that had been developed for Michael was no longer viable as he would not be in care on his sixteenth birthday.”

Michael was not at home for very long. He was remanded in custody and shortly afterwards received a Detention and Training Order. Before his release from custody it was made clear that it would not be acceptable to Social Services’ Children & Families Team if Michael returned home. It was argued that it was the responsibility of the Youth Offending Team to find him independent living accommodation. Although efforts were made to engage with the Leaving Care Team, these proved unsuccessful. The accommodation found for Michael did not last long and he soon found himself effectively homeless. He stayed with friends and, because it was summer, camped out when the weather was good. It is strongly suspected that he stayed at his mother’s home on occasions, but this was never disclosed as this would have caused problems with Social Services. In the meantime records show that the Youth Offending Team made a series of subsistence payments to Michael over this period. He clearly had no other legitimate means of income.

It was not long before Michael found himself in custody again after the street robbery referred to in the previous case (5.2.3). At the time of analysis the custodial part of the DTO sentence was being served. Meanwhile the dispute between the Youth Offending Team and Social Services about their respective areas of responsibility was resumed. The Youth Offending Team worker sought clarification as to whether Michael was permitted to return to his mother’s home on release. The answer from a new Child and Family social worker was unequivocal. Michael had moved beyond being a troublesome teenage child and was now constructed as a risk to children.

“It is deemed that he (Michael) is a risk to the younger children at home at present. There is also a history of Mrs. Ross being unable to set boundaries and control her children. There would therefore be a concern that Michael may be at risk of reoffending.

It is the Department’s intention to proceed with an application to the Court for Care Orders in respect of Carl, Maria and Jacob.

Should Michael return home, this Department would then be seeking urgent legal advice as to whether we could remove Maria and Jacob to a place of safety.”

The supervising YOT worker duly referred Michael to Social Services’ Leaving Care Team, but without success. Six messages had been sent by the YOT worker to the Leaving Care Team via an internal/inter-agency email system. As there was no response from the Leaving Care Team, a formal letter of referral was sent. The matter had not been resolved at the time of closing my analysis of this case.

5.2.5: Daniela Harrison

Daniela was aged 15 years at the time of this case analysis and my interview with her. At that time she was serving a custodial sentence in an English Secure Unit for joint Burglary of an occupied Dwelling House, Robbery and Assault Occasioning Actual Bodily Harm (Section 47). An aggravating feature of the offences is that they involved the grandmother of the co-defendant. The woman is described in the pre-sentence report as a “*frail, elderly, woman*” who was “*profoundly deaf*”. Daniela was aged 15 when she committed the offence and received the sentence.

Daniela, the eldest of two daughters, was described by her social worker as being from a respectable working class family background: the parents worked hard and brought up their children in line with sound values. The family owned their own home in a comparatively quiet corner of a social housing estate. Daniela, a bright girl, was doing well at school until the age of 14 years when she began to experience bullying. Although Daniela’s mother visited the school on numerous occasions, the matter was

never resolved satisfactorily. Even when the girls responsible for the bullying were excluded, they waited for her outside school. It was at this point that Daniela began to truant from time to time. Daniela's attitude changed towards family and school work. There were also occasions when she stayed out late with a set of new friends – a group of girls considered by her mother as a 'bad influence'. One of Daniela's close friends was Jade, her future co-defendant. At a particularly low point in relations with her daughter, Mrs. Harrison contacted Social Services for help because Daniela was 'beyond her control'. The referral does not appear to have been regarded as being appropriate for allocation or statutory intervention. Quite reasonably, perhaps, it was probably considered as an example of transient relationship difficulties in an otherwise solid family.

Daniela's motivation for becoming involved in the offences for which she received a custodial sentence was, primarily, to help out a friend - although it should be acknowledged that there was also some small financial gain involved. Until that point Daniela had never been involved in any form of offending. She had not even received a Caution. Jade owed money to a group of boys and was apparently being threatened with violence if she didn't honour the instalments. The reason for being in such debt is not clear. The plan to extricate herself from this difficult situation was to steal money from her father while he was out at work. Although her grandmother lived at the house, she reasoned that because she was old and profoundly deaf it would be possible to steal money without her being disturbed. Daniela was persuaded to help out with this plan. To the girls it didn't seem like a real crime because Jade was taking money from her own family. Daniela thus became involved in two burglaries of Jade's father's house. Although the grandmother had been present on both occasions they had managed to gain access and steal without disturbing her. It should be mentioned that Daniela was given a few pounds in payment for her involvement in the crime.

The third burglary went badly wrong. The girls gained access to the house as previously. The place where Jade's father usually kept his money was empty. Jade responded to this situation by stealing from her grandmother's room instead. On this occasion the

grandmother had locked the door before they had had a chance to leave the premises. The girls responded to this situation by throwing a towel over her head while they looked for the keys to make good their escape. The grandmother, who was seated, slipped and fell to the floor. Although the girls escaped they were arrested shortly afterwards and confessed what they had done. Daniela was remanded to local authority accommodation.

Daniela was accommodated at two residential units while she awaited sentence at the Crown Court. While at the second her attendance at school tailed off and was instead occupied in an alternative package of education. It had been planned that this would eventually lead to a training placement when she was 16 years old. Although Daniela did not present any major management problems to staff at the unit, there were occasions when she would stay out all night. Whilst she would return the next day, there were obviously concerns about her safety. Having said that, there was no discussion of moving her to secure accommodation.

The PSR author, whilst acknowledging the distress caused to the victim, nevertheless mounted a cogent argument against custody. It was pointed out that Daniela was of previously good character. A Supervision Order with a Specified Activities Programme was proposed (that included such elements as direct mediation with the victim and reparation work). The YOT worker had also managed to negotiate a return to the family home. Reconciliation with her family was very much the foundation of his plans for her rehabilitation and reintegration. This is contrasted with the criminogenic nature of life in a typical local authority residential unit.

“With the onset of her training scheme her time will be occupied gainfully during the day and I am hopeful that with a return home to her parents she will settle back into family life quickly. This planned return home is vital in my opinion, as with all young people who are accommodated they are at great risk of cross contamination from being placed with high risk offenders and as Daniela has no history of offending prior to this I feel it is advisable that she return home at the earliest opportunity.”

In the end, these arguments failed to persuade the judge and a lengthy custodial sentence was imposed. The vulnerability of the victim and the trauma she experienced were clearly salient factors that influenced the sentence passed.

5.2.6: Malcolm Welham

Malcolm was aged 13 years at the time that the interview and case analysis were undertaken. At that point he had returned home after a period in public care. His mother lived in social housing accommodation in a low income, high crime neighbourhood.

Malcolm had been accommodated under Section 20 of the Children Act 1989.

Seemingly, most of his time in the public care system had been spent with community foster carers. During this time his behaviour and school attendance had been quite good. His mother, who brought Malcolm up on her own, had experienced problems in exercising control over him for a number of years. He stayed out late without her permission and associated with older boys in the neighbourhood. This had led him to become involved in substance misuse (cannabis, etc.) and offending (mainly Theft from shops). He had also been truanting from school. At the time I interviewed him he was failing to attend school mainly because there were other pupils who were threatening him with violence. These threats were related to a pair of expensive trainers he had stolen from one of the boys.

Malcolm's offending had been dealt with by way of an Attendance Centre Order, two Supervision Orders and an Action Plan Order. It is also worth mentioning that Malcolm's mother was subject to a Parenting Order. The imposition of this Order had come as a surprise to the supervising YOT worker and Malcolm's mother. According to the YOT worker, Ms. Welham was an essentially good mother who made strenuous efforts to bring up her son properly. She found it extremely difficult, however, to insulate him against the influence of some of the young people in the local neighbourhood and certain children at school. At the time I conducted the interview, Ms. Welham was very concerned that Malcolm was not attending school. Whilst she took him there most

mornings, he usually absconded at some point during the morning. Her anxiety was now particularly high as Malcolm's school non-attendance put her in breach of the Parenting Order. The YOT worker subsequently addressed these concerns by negotiating his involvement in an Alternative Curriculum (a training placement, etc.). However, this could not be put into effect until some time after his fourteenth birthday. It was therefore a question of trying to encourage Malcolm to return to school in the intervening period. There seemed little chance of achieving this, though.

Malcolm himself presented as a friendly, but rather excitable and immature boy. His understanding of the various Orders that had been made was somewhat limited. Although he had recently been complying reasonably well with an Action Plan Order, his history of appointment-keeping was generally very erratic. His YOT worker, who clearly enjoyed a good relationship with him, believed that he simply forgot about these appointments. Although he was a boy who clearly broke the law from time to time and avoided school as much as possible, Malcolm wasn't intent on challenging authority *per se*.

5.2.7: Michelle Lyons

Michelle Lyons was aged 15 years at the time of this case being analysed. She was subject to a Supervision Order and, following the commission of her most recent offences, had returned to the home of her mother. Michelle and her mother were living in a low income, high crime neighbourhood on a social housing estate.

Michelle was assessed as being immature for her age and of low ability: Special Educational Needs had been identified. Her behaviour at home, school and in the neighbourhood was – at times – challenging and unpredictable. This led to her first contact with the criminal justice system in her early years at high school. Minor offences between the ages of 12 and 14 years were dealt with by cautions. Due to Ms. Lyons' inability to cope with her daughter, Michelle entered the public care system under Section 20 of the Children Act 1989. She was placed at a number of children's residential units

over a comparatively short period of time. Michelle found it very difficult to settle into the various Units and her behaviour seemed to deteriorate correspondingly. Her first conviction, which attracted a Conditional Discharge, was for a minor public order offence. The Conditional Discharge was subsequently breached by Criminal Damage offences and a Reparation Order was made. This proved to be an inappropriate Order for Michelle because she failed to engage with the process. Apparently, her immaturity and 'difficult behaviour' made the Order something of a non-starter. The Order was breached and replaced by a short Supervision Order. Michelle co-operated with this Order, but committed further offences at the age of 15 years. The first offence involved occupying a minor supporting role in theft from a car. The leading protagonists were a group of boys from her 'out of county' residential unit. She was present when they broke into the vehicle and she subsequently held stolen goods for one of the boys. The second offence was an act of vandalism committed at the same residential unit. She was prosecuted for Criminal Damage to local authority property and the court made another Supervision Order.

As has been mentioned previously, Michelle was extremely unsettled in the residential units. This was evidenced in particular when she absconded from a Unit in England that specialised in working with young people with behavioural difficulties. Although she had been back living with her mother since that time, there were already some signs that this arrangement might not last. It was also clear that Michelle was associating with other young people in the neighbourhood who were binge-drinking and shoplifting.

Provision for Michelle's education had not been made at the time I interviewed her. The YOT worker was, however, in the process of trying to engage her in an Alternative Curriculum placement.

5.2.8: Paul Gullimore

Paul Gullimore was 18 years old and serving a Detention Training Order at a Welsh Young Offenders Institution at the time of this case analysis.

Paul is the eldest of two children. Their parents separated while they were both quite young. There had been no contact with the natural father since that time and it would appear that the mother was active in ensuring that this should not happen. The family lived in social housing in a low income, high crime neighbourhood.

Social Services first became involved with the family when Paul was aged three years. The Department's role would appear to have been supportive as Mrs. Gullimore experienced difficulties in managing the children. At the age of 11 years, though, Mrs. Gullimore requested that Paul be accommodated under Section 20 of the Children Act 1989. There followed a long and complicated history of local authority placements interspersed by periods at home with his mother. There were also occasions when Paul stayed with the family of a girlfriend. Throughout this history it would seem the abiding hope was that Paul would settle with his mother. This was certainly where he wanted to live. However, for reasons that were not always entirely clear, placements at home tended to be of comparatively short duration. Records would suggest that, whilst Paul may have presented some challenges, social workers tended to think that the main problems emanated from Mrs. Gullimore. There were suggestions of alcohol misuse in the home. Paul also experienced a rather problematic relationship with his mother's new partner. Fairly or unfairly, Mrs. Gullimore emerges from the records and interviews with practitioners, as a difficult and inconsistent parent. Whatever the truth of the matter, Paul certainly experienced an acute sense of rejection from the age of 11 years. Moreover, many of his subsequent plans were undermined when, on numerous occasions, his mother returned him to public care or evicted him from the family home. There were periods of stability, such as when he was placed with some very experienced foster carers at the age of 14/15 years. This was a time when his offending tailed off and he began making progress in education. His problems resumed, however, a short time after being returned home at his mother's request. When problems between them erupted, she once again asked for him to be accommodated. Paul re-offended, received a custodial sentence and the foster placement was lost.

Paul's offending behaviour coincided with his entry into public care. His first court appearance was at the age of 13 years. Whilst living at children's residential units he proved difficult and was easily upset. This caused the police to be called on more than one occasion and led to convictions for Criminal Damage and minor public order offences. When he was excluded from school, Paul had a great deal of time on his hands and began offending with older children and young people. Although the professional discourse surrounding Paul's case generally revolved around the inconsistent parenting provided by his mother, an early professional assessment conducted by a psychiatrist focused on the risk posed by the 13 year-old boy. Seemingly, Paul had not co-operated with the psychiatrist. This did not, however, impede the expression of a professional opinion. The passage below gives a flavour of the assessment:

"...on the basis of the information available to me provided by the multi-professional group at the case conference and my reading of the documentation, I am convinced that Paul Gullimore poses a significant risk both to himself and others by misbehaviour.... The precise nature and quantity of this risk is impossible to ascertain because Paul Gullimore's behaviour makes an accurate risk assessment impossible. Paul Gullimore's behaviour suggests a very poor prognosis with his behaviour not altering until it eventually leaves him in serious conflict with the law and is likely to result in a S.53 disposal or a penal disposal"

The issue of security was paramount for the psychiatrist,

"...in my view (he) would need to have some degree of security, though whether this is provided by intense staffing levels or locks is debateable."

Most professionals who subsequently encountered Paul did not appear to take such an alarming view of the risks posed by Paul. Whilst he went on to commit a great number of offences (21 convictions and 4 custodial sentences by the age of 18 years), these were mainly committed with others whilst in public care and – when he became a little older – during periods of homelessness. Also, some offences were committed at his mother's home. One offence of Criminal Damage, for example, was committed there. When he was placed with foster carers whom he liked, or in those periods when things were going well at home, he generally didn't offend. There was one offence-free period of 7-months when he was living with his girlfriend's family and working full-time. When that

relationship ended and he found himself homeless, he lost his job and re-offended. On the whole, his risk of re-offending seemed to be related to the degree of stability present in his accommodation situation and the state of play in his personal relationships (the two, of course, being intertwined). At one stage, too, his offending seemed to be connected to the heavy use of cannabis: money was needed to fund this habit; a habit reportedly developed to anaesthetise himself against the bad things happening in his life.

For the most part, Paul's criminal record involved offences of dishonesty and driving-related offences. Latterly, though, he was involved in more serious matters. His part in a robbery was followed by a conviction for Indecent Assault on a 13-year old girl who was known to him. Both offences were committed during a period of homelessness. Although the Indecent Assault was denied, the Court found him guilty. An appeal against the conviction was in the process of being lodged at the time when this case analysis was completed.

There are four issues in this case that deserve brief comment. The first point relates to Paul's experience of custody. Although Paul emerges as a resilient and determined character as he gets older, it should be mentioned that there was a period when he was the target of a group of bullies within a Young Offenders Institution. He became very depressed and was placed on a '24-hour suicide watch'. His time there was not helped by the fact that the institution was overcrowded. This meant that work and educational facilities were unavailable for the majority of inmates – and that included Paul. When I visited him at a YOI, he was apparently coping much better. Nevertheless, the challenging nature of institutional life was underlined when, at the end of my interview, he passed another inmate and the two clashed shoulders. Paul seemed to be quite combative. The prison officers dealt with the matter quickly and cursorily. Whether the incident had anything to do with his status as a convicted 'sex offender' I do not know. This small episode did, though, serve to illustrate the daily tests, trials and risks that can confront young people in some custodial regimes.

The second broad issue concerns Paul's spells of homelessness. It illustrates two aspects of the inherent risks of that condition. Firstly, when he was living in one hostel he was the object of unwelcome, persistent and – in some cases – intimidating sexual advances from adult men. Paul found this difficult to cope with and left. Secondly, his unstable accommodation situation caused him to use whatever limited support networks he could access. Although the Leaving Care Team made efforts to find him suitable accommodation, he was usually forced to rely on his own resources and contacts. This often meant reviving old friendships formed in the public care and criminal justice systems. This almost inevitably led him into offending behaviour. If he was staying with friends, he felt obliged to reciprocate their hospitality with criminal favours (e.g., acting as a driver).

Thirdly, as in other cases already mentioned, Paul's educational and training needs had been greatly disrupted and neglected. The erratic trajectory between family home, public care, custody and homelessness had left him ill equipped to participate in the economy on a long-term basis. This was particularly unfortunate as Paul was considered to be a good worker by a number of employers. His unstable circumstances, however, conspired to undermine his position in the workforce.

Finally, Paul's experience of bouncing back and forth between family home and public care cannot pass without comment. With the benefit of hindsight, practitioners tended to concur that this was an example of 'case drift'. The problematic pattern should, it was argued, have been addressed much earlier.

At the point at which this case analysis was completed, Mrs. Gullimore had indicated that Paul could not return to the family home on his release. The local authority Housing Department had, nevertheless, stated that accommodation would be available for him when he finished his sentence. That he would need help and support in adjusting to independent living was recognised by his YOT worker.

5.2.9: Trevor Bushell

Trevor was aged 17 years and subject to a Community Rehabilitation Order with ISSP at the time of this case analysis being completed. Following a period of homelessness, he was living in a hostel for young people managed by a Christian organisation.

Trevor is the eldest of his mother's three children. He and his sister share the same father, but his brother has another biological father. Trevor has had no contact with his natural father for many years. It is understood that he witnessed domestic violence when he was younger. Following their separation, he and his siblings were brought up by his mother in social housing in a low income, high crime neighbourhood. It would appear that his mother suffered from mental health problems and, as the eldest child, Trevor assumed caring responsibilities within the home. Records imply that Mrs. Bushell's expectations of her son exceeded his capabilities as a child. Mrs. Bushell clearly experienced difficulties in parenting her three children and this became more problematic when Trevor's behaviour within the home deteriorated. He exhibited signs of emotional distress and, at the age of 11 years, made a serious attempt on his own life. A Child Protection Investigation found that he was suffering from Emotional Abuse and Neglect. He was placed on the Child Protection Register for the next two years. Although he was removed from the Register at the age of 13 years, there have subsequently been intermittent suicide attempts and self-harming incidents. These have tended to coincide with periods of acute instability and uncertainty in his life.

It was at the age of 11 years that Trevor was accommodated under Section 20 of the Children Act 1989. Apart from those periods spent in custody (there have been two custodial sentences) and brief spells at home, the years between the ages of 11 and 16 years were spent mainly in public care. Although there were numerous placements, these were spent mainly at 'in county' (or neighbouring 'out of county') residential units.

Trevor's entry into the criminal justice system mirrored his reception into public care. The majority of the offences committed took place in the residential units within which

he was staying (Criminal Damage, minor Public Order offences and Assault). Trevor emerges from case records and other accounts as a very intelligent, reticent and emotionally troubled child. His quietness could erupt when provoked by others or if he perceived some injustice. This would generally lead to the damage of property and verbal aggression. On one occasion he assaulted a member a staff who had denied access to a telephone. Trevor had wanted to know how his mother had fared in court that day and the worker concerned couldn't respond to that request immediately. Trevor is described on more than one occasion as a 'loner'. As such he didn't necessarily always get caught up in the problematic dynamics of unit life. He didn't, to use the term used by some of the young people I interviewed, 'kick off' with the rest. There is one record of quite serious disorder in one unit where Trevor is represented as a peripheral figure who tried to keep out of the way of the unfolding drama. The incidents where his behaviour was challenging to staff tended to relate much more to what was going on in his emotional life at the time. Due to his reticence and general distrust of those in authority, though, it was sometimes difficult for staff to detect when he was going to present problems. Despite the best efforts of staff, Trevor tended to keep his own counsel.

The courts generally dealt with the offences that followed Trevor's outbursts with community-based sentences (Conditional Discharges, Supervision Orders, etc.). However, he did receive custodial sentences for offences that took place off-site (albeit with other young people from the unit): 18 months for Burglary; and 12 months for Aggravated Vehicle Taking. He was 13 years at the time of his first custodial sentence and 14 years for the second. The first was served in a Secure Unit and the second in a Secure Training Centre. Both institutions were in England; the second a great distance from his home in Wales.

Trevor's case highlights a number of important issues. Firstly, for all his suspicion of those in authority, Trevor developed a trusting relationship with the staff at a local Alternative Education project (which had a limited residential facility) run under the auspices of a Christian Church organisation. The minister in charge of the project and a volunteer teacher formed particularly close relationships with him. Although the

organisation did receive some funds for the work undertaken with Trevor, there is clear evidence that there was also a considerable amount of unpaid work involved. This fact was not lost on Trevor. Their interest in him and concern for his welfare may have been inspired by a sense of religious mission, but there is no evidence to suggest that they engaged in proselytising. Trevor believed that they cared about him as a person and this made all the difference in terms of the relationship that developed over the years. Trevor's first involvement with the project was at the age of 12 years and was ongoing at the point at which I interviewed him (he was 17 years).

The Project staff were quick to recognise his intellectual potential (subsequently confirmed by tests administered at a Secure Training Centre) and, over a number of years, advocated on his behalf in terms of trying to secure the most appropriate educational packages for him. Although he loved the time he spent on the Project, they were concerned that they could not meet all of his educational needs, and argued the case for only part-time involvement. It was, though, at an emotional level that the Project staff engaged so successfully with Trevor. Despite some early skirmishes with staff and other young people, the Project management dealt with these difficulties 'in house' and continued to work with him. The 'pay off' for their 'stickability' was improved behaviour on Trevor's part. It would also appear that he discussed some of his problems with key staff personnel. Moreover, there were a number of occasions when Trevor was desperately troubled and presented himself late at night at the Project. On these occasions he was accommodated in the short term and the problem discussed. The support would usually extend to helping him 'face the music' the next day - be this at the residential unit or the police station. The staff also made regular visits to Trevor during his custodial sentences (always making a point of making visits on birthdays) and acted as an advocate. The minister who managed the project was able to describe a young person who was neither a young offender nor welfare case. In one letter for a court appearance, for example, he could describe Trevor's many positive qualities. He referred to him making,

"...great strides, slowly revealing a mature, reflective, intelligent, well-mannered

young man.”

Elsewhere he wrote:

“At times I have seen him extremely depressed. However, over the years he has achieved significantly in his COEA exams, his confidence has grown, but there is still much to work through. Time, trust and talk, consistent support and the knowledge that people care is probably what is required most in Trevor’s life.”

The minister’s advocacy of Trevor’s case extended to the family (he visited his mother regularly and encouraged contact) and the welfare agencies. In the latter area he wrote some conversationally diplomatic letters to both Social Services and the Youth Offending Team concerning a number of issues: the confusion surrounding case accountability; the cases of social workers ‘on the sick’ not being covered; and prison visiting arrangements. Some of these letters also provide glimpses into the complex and socially deprived world of Trevor’s family. The background to his mother’s inability to attend many review meetings or make visits to her son at a distant English Secure Training Centre is sketched in letters that describe the ongoing juggling act of childcare arrangements. This letter gives just a snapshot of this world. It is written to the YOT worker and is worth quoting at length because it conveys a sense of the chaotic context of not only the service user’s world, but also that of the professional social worker:

“I called on Trevor’s mother on Sunday night. With her agreement we have fixed up an arrangement to take her by car to the STC on this coming Friday.... The plan is to be there by 2 pm. Apparently they will allow this during the day if they call it a professional visit (e.g., if I go!!). Anyway I have organised a car rather than my Landrover! Karen (the sister) can go as well and Shane (the brother) will be looked after at the Project all day.

The other reason for writing is because when I called on Fay (the mother) she was concerned about a warrant officer who called to arrest her. She is expecting to go to prison because she owes £375 (to be made in two payments) for Karen’s non-attendance at school. Karen is now going to school and has been since November (it was then February), in fact there was a ‘praise certificate’ on the wall congratulating Karen on effort with her homework. Shane is also now going to playscheme. Fay is also going to court next Monday for some offence with their dog and a neighbour.

My point is that Fay is likely to be taken to prison next Monday (when she attends Court for the dog offence) for the non-payment of the non-school attendance fines. Karen and Shane will be put into care just when the family is getting into some routine and much work has been put in by Jane (the Social Services Family Support Worker).... All these things seem to be historic and when everything home-wise is looking so much better and more settled.

If Laura (the case accountable social worker at Social Services) was in work (she is on long-term Sick Leave) I would have a chat to her but I am not sure who to talk to at Social Services now that Davina (the Social Services Team manager) has left.

There is still broken glass in the windows front and back so that the house is like a wind tunnel, but everything else seems so much more positive. What can we do to head off the fines? Whilst I don't know the family finances I am sure Fay can't pay them and with no phone, etc. she does need some help. The prospect of prison for someone like Fay seems drastic. Added to this I have just rung her solicitor... and his wife tells me they are closing down their business to go to New Zealand. Fay will have had a letter about this today – so now she has no solicitor who knows her for next week's court appearance. The family does need some more support to help them further, especially when so much effort has gone in to improve things.

I realise this is not your problem, but the home situation still has some bearing on why she doesn't visit Trevor and what kind of home he comes back to on his release...."

Interestingly, the symbolically resonant 'broken windows' (Wilson & Kelling, 1982) were picked up at a Section 20 Planning meeting (neither Trevor nor his mother could attend) some four months earlier. In the minutes it was noted that,

"The home has a number of broken window panes which are boarded up. Broken windows are usually an indication of difficulties at home."

Actually, broken windows can also be an indicator of difficulties outside of the home. In any event, despite the arrival of cold weather and the previously noted 'wind tunnel' effect, the minutes record:

"Living conditions inside the house are described as acceptable."

The problems of case accountability are well illustrated by this case. In fact, Trevor did not return home to his mother on release. Both he and his mother opted for a move into an 'in county' residential unit. However, because he was in custody the social worker from Social Services closed the case (until his release was at least imminent) and did not attend planning or review meetings. Consequently, neither Trevor nor his YOT worker knew anything about the accommodation arrangements on release. As his release date approached, this caused Trevor a great deal of distress. In the past, of course, the Youth Justice social worker would have been accountable for all aspects of the young person's welfare (including Section 20 accommodation). The tensions that had since developed between the YOT and the Social Services Department are clear from this exchange of emails between managers in the respective agencies.

YOT Manager:

"Trevor is released from long term detention on (date) and David (Spiteri, see Appendix 5) likewise on (date). We have a volunteer who will be leaving early and we need to let them know where to take him. Can we know by Monday pm at latest? Both these boys are high risk offenders and we must try and practise children first as well as preach it."

SSD Manager:

"Don't try to lecture me. It is because they are high risk against a backdrop of scarce resources that difficulties are occurring. A placement will certainly be out of county and some distance away. No one has explained to me why home or family is not an option."

YOT Manager:

"No need to get touchy. I'm only doing what I'm paid to do and that is represent the best interests of the child. It's up to you what you do about it."

YOT Manager:

"I have spoken to placements today who cannot confirm an identifiable place for Trevor on his release from STC.... This is causing deterioration in Trevor's behaviour due to the apprehension and uncertainty of where he will be placed. On a management level can you exert pressure on PSSO to lead to a speedy answer?"

SSD Manager:

“OK, but no amount of pressure will lead to a resource being identified early and kept vacant.”

The rationale for Social Services closing cases whilst young people are in custody or not reallocating them when staff are away is explained in terms of resource pressures. This is well illustrated in a letter from a Senior Social Work Practitioner to the YOT worker supervising Trevor’s case:

“Our staffing situation here is desperate and I am currently unable to reallocate Trevor’s case, especially when this team has a number of unallocated child protection cases.”

The final aspect of the case to which attention should be drawn concerns the experience of independent living. Trevor was said to be “frightened” at the prospect of leaving the residential unit at the age of 16 years. Although he was found accommodation in a Housing Association flat in a complex that housed other care leavers, the level of support was inadequate in Trevor’s case. Leaving aside the practice of grouping young care leavers together in one place without close supervision, there are questions raised about the advice and support available. Trevor seemed to make ill-advised decisions almost immediately. He refused training and instead secured a ‘proper job’. Although this job was actually low paid, the rate of pay affected his Housing Benefit and he quickly ran into financial difficulties. Within a year he had amassed debts, given up his job, relinquished his tenancy and was homeless. As mentioned previously, he was eventually accommodated in a hostel managed by a Christian organisation. He did, though, appear to be getting a reasonable level of support.

At the point at which he was interviewed, Trevor was very positive about his experience of ISSP. It structured his day and gave him interesting things to do. He was positive about the future.

5.2.10: Nicole Madhur

Nicole Madhur was aged 15 years, subject to a Supervision Order and accommodated at a local authority children's residential unit under Section 20 of the Children Act 1989 when this case analysis was completed. She is of mixed racial heritage and her appearance dark-skinned.

Nicole and an older brother were the children of her natural parents who separated while she was quite young. She had occasional contact with her father. Her mother subsequently formed a relationship with another man and this appeared to be quite stable. There are two younger children by this relationship. The family lived in social housing in a settled and reasonably prosperous 'respectable' working class neighbourhood

Nicole's mother experienced difficulties in managing her daughter's behaviour from around the age of ten years old. Nicole herself believes she became unsettled at home because her father had suggested she live with him. She became confused about her place in the reconstituted family and pondered the possibility of leaving her mother's home to live with him. At around the age of 11 years Nicole was accommodated on an emergency basis on a number of occasions. The view of social workers at the time was that Nicole was being subjected to Emotional Abuse. After a few unsuccessful attempts to return her home she was accommodated in residential units and foster carers.

As one Children's Unit report for a review meeting pointed out, there were three categories of risk to which she was vulnerable whilst being accommodated there: being absent without authority; peer group influence; and offending. Over a period of time Nicole proved the validity of this risk assessment. In one three month period, when she was aged 14 years, she was absent for 50% of that time. Peer influence within the unit would appear to have had a profound effect in terms of introducing her to alcohol, drugs (mainly cannabis) and early sexual relationships. Her offending also coincided with her admission into the Care system. There were offences that were committed within the Unit (Criminal Damage, an assault on a member of staff, etc.) as well as those committed

in concert with fellow residents (Theft, Being Carried in a Stolen Car, etc.). The theft of a stolen car, incidentally, involved a group of residents driving a stolen vehicle to London. Nicole received community-based sentences (mainly Supervision Orders) for these offences.

Nicole's education also suffered during her time in public care. She and another male resident attended the same school and were nicknamed 'Bonny and Clyde' because of their challenging behaviour. Nicole bullied other children and the pair of them were frequently being disciplined for their misbehaviour. On one occasion the children responded to being reprimanded by the deputy headteacher by spilling orange juice over her papers and lighting up cigarettes. It was not long afterwards that Nicole was excluded permanently from mainstream education. She was 14 years old. This was viewed by all concerned with great regret. The school took the view that Nicole was a very bright child who should have been taking GCSE's. With proper application and discipline she was assessed as being capable of achieving a great deal academically. Nicole hated part-time education at the Pupil Referral Unit and found it boring in the extreme. She was eventually excluded from that, too.

Some accounts of Nicole paint a portrait of an unreasonable and aggressive girl who had no respect for boundaries. During her worst phases there was some justification for such a depiction. Overall, though, her explosions of anger and frustration were episodic and short-lived. One social worker's report from a Children's Unit probably presents the more rounded assessment:

"Nicole is a young person that the team have become very fond of. She is spirited and lively, rude and aggressive, but she has winning ways and apologises generally before the damage is done. Nicole is extremely bright and intelligent and would benefit from a structured environment, Educational provision and a return to her family."

This is certainly consistent with the impression I formed in interview of a witty and fiercely intelligent young person. She was a little impatient with the apparent stupidity of some my questions, but gave thoughtful and forthright answers to the rest.

By the age of 14 years the main anxieties about Nicole concerned the risks to which she was being exposed on her overnight absences from the unit. She was by this time sexually active and had contracted a sexually transmitted disease. Intelligence from the police linked her to a group of men who were involved in paedophilia and prostitution. These men had been introduced to her by another resident at the Unit. When confronted with this intelligence Nicole claimed that she was well aware of the risks, but was in control of the situation. She had no intention of entering the world of prostitution. Whilst this appeared to be the case, Nicole was still placing herself at risk, especially when under the influence of alcohol and drugs. On one occasion it was confirmed that she had spent a night at an expensive hotel and on another she was taken to a large house with a swimming pool. Whilst Nicole's activities were causing concern, a debate was taking place amongst professionals about the best strategy to adopt. The Minutes of one Harm Reduction Meeting summarised the position:

"If Nicole were closer to her sixteenth birthday a Harm Reduction approach would be more appropriate but as she is only fourteen we have no other option but look again at the Child Protection Procedures."

Nicole's response, as reported in a Case Conference Report, was summarised thus:

"...the same risks will be around when she is 16 years old, and therefore feels that her age should not have any bearing on her lifestyle."

Eventually, the 'harm reduction approach' was adopted and Nicole's name was removed from the Child Protection Register. This was a move opposed by her YOT worker, incidentally. She subsequently worked with healthcare professionals on sexual health and safe substance use. At the same time, though, plans were being made – in consultation with Nicole – to transfer her to an 'out of county' placement where she could reconnect with full-time education. Nicole desperately wanted to return to full-time education and was beginning to think that a move out of the area from her 'old life' may not be a bad idea. By the time she was 15 years old, though, Nicole was pregnant and

these plans were set aside. At the point at which I interviewed her she was talking in terms of returning to education after the baby was born.

One issue that should be mentioned concerns Nicole's ethnicity. This was not a subject that seemed to interest her a great deal at the point at which I undertook the case analysis. In interview Nicole certainly refuted any suggestion that she had experienced discrimination. Nevertheless, in some of the early records there are references to the need for 'identity work' because of her "*apparent confused racial identity.*" The reasons for this assessment are not documented. Consequently, it is difficult to ascertain whether this originated from Nicole or the social worker concerned.

5.2.11: Lawrence Walker

At the time of this case analysis Lawrence Walker was aged 16 years and subject to both a Detention Training Order Licence and a 6 months Supervision Order with a 90 day Specified Activity Requirement (ISSP). Although he had previously been accommodated under Section 20 of the Children Act 1989, he was then living at the home of an aunt (his mother's sister).

Lawrence was the eldest of Mr. and Mrs. Walker's two sons. An older half-sister also lived with the children. His parents separated when he was very young and, for many years, contact with his father was lost. It would seem that his early years were severely disrupted by many house moves, distressing disputes with neighbours and periods of homelessness when they were accommodated in temporary accommodation. The principal source of much of this instability was Mrs. Walker's severe mental health problems (clinical depression). It is important to highlight the fact that mental health problems have also afflicted both Lawrence and his sister. His sister's severe depression and suicidal tendencies led to admission to a specialist adolescent unit in a psychiatric hospital. The diagnosis of Lawrence's mental health problems, meanwhile, was not firmly established. His involvement with mental health services from the age of 10 years had initially focused on conduct and post-traumatic stress disorders (the latter for a

serious assault). That he suffered from mild depression and stress-related symptoms was clear, but subsequent self-harming incidents, a suicide attempt, bizarre behaviour and episodes when he experienced auditory hallucinations indicated that there was the possibility of more serious underlying mental health problems. The psychiatrists who worked with Lawrence were clearly resistant to labelling him with a diagnosis at a young age, particularly when the more worrying symptoms were presented during stressful episodes characterised by sleep deprivation, substance misuse (alcohol, amphetamines, Ecstasy and benzodiazepines) and/or 'rough sleeping'. On one occasion, because there were no beds available in an Adolescent Unit, he was admitted to an adult psychiatric ward until his condition stabilised. This proved to be a frightening experience for him. During periods of stability and properly administered medication, however, good mental health was restored. The nature of his mental health problems therefore appeared to track the state of his personal and social relationships.

When Lawrence was aged 10 years his mother was experiencing acute problems in managing the children. It was at that stage that he and his siblings were accommodated by the local authority. Apart from a brief and unsuccessful spell with his father at the age of 13 years, Lawrence remained in public care or custody for the best part of the next 6 years. He experienced a number of different placements, but these were mainly at 'in county' residential units.

Lawrence was assessed as having mild learning difficulties and Special Educational Needs (with an IQ test score of 60). His experience of school, residential units and custody was characterised by an inability to cope with his more robust peers. The recurring themes that run through his life in institutions are those of peer exploitation and bullying. Under-confident, intellectually limited and 'eager to please', he generally occupied one of two roles at any given time: the target of intimidation and bullying; or the stooge. When bullied, he truanted or absconded. He refused to attend his school because of threats from other boys. Before he eventually settled into the English Secure Training Centre, Lawrence was placed on suicide watch because of his bizarre behaviour and the problems he had in relating to the other 'trainees'. When bullied in the

residential units he would abscond, visit his mother or 'sleep rough'. When he was befriended by other young people in the unit, though, he was frequently recruited to commit offences. As with many other cases, Lawrence had had no contact with the criminal justice system until he entered public care. Although many of the offences for which he was convicted took place in various residential units (Criminal Damage and one Assault committed in the context of being bullied by another young person), there were also 'outside' offences (such as Theft and Being Carried in a Stolen Vehicle) committed with fellow residents. Despite the offending, absconding and occasional incidents of challenging behaviour, the assessments and reports of Lawrence portray an essentially affectionate and good natured young person. The teaching staff at the Pupil Referral Unit where he had a 100% attendance rate described him as "*a pleasure to teach*".

There are two aspects of this case to which particular attention should be drawn. The first concerns the sentences to which Lawrence was subject and certain features of the sentencing process. For the most part, this young person received community-based disposals and sentences: Conditional Discharges, Attendance Centre Orders, Reparation Orders, Supervision Orders and an Action Plan Order. Latterly, of course, a Detention Training Order was made. There are three particular court sentences that are worthy of comment.

The first concerns an Action Plan Order imposed for damage caused to property in the Children's Unit. In the spirit of Restorative Justice, Lawrence apologised for his behaviour and completed reparative work within the Unit. All parties declared themselves satisfied at the end of the process. Whilst this proved to be a positive experience for all concerned, one wonders whether the process of mediation and reparative work could not have been conducted outside of the criminal justice system. This would have had all of the beneficial 'feel good' effects without the expense of court Hearings and legal processes, or the stigma of another criminal conviction.

The second concerns the imposition of a Detention Training Order when Lawrence was aged 15 years. This sentence was imposed at a time of instability in Lawrence's life.

There was a great deal of concern being expressed about his mental health and general welfare. The supervising YOT worker thought that a short period in secure accommodation would help to stabilise the situation, but - along with the consultant psychiatrist – had grave concerns about the effect of a custodial sentence. Although the court had access to a psychiatric report, for a variety of reasons a PSR was not available (because Lawrence was homeless and difficult to contact). In its place a letter from the YOT worker explained the difficulties and conveyed the afore-mentioned concerns. It also sought an adjournment. The court went ahead and sentenced Lawrence to a 12 months DTO without the benefit of a PSR. In the circumstances the possibility of finding him secure accommodation was not explored. Apart from the sentence disrupting education and training plans, it also risked placing Lawrence in a totally inappropriate custodial environment. It was fortuitous that his sentence was served at a Secure Training Centre rather than a YOI. There were anxieties throughout the custodial sentence that he might be ‘shipped out’ to a YOI at some point. As it turned out, despite early difficulties in settling into the STC, he actually made very good progress during his time in custody – particularly in education.

The third sentence concerns the imposition of a Supervision Order with attached Specified Activities (an Intensive Supervision and Surveillance Programme). The programme - which included a complementary Curfew Order (requiring him to remain indoors between 9.00 pm and 8.00 am), electronic ‘tagging’ and a comprehensive programme of education/training, cognitive behavioural groupwork and enforced leisure activities – represented a programme that, in the words of the PSR author, had

“...the highest supervisory elements available in the sentencing framework and the most comprehensive measures to address rehabilitation, punishment and restriction of liberty in the community.”

There were a number of concerns about the appropriateness of this sentence for Lawrence. Two are particularly noteworthy. Firstly, whilst Lawrence met the criteria for the ISSP in terms of being a persistent young offender who had breached his DTO Licence, he could not really be regarded as a ‘serious’ offender. He was neither a

dangerous nor a sophisticated criminal. He was, indeed, regarded by all concerned as being vulnerable and, in that well worn phrase, 'easily led'. To therefore expose him to a group of more serious and sophisticated young offenders on a daily basis seemed particularly inadvisable. On the one hand there were the risks of ridicule, intimidation and bullying. On the other, there was the risk of being befriended and co-opted into future criminal ventures. The second concern related to the instability of the home situation. On his immediate release from custody Lawrence had moved to the home of his mother. The one-bedroomed house was not large enough to accommodate both of them on the long-term basis, particularly when his younger brother and older sister visited for short stays. Mrs. Walker's mental health was also unpredictable. If she felt unable to cope, then this would affect her son. Lawrence, who had an intensely close relationship with his mother, was – quite naturally – distressed when she became ill. He had struggled for years to comprehend her mental health condition and the sudden mood swings to which she was prone. If Mrs. Walker became ill, it was entirely possible that this would affect Lawrence's attendance on the ISSP. Given the strict nature of the programme and the rigid enforcement regime, the possibility of breach was very real.

In fact, Lawrence was subsequently breached for failing to meet his requirements (this included failing to attend and interfering with his electronic tag). This had taken place against a background where, following some problems at home, he moved from his mother's house to that of his father. During Lawrence's brief time with his father he was assaulted severely and ran away. A brief period of homelessness followed. The breach had not been dealt with at the time of the case analysis, but Lawrence's situation had subsequently stabilised: his aunt had offered him accommodation; and his trusted YOT worker had returned from a long period of sickness. This resulted in an improved performance on the ISSP and meant that positive progress reports could be submitted to the court along with the breach documentation. Lawrence reported that he generally enjoyed the ISSP, but was upset by the way some people on his work placement made fun of him. The concern, obviously, was that a seemingly trivial incident in the workplace might trigger a 'walkout' from Lawrence and thus jeopardise the ISSP.

The final area that requires comment actually relates to Mrs. Lawrence's home situation. She was a tenant of a one-bedroomed, terraced Housing Association property in a working class neighbourhood. As Lawrence was planning to live with his mother on release from the Secure Training Centre, the supervising YOT worker wrote a reasonable letter alerting them to this fact and indicating that Mrs. Walker wished to apply for a transfer to a larger house. It was also mentioned that a larger property would enhance the short-term, but regular, visits of her youngest son (who was still accommodated). The response was unsympathetic and vaguely threatening. The Housing Association manager conceded that she could "*in principle*" be placed on the transfer list, but if her son lived there too she would be "*knowingly overcrowding the property*". Moreover:

"The Association has also recently introduced an Exclusion Policy with regard to certain elements of criminal activity. I would be grateful if you could provide details of Lawrence's criminal convictions in order for the situation to be properly assessed."

The tone of the letter may be regrettable, but surely it is perfectly reasonable for Housing Associations to police and enforce their Exclusion Policies? On one level, of course, it is perfectly reasonable. However, the case of a mother being forced to consult officialdom before accommodating her sixteen year-old son reinforces the identity and status of clienthood. It makes clear the state of conditional citizenship in which so many people are forced to live. Being a tenant, like being a mental health patient or a welfare case, is so often experienced by the subject as a life lived on perpetual probation; a world in which permissions must be sought to do the things that any self-respecting, employed homeowner and parent would take for granted. Training in anti-discriminatory practice may soften the tone of the authoritarian letter, but the hard edges of the boundaries that divide 'us' from 'them' remain in place. The welfare-penal complex managed by liberal professionals and bureaucrats is one that both supports and controls its subjects across many domains: social work, health, housing, social security and law enforcement. The full extent of that complex is not really always apparent, though, until one of these subjects either steps out of line or requests permission to do something that requires official sanction.

5.3: Conclusion: Research Questions Revisited

5.3.1: Introduction:

This chapter has attempted to do three things. Firstly, it has highlighted the way in which the criminal justice, public care and, indeed, other systems can intersect across the lives of young people.

Secondly, it has underlined the crucial importance and power of individual decisions made by young people, parents and - above all – professional practitioners. The variable quality of practice and the diverse theoretical orientations pursued by the professionals represented here have had a profound influence on the trajectories of the young people for whom they were responsible. The notion that practice has been standardised is not supported by the evidence. The scope for individual professional discretion is clearly still significant. How much information to disclose or withhold in a PSR is just one such area. The retention of a large measure of professional discretion could be a cause for celebration. It should certainly, though, be a cause for deep reflection. This is a great responsibility. Practitioners and managers should be fully risk-aware as they help young people navigate the perils of the care and criminal justice systems.

The final point concerns the importance of trying to convey something of the nature of these young people's lives. What is striking in so many cases is the sheer impact of such factors as bereavement, family disruption, violence, neglect, substance misuse and poverty. This has not been done out of a sense of prurience, though. One YOT worker (Teresa Liverton) commented:

“A lot of the young people we work with are horrible and some of them have done terrible things, but the courts need to remember that some really awful things have happened to or been done to some of them, and some of them have had some bad things done to them by people like us.”

Many PSR's - for good reasons - gloss the abuse, loss and instability of so many young people's lives. A well judged phrase may resonate in the court room but it will also conceal the complexity and pain in a real young person's life. This chapter has hopefully gone some way towards conveying the messy complexity of some of these young lives.

At this juncture, though, it is necessary to take stock of the analysis of case summaries that has taken place in this chapter and appendices 3, 4 and 5. Given the nature of the material presented it would be perfectly understandable if the reader felt overwhelmed by these individual narratives. In the circumstances it therefore makes sense to re-visit the original research questions and consider the evidence in a slightly more systematic manner. What follows is the identification of themes that emerge from the data presented thus far.

5.3.2: What is the nature of the relationship between the public care system and the youth justice system?

At the outset the point needs to be made explicitly that much of what we already know from the research literature on the public care system is borne out in the evidence presented here. Whilst there are notable exceptions and some examples of good practice, for the most part the stories echo the findings of other research studies: multiple placements, disrupted educational careers and planning blight (Hayden *et al*, 1999; Jackson & Thomas, 1999; Jackson & Thomas, 2000; Jackson, 2002; Jackson, *et al*, 2005; Martin & Jackson, 2002; DfES ,2003; Social Exclusion Unit, 1998a, 1998b, 1999 and 2003). Likewise the data on the criminal justice system also confirms much of what was established in Chapters 2 and 3 (Haines & Drakeford, 1998; Goldson, 2000; Pitts, 2003; Smith, R, 2003), particularly in respect of the custodial experience (Ramsbotham, 2001a; Ramsbotham, 2001b; Goldson, 2002a' Goldson, 2002b; National Audit Office, 2004; Barnardo's Website; Children's Society Website; Howard League Website). Leaving aside some notable exceptions, custodial sentences are generally unhelpful to young people: they weaken community ties, disrupt education, undermine child care plans, increase the likelihood of re-offending and – at worst- expose children to risk of peer

violence, intimidation, self-harm and suicide (Haines & Drakeford, 1998; Ramsbotham, 2001a, 2001b; Goldson, 2002a; National Audit Office, 2004; Howard League Website; Barnardo's Website; Children's Society Website). It is useful for researchers to continue to expose the flaws and dangers of both systems, but what is at issue here is the relationship between these systems. Reflecting on the way in which my own data casts new light on this first question concerning the relationship between the two systems, seven key conclusions need to be summarised here.

5.3.2.1: A dynamic relationship between two systems

The first point is, quite simply, to emphasise the finding that a *dynamic* relationship exists between the two systems. Decisions made in one system will influence what happens in the other, and *vice versa*. This may be an obvious point, but it is one that is often lost in the valuable but rather two-dimensional and static risk factor-based research. The strength of the method of presentation and analysis selected here is that it can demonstrate the complex interplay of systems in often quite complicated *chains* and *sequences* of events. The case of Donna Chandler (A.4.4) illustrates the critical importance of *timing*. With a court appearance pending, the timing of the Child Protection Conference – at which the nature of her placement would be decided - was critical. If Social Services had awaited the outcome of the court appearance the court would have made a decision on criminal matters on the basis of a set of care arrangements that were patently not working. This might well have resulted in a custodial sentence. Such a custodial 'placement' – funded, of course, by the Youth Justice Board - actually represented a perverse incentive for Social Services to drag its corporate feet and save money ('budget shunting' and 'case dumping', as it is sometimes described by practitioners on the ground). However, because – to its credit - Social Services elected to convene the meeting *before* the court appearance and duly put in place a new child care plan and placement, it clearly influenced the sentence of the criminal court (a non-custodial option). In other cases, some practitioners alleged, it went the other way and young people were consigned to custody. Actions in one system are

consistently seen to have an impact upon decisions and events in other systems.

Moreover, the data presented in this chapter show that the timing of such decisions can be as influential as the nature of those decisions in terms of their effects upon young people's lives: the *critical decision* at the *critical moment* makes all the difference in terms of altering trajectories.

This finding represents an important contribution to knowledge that has not been covered explicitly in the literature surveyed in Chapters 1-3. That a relationship exists between the two systems is acknowledged at the outset, but the significance of its dynamic nature - particularly during critical passages of time when important decisions are pending - has not been represented explicitly at the level of detail presented in the narratives contained within this dissertation. What also emerges from the narratives is that individual practitioners are key mediators between the two systems and can exert considerable influence at such critical moments. The application of ideas derived from 'critical chain' and 'critical path analysis' (Lockyer, 1984) to the narrative form of these young people is therefore much more than sad story-telling: it allows, across time, the cumulative effect of individual decisions made in different systems to be understood more fully. Whilst critical path analysis is used as an essentially forward-planning technique in project management, one of its virtues is that it highlights the options available. The retrospective application of such an analysis not only identifies the 'critical chain' of events but also the other possible options that were open to the critical decision-makers at key moments. Whilst it would have been comparatively easy to present decontextualised and disaggregated data within neat thematic packages, the advantage of the researcher's decision to pursue this less travelled road has enabled something of the dynamic interplay between the two systems to be depicted here. This is one of the key areas in which this thesis makes an original contribution to knowledge.

5.3.2.2: The Risks of Criminalisation posed by Residential Units

Secondly, although there are examples where young people's lives have been improved and stabilised by periods in residential units (and there are some issues here about the

private/public sector split), for the most part the mere entry into such institutions becomes criminogenic. There are several examples cited in the case summaries of those who enter public care with no criminal record and yet emerge with significant criminal histories. This seems to happen in two main ways. Firstly, young people are criminalised by the local authority Social Services Department for often comparatively trivial offences: typically incidents of criminal damage. It is to be expected that vulnerable and sometimes traumatised children with complex needs will – when living away from home – present challenges to those tasked with a duty of care to them. That those challenges will sometimes be manifested in difficult behaviour is hardly surprising. It is inconceivable that most families would involve the police when a child breaks a cup or damages a door - and yet this was the practice of the Porthglo local authority and, it seems, many others (Taylor, 2006). The second way in which young people in residential units attract criminal records is through the previously identified process of ‘differential association’ (Sutherland & Cressey, 1974). Based on the key insights of the Chicago School in respect of the cultural transmission of (Shaw, 1930; and Shaw & McKay, 1942) and complementary to social learning theory (Bandura 1977 and 1986), it refers to the process of peer apprenticeship and mutually reinforcing ‘delinquent’ behaviours that take place when individuals with shared characteristics are grouped together. In short, residential provision groups together children with complex needs and often challenging behaviour in shared accommodation. By introducing such young people to one another the local authority is, in reality, facilitating the creation of criminal networks. It is also exposing young people to other high risk behaviours in such areas as substance misuse and early (and potentially abusive) sexual relationships. The case summaries cited in this dissertation provide numerous examples of young people who have co-offended together and been introduced to risk behaviour in the afore-mentioned areas of activity. Of course, such networks are not entirely negative. Intense friendships are forged and emotional as well as practical needs are met within these networks. These networks should be recognised as legitimate forms of authentic social capital (Coleman, 1988; Bourdieu, 1983). However, such ‘bonding capital’ (McNeill, 2006; Boeck *et al*, 2004) tends to keep young people within the narrow confines of social marginalisation: these young people are friends **and** co-defendants. Even the ‘better’ residential units are

capable of drawing young people into criminal and socially marginalised fields of activity. However, it is worth pointing out that some of the residential units in which young people were placed proved to be wholly unsuitable, increased the risk of offending (Jason Richardson) and even jeopardised their personal safety (Martin Lawler).

To a great extent the data presented in this chapter and the supporting appendices confirm the findings of much of the previously reviewed literature in respect of the ‘corrupting’ effect of public care in general and residential units in particular (Cornish & Clarke, 1975; Bullock *et al*, 1993; Davies *et al*, 1998;1997; Haines & Drakeford, 1998; Frost *et al*, 1999; Hayden *et al*, 1999; Jonson-Reid & Barth, 2000; Pitts, 2001a; Barter *et al*, 2004; Taylor, 2006). Moreover, it identifies in some considerable detail the ways in which young people in residential units are exposed to the risks of criminalisation. Like Taylor (2006), it highlights the way in which young people *within* the residential unit are exposed to the full glare of the Welfare spotlight. It is a place where mood swings and challenging behaviour is likely to be constructed as ‘criminal’ and therefore liable to criminal prosecution by the local authority. Likewise the social processes of peer pressure and criminal apprenticeship echo some of the findings of Barter *et al* (2002). What is new and original, perhaps, is the apparent frequency with which young people in public care co-offend together *outside* of the unit.

5.3.2.3: An Increased Risk of Custody for Children placed in Residential Units?

Thirdly, there seems to be some evidence that young people in public care, but particularly those in residential units, are at a higher risk of receiving custodial sentences. Some young people in residential units (Anthony Turner, Peter Gully, Timothy Swinson *et al*) by-passed Supervision Orders and went straight to custody – in some cases at a very young age. The speed with which such young people have been fast-tracked to custody cannot be explained solely in terms of the nature of their offences. Is there an issue in respect of the way in which sentencers view residential care? Is a child pre-labelled ‘delinquent’ by virtue of their association with the residential unit (Hayden *et al*, 1998: 24)? Alternatively, does the monotonous regularity of court appearances by such

children have the cumulative effect of undermining sentencers' belief in the efficacy of residential provision? If '24/7 social work' can neither protect these children nor reform them, then the credibility of community sentences is perhaps inevitably diminished. For some sentencers, no doubt, custody may be regarded as the least bad option because it ostensibly provides structure, education and security. Sentencers' perspectives on public care in general and residential units in particular, are certainly an area worthy of further investigation. Whilst one can only make educated guesses about the reasons for some of the more punitive sentencing decisions represented here, the data presented does seem to echo what is known about the processes at work in the court room in respect of applications for bail (Hucklesby, 1994; Haines, 1996; Howard League, 1997). Therefore, whilst there is clearly scope for further empirical research in this area, it should be acknowledged that the findings of this project would tend to confirm what is already known about the way in which the residential unit is likely to 'fast-track' children from public care to custody (Collins *et al*, 2001).

Some of the beliefs that informed youth justice practice in the 1980s (Haines & Drakeford, 1998: 48) should perhaps be re-applied to an analysis of the processes that might be at work in many residential units. The insights offered by labelling (Lemert, 1951; Becker, 1963) and deviancy amplification (Wilkins, 1964; Cohen, 1972) seem particularly pertinent. Residential units provide an environment within which young people are observed closely twenty-four hours a day, seven days a week. Thus, 'problematic' actions and behaviours that in other settings would go unobserved, are here recorded, analysed and reported. Those behaviours, moreover, risk being explained in terms of what is already known about the young people concerned – in terms of background and previous assessments. This can lead to the 'identification' of pathologies and the application of diagnostic labels. As has already been mentioned on a number of occasions, this can also include the application of criminalising labels. It is easy to see how the 'positive feedback loop' that characterises the deviancy amplification process might occur in residential units: a negative behaviour is 'identified', reported to colleagues and action of some sort is taken by staff; there is a reaction by the young people to this action and this, in turn, leads to further measures being taken by staff; and

so the cycle spirals upwards and out of control. The measures taken by staff thus risk being counter-productive: they may actually reinforce the behaviour they are designed to curb, thus pushing young people further and further away from acceptable norms of behaviour. If this analysis is correct – and there is clearly need for more empirical research to be conducted – then it is not difficult to understand how young people might be fast-tracked from the residential unit to custody.

5.3.2.4: The Chaos of Two Worlds: the service user and the professional

Fourthly, it is commonplace in Case Conference Reports and Pre-sentence reports - to represent the world of the service user as 'chaotic'. Whilst such a depiction could be contested by positing alternative explanations (chronic poverty for example), what is less often privileged is the 'chaos' of the professional practitioner's world. The document that most successfully captures the convergence of these two 'chaotic worlds' is the minister's letter concerning the case of Trevor Bushell. Here we are not only introduced to a world of court appearances, broken windows (Wilson & Kelling, 1982; Kelling & Coles, 1996) and dangerous dogs, but also to the crumbling edifice of professionalism represented by unallocated cases, social workers on sick leave and unreplaced team leaders. The chaos of this latter world may account in part for the poor decisions, case drift and planning blight that have failed to deflect many young people away from the direction of custody. There is clear evidence in the cases described and analysed that periods of placement stability could be correlated to periods of desistance from offending (or, at least, less serious offences were committed).

The pervasive extent of chaos in Social Services Departments appears to be a genuinely original finding. Whilst public services are often represented as being under pressure, the kind of chaos evidenced here has not been detailed extensively in previous accounts. This is not merely a question that relates to the alleged paucity of resources in social services. It also relates to low morale and poor practice in the social work profession.

5.3.2.5: A Transcarcerative Relationship between Public Care and Custody

Fifthly, the afore-mentioned *dynamic relationship* between public care and the criminal justice system is manifested in the movement of the same young population between institutions managed by these different systems. It is not simply a case of Care being a preparatory school for the colleges of crime represented by custodial institutions. As witnessed by some of the cases presented here, many young people move back and forth between residential care (welfare system) and custodial institutions (criminal justice system). This not only brings the graduates of custody back into the welfare system but also, perhaps, blurs the distinction between welfare and punishment. The distinction between the young person in need of protection and the young offender is collapsed into one negative category of delinquency (Hayden *et al*, 1998: 24). The institutions of welfare and criminal justice might therefore be represented as parts of a 'penal-welfare' complex (Garland, 1985) in an essentially 'transcarcerative' relationship to one another (Cohen, 1985): young people being channelled between connecting institutions within which there are varying degrees of social control and confinement. It could be argued that these residential units, bail hostels and post-care 'supported' independent living accommodation projects are actually integrated into a wider 'waste management' strategy (Lynch, 1998, 2000).

This appears to be a genuinely new finding. Whilst there is clear research evidence of a linear progression between public care settings and various custodial regimes (Parsloe, 1978; Thorpe *et al*, 1980; Carlen, 1987; Pitts, 1988 and 2001a; Sampson & Laub, 1993; Collins & Kelly, 1995; Rutherford, 1996; Howard League, 1997; Dodd & Hunter, 2002; Lyon *et al*, 2000; Hazell *et al*, 2002), the 'return journeys' from 'punitive confinement' to 'welfare warehousing' has not been charted or commented upon to the same extent. Conceptualising young people's trajectories as 'recursive' rather than 'linear' tends to confirm a transcarcerative relationship between the domains of welfare and punishment (Cohen, 1985; Lowman *et al*, 1987). The finding also clearly has profound implications for practice in terms of placement decisions for young people post-release.

5.3.2.6: The Perilous Transitions of Children and Young People with Complex Needs

The sixth point relates to the high risks to which young people are exposed when leaving care. Even when they are provided with good accommodation and employment training, many of these young people lack the emotional competences to sustain independent lifestyles. The case of Teresa Bradley illustrates how, after living “*under 24-hour supervision*” in a residential unit, loneliness and emotional neediness caused her to abandon perfectly good Housing Association accommodation. She was soon to be found sleeping on the floors of friends she knew from public care along with new and more dangerous acquaintances. By the same token there was Trevor Bushell’s attempt to bypass employment training when he took a ‘proper job’. It will be recalled that his income was too low to sustain his living costs with the eventual result that he fell into debt and lost the accommodation. In his case the importance of well-established relationships with the staff of a Christian project supported him through this difficult period. What is clear from all of the accounts is that ‘leaving care’ is a potentially perilous transition. Homelessness, vulnerability to abuse and engagement in criminal activity are common when the move to independent living falters. Young people not only need material support; they also require access to advice when things go wrong. As will have been noted, many ostensibly excellent packages of support have unravelled on high impact with the ‘real world’. Young people also need emotional support to sustain them in difficult and stressful circumstances. For some of the more damaged young people described here, of course, the level and complexity of their needs are likely to outweigh even the most extensive and well constructed support.

This finding confirms much of what is already known about the challenges of youth transitions (Instance *et al*, 1994; Jones, 1995 and 1999; Allott, 1997; Chisholm, 1997; Coles, 1997 and 2000; Evans & Furlong, 1997; Furlong & Cartmel, 1997; Bynner *et al*, 1997; Williamson, 1997; Rugg & Burrows, 1999; Ball *et al*, 2001; Reiter, 2003; Smith & McVie, 2003; Mizen, 2004; Reiter & Craig, 2005; Barrow Cadbury, 2005; IPPR, 2006)

for this most vulnerable of social groups (Biehal & Wade, 1999; Biehal *et al*, 2000; Coles, 2000; Lyon *et al*, 2001; Stein, 2002a and 2002b; Walker, 2002; Taylor, 2003; Ward *et al*, 2003; Broad, 2003 and 2005). Having said that, I would make the modest claim that the narrative accounts presented in this chapter and the supporting appendices illustrate the reality of these challenges in quite vivid terms. What also emerges very clearly is the importance of accessing good advice from reliable adults. Such adults may, or may not, be welfare professionals. The importance of having access to such adults has already been highlighted in some of the youth transitions and youth work literature (Williamson, 2001a, 2001b and 2005a; Newburn & Shiner, 2005), as well as more recent social policy thinking from the Labour government in which Personal Advisors of one sort or another (Department for Education and Employment, 2000, Children (Leaving Care) Act 2000; Carter Report/Home Office, 2004) and ‘trusted adults’ play a critical role (Social Exclusion Unit, 2005).

5.3.2.7: Practitioners and Individual Agency:

Finally, what emerges very clearly is the degree to which the independent agency of the practitioner can influence the trajectories of young people. Despite the New Public Management trend toward the micro-management of practice (Clarke & Newman, 1997; Clarke *et al*, 2001; Jordan, 2001) there is clear evidence that professional discretion (Gelsthorpe & Padfield) and ‘street-level bureaucracy’ are alive and well (Lipsky, 1980; Evans & Harris, 2004). While the room for manoeuvre may have diminished, there are examples in the case summaries of individual practitioners who make a difference and, in order so to do, sometimes do not follow the rules. Young people’s failure to conform to *National Standards*, for example, does not always result in breach proceedings being taken. That individual agency and professional discretion still exists is a cause for celebration. However, what is more important is how such professional discretion is used. Is it to be used in a way that is helpful or unhelpful to young people?

This finding would appear to contradict the pessimism of the literature that portrays the practitioner as the deferential servant of the ‘Panopticon’ government minister (Jordan,

2001; Pitts 2001b) and support the more optimistic assessment of those who argue that the death of individual professional discretion is much exaggerated (Gelsthorpe & Padfield, 2003; Evans & Harris, 2004; Horlick-Jones, 2005a and 2005b). There is clear evidence presented in these narrative accounts of the difference that individual practitioners can make to the quality of young people's lives and their subsequent trajectories.

5.3.3: How have such discourses as 'welfare' and 'punishment' influenced what has happened to young people with care backgrounds in the youth justice system?

Whilst it is recognised that service users occupy and manipulate discourses, in this chapter the emphasis has been placed on the documents authored by practitioners and other professionals. Consequently the focus has been on the ways in which practitioners have worked within and used discourses in their practice. As has already been made clear, what is suggested is that many practitioners use discourses knowingly and artfully with a view to achieving specific outcomes for service users. Others, however, are less aware and comparatively artless. The influence of individual practitioner agency in this area of professional practice on the trajectories of young people has, of course, already been discussed. The key discursive practices of practitioners have already been identified during the course of the critical case summaries. It will be recalled that practitioners access a range of discourses when writing about young people. In the pre-sentence report, for example, discourses such as welfare, criminal responsibilisation and social inequality might be used – sometimes by the same the author - at different times. Sometimes, indeed, these discourses are mixed and used within the same report. At this juncture it is therefore important to pause and remind the reader about the salient themes that have thus far emerged from the data.

5.3.3.1: Situated Documents Fashioned to Achieve Specific Outcomes

A preliminary point to make is that service user identities, biographies and imagined futures are constructed on the site of documents that are put to the service of decision-making fora: the case conference, the referral, the letter and the criminal court appearance. Case Conference minutes and pre-sentence reports should therefore be understood not as 'objective' documents authored by dispassionate professionals or officers of the court. Rather, they are fashioned with a view to achieving particular outcomes (Silverman, 2003b: 130-1). As such, the content and language of reports will be used, at different times, to clarify and camouflage issues and authorial intentions. Whilst service users may have been consulted beforehand, the practitioner retains ultimate editorial control. This is because the practitioner is trusted to know the terrain of the case Conference, LAC Review Meeting and courtroom. S/he is assumed to be an expert of the genre of the report. It would have been possible to devote an entire dissertation analysing the rhetorical strategies and authorial voices used by practitioners. As it stands, though, the operationalisation of discourse by practitioners is only one aspect of the research.

Although the discourse analysis of practitioner-generated documents represents only one strand of the research strategy, it does represent an original element in the findings. Whilst critical commentaries of the 'New Youth Justice' (Goldson, 2000) and modes of juvenile justice governance (Smith, 2001; Muncie & Hughes, 2002; Muncie, 2004) have drawn upon the insights yielded by discourse analysis, what is original about this research is that its focus is upon the *operationalisation* of different discourses by different individual practitioners. Whilst it is possible to identify trends in the rise to hegemony or fall from dominance of different discourses, what is striking is the persistence of the individuality of reports. Thus, whilst it would be possible to chart a trend in pre-sentence reports from Welfare to Child Responsibilisation via Just Deserts, such a simplistic route march would fail to represent the variety and complexity of the 'war of position' (Gramsci, 1971) being waged between the different discourses. Moreover, nor is it possible to match particular discourses to particular outcomes. There are many different

discursive paths to the same outcome. The Welfare discourse can lead to custody just as the punitive discourse can lead to a Supervision Order – and, of course, *vice versa*. This is for two main reasons. Firstly, as stated at the outset, documents are *situated* within specific temporal and material contexts. Present circumstances, what has preceded the current situation and future prospects all come into play in any decision-making fora. By the same token, the influence of dominant discourses within wider society also has a bearing upon the predilections of specific decision-making fora (speeches by Home Secretaries, dominant values in the news media, etc.). The second reason relates to the quality with which key documents (PSR's, etc.) are crafted by individual practitioners. The focus on the way in which the operationalisation of discourse to achieve specific and concrete outcomes helps to advance an understanding of this important area.

5.3.3.2: Pre-Sentence Reports: Identifying the 'Causes of Crime' and Locating Criminal Responsibility

One point of entry when conducting discourse analysis on a pre-sentence report – a document that belongs in the criminal justice domain, but draws heavily upon principles of welfare – is locating the site of criminal responsibility. What is the explanation for criminal behaviour and what degree of culpability can be attributed to the young person? The 'traditional' welfare report privileged explanations that originated in the social, family and personal background of the young offender. Two main types of account are discernible within this tradition (Rush, 1992): the one that presents a 'narrative of life', including parental deficits and family pathologies; and the other a 'narrative of neighbourhood' which acknowledges the social environment. Another way of expressing this might be in terms of individual positivism (Bowlby, 1964; Eysenck, 1970; Rutter & Smith) and sociological positivism (Merton, 1938 and 1957; Cohen, A, 1955; Cloward & Ohlin, 1961) or a combination of the two (Wikstrom & Loeber, 1997). In both accounts, though, the young person - usually for reasons of child development - could not be considered wholly responsible for her/his actions. In the post *doli incapax* era some practitioners still author reports that privilege such 'traditional' explanations. However,

in the 'new youth justice' the importance of other considerations has been foregrounded: risk of re-offending public protection (Feeley & Simon, 1994; Kemshall & Pritchard, 1996 and 1997; Kemshall, 1998, 2001 and 2003; O'Malley, 1998; Simon, 1998); victim impact (Mawby & Walklate, 1994; Davies *et al*, 2000; Kemshall & Pritchard, 2000); and remorse, restitution and 'making amends' (Braithwaite, 1989, 1993 and 1999; Braithwaite & Mugford, 1994; McNeill, 2006). The latter two, of course, being pre-requisites for restorative justice interventions; there seemingly being no restitution without repentance (McNeill, 2006). Some very artful reports will have been cited in the case summaries. The better ones – and these are unashamedly matters of critical judgement and values – steer their rhetorical courses through this philosophical minefield. On occasions hackneyed and even suspect authorial strategies are used to good effect. The affectation of the world-weary practitioner's voice who has seen it all before conveys to the court that this is not a naïve, idealistic liberal at work; whilst the 'Rome wasn't built in a day' motif is one that virtually every sentencer understands when faced with a young person beset with chronic difficulties. Despite the clichés, these better reports have the virtue of philosophical and rhetorical consistency. Less knowing practitioners, however, engage in dangerous 'discourse-hopping'. In the worst examples the reader is told much about the personal histories and welfare needs of vulnerable young people before an inexplicably sudden lurch is made from child-excusing to offender-blaming mode. This route to 'personal responsabilisation' typically peters out with 'Pontius Pilate' proposals (Anthony Turner, Timothy Swinson). Such practices – because they cannot be described as strategies – can probably be explained by a misguided desire to capitulate with the perceived punitiveness of the courts. Whatever the intention, the effect is to collude with a neo-liberal discourse of governmentality (Foucault, 1991b; Garland, 1997; Simon, 1997; Rose, 1999 and 2000) and responsabilisation (Garland, 1996; Goldson, 2001).

Timothy Swinson is actually an interesting case in the responsabilisation debate. Without wishing to portray him as a 'rebel with a cause', here is a young person who was deeply distrustful of welfare and any offers of help from professionals. Always courteous to professionals, he consistently refused to co-operate with welfare. His attitude was very

clear: if he got caught for doing the crime he'd rather do the time than have welfare practitioners interfering in his life. The dilemma for the practitioner was how to represent this rejection of 'help': was this an absence of remorse and lack of co-operation or – in line with his parents' values - the virtues of traditional working class pride?

One interesting development post-1998, is that more thoughtful practitioners appear to be seeking to revive the concept of *doli incapax*. Some do this quite explicitly in the PSR by making assessments of maturity and cognitive capacity. Others point to emotional or psychological issues that might cloud judgement. In these latter cases there has been a trend towards delegating the task of reviving *doli incapax* to psychiatrists and psychologists; the positivist medical discourse seemingly perceived as being less vulnerable to challenge than the assessments conducted by social workers. There are, of course dangers in medicalising young service users through such diagnostic labels as ADHD and Conduct Disorder. Nevertheless, these risks need to be weighed against the dangers of custody. In some cases it would appear that practitioners 'played up' the immaturity or lack of understanding on the part of the young people represented in the PSR's. Whether this was a conscious strategy to re-balance power relations in favour of the young person was unclear.

The detailed discussion of the different ways in which the 'causes of crime', culpability and criminal responsibility are represented in pre-sentence reports represents an original contribution to knowledge. The risks posed to young people by 'discourse-hopping' practitioners - or, perhaps, 'artless dodgers' - is highlighted clearly.

5.3.3.3: Pre-Sentence Reports: Representations of Public Care

The way in which the public care system is represented in PSR's is interesting. Authors in the YOT's are, of course, now liberated to be critical of the care system (previously they were either responsible for organising placements or in the invidious position of criticising colleagues with whom they worked closely). Some simply convey their criticisms by listing the number of placements the child has experienced whilst others are

more overly critical (Darren Richardson). Some, like David Henderson, invoke the metaphor of public health by referring to residential units as places where ‘cross-contamination’ takes place. In so doing, this echoes the language of public health used in the 19th century when concerns were expressed about ‘moral contagion’ (Shore, 2002).

The analysis of the way in which public care is represented in pre-sentence reports has not been undertaken previously and provides some new impetus to the call for further research in this area.

5.3.3.4: Pre-Sentence Reports: Absences and Silences

The representations of social class, social inequality and poverty are notable for their absence. But ‘absences’ are as significant as those concepts that are represented in texts (Macherey, 1978). Social class tends only to be noticed when parents are represented as ‘hard working’ (an epithet for the traditional and noble respectable working class) or else, and very exceptionally, when a young person from a middle class background makes a court appearance (Sarah Ashforth). For the most part the social inequality and injustices to which most young people in the care and criminal justice systems are subject go unmentioned. It will be noted that the overwhelming majority of young people that form the basis of this study hail from low income, high crime neighbourhoods. There is a ‘taken for grantedness’ about this state of affairs. Whilst many of the practitioners I interviewed appeared to have some understanding of the social context within which the families of the young people lived, there were very few attempts to represent that world in reports. ‘Clientsville’ merely remained a place where welfare-dependent families lived chaotic lives. One notable exception was a PSR on Michael Ross. In that report a serious attempt was made to represent the struggle of a lone parent to raise a young family on a low income in an economically depressed and troubled neighbourhood. The relationship between social class position and the demands of child rearing were far more sympathetically drawn than the report of a child care social worker. For the most part, though, in PSR’s the life of the neighbourhood is seldom represented as impinging

directly on family life. The life of neighbourhood, of course, can also overwhelm the best efforts of the family to insulate children from becoming involved in crime (Campbell, 1993; Wikstrom & Loeber, 1997; SEU, 1998 and 2000; Ghate & Hazell, 2002; Saugert *et al*, 2002; Evans & Wood, 2004; MacDonald & Marsh, 2005; White & Cunneen, 2006).

This author is not aware of any previous research study applying the principles of literary discourse analysis (Macharey, 1978) to pre-sentence reports. This approach does allow for the production of new insights and perspectives. By identifying the silences and absences within texts, the suppressions of argument and state of power relations are also exposed. Poverty, social inequality and social class are three areas of absence thus identified. That there are others – such as gender, ethnicity, religion and sexual orientation - is not doubted. However, in the sample analysed it was the three former areas that appeared to be the most significant.

5.3.4.5: The Penetration of Criminal Justice Discourses within the Welfare Domain: Responsibilisation

Although the second research question asks about representations of young people from Care in the criminal justice system, it is worth reminding the reader that the language of criminal justice responsibilisation has penetrated the discourse of social services. It will be recalled that one unit manager spoke about the need for the highly vulnerable Martin Lawler to understand that, “...*there are consequences to his actions*” whilst another berated the police for their “*softly, softly*” approach to Donna Chandler and their general failure to confront offending behaviour in the residential unit.

The case of Michael Ross is an example where the negative construction of ‘young offender’ was used to prevent a return to the family home on release from custody. It will be recalled that this was also a case which highlighted the ways in which data can be shaped to fit an assessment in order to serve an ulterior purpose (Milner & O’Byrne, 2002). Here, only negative data were selected to construct him as the embodiment of

risk. He was transformed from his previous incarnation as a difficult but vulnerable 'child in need' into a threat to his younger siblings. His status as an offender was used to secure this transformation. The power of professionally constructed identities is evident in this case as in that of Steven Ridgley (see 5.3.3.6).

This finding supports the general 'dispersal of discipline' thesis (Cohen, 1985) that constructs Welfare and Punishment as a continuum (Foucault, 1977; Garland & Young, 1983; Garland, 1987 and 1990; Simon, 2000) rather than as separate domains. However, the application of this thesis to the relationship between public care and youth justice brings a new emphasis to the identification of 'responsibilisation' as a bridging discourse between Social Services and the criminal justice system.

5.3.3.6: Constructing 'Otherness'

The case of Steven Ridgley well illustrates the process by which a diagnostic assessment congeals and solidifies around a young person in a way that reduces her/him to an offence definition. In the case of Steven, a child with complex needs who was made the subject of a Care Order at the age of three years, he was duly 'otherised' as a sex offender. As Myers (2001: 42) has pointed out:

*"They become a '**kind of person**', a young sex offender, who requires a specific response based on that **label**, as distinct from their individual needs."*

The case of Steven Ridgley is selected because it is a clear example of the way in which the process of 'otherisation' is accomplished. However, it will have been noted that the 'subjects' of practitioner documents are, to varying degrees, objectified and 'otherised' by those who wield the professional pen. This process of reification is accomplished routinely in report-writing. In the domains of welfare and justice - and it has been argued

here that the borders between these domains are far from being sealed – the ‘failing parent’, the ‘child in care’ and the ‘young offender’ are, to varying degrees in different cases, constructed as ‘other’. Those who write, read and adjudicate reports occupy a different place and mindset to their subjects/objects. The distancing devices used by Western cultural commentators in relation to the ‘Orient’ (Said, 1978) are perhaps not so very far removed from those used by the professional classes on their service users. Young people are routinely constructed by assessment practices and processes overseen by professionals.

Whilst the notion of ‘objectifying’ service users may not be new, the application of ideas taken from literary and cultural criticism to practitioner-generated documents is one that has not been previously undertaken in this area of research. The insights generated by this approach represent a genuine contribution to knowledge. However, it is also acknowledged that this is an area in which further research should be undertaken.

5.3.3.7: A Brief Reflection on the Operationalisation of Discourses:

It is commonplace for service users to be described as manipulative. What is clear from the foregoing discussion and examples, though, is that practitioners too can manipulate data and discourses with considerable intellectual and ethical dexterity. Indeed, this whole section might have been sub-titled, ‘Games Practitioners Play’.

5.3.4: What impact has the youth justice reforms of the 1997-2001 Labour government had on practice at ground level?

The material explored in this chapter obviously has less relevance to the third main research question. It should be noted that this research question receives closer examination in Chapters 7 and 8. There are, however, a few areas in which specific practices can be reported to have impacted upon by the new youth justice reforms. These are outlined below.

5.3.4.1: The Loss of Case Accountability for Looked After Children

Firstly the loss of case accountability by youth justice workers over children in public care by youth justice was one local result of the reforms. This enforced bifurcation of responsibilities meant that youth justice practitioners could not – as previously – organise placements. This had a deleterious effect upon sentence planning and securing accommodation for young people on release from custody. In the case of Trevor Bushell this had a discernible impact upon his welfare as the release date approached. It will be noted that there are also some reported examples of role confusion.

The assumption of much of the official literature was that Youth Offending Teams would deliver ‘joined-up’ services to young people (Labour Party Media Office, 1996; Home Office, 1997a; Pitts, 2000; Youth Justice Board Website). In the case of children in public care who were also involved in the youth justice system, this has clearly not been the case. The full implications of youth justice workers losing case accountability for ‘looked after’ children, however, appears not to have been anticipated by even the more critical literature (Goldson, 2000). Consequently, this would seem to be an original finding. This is an important finding as it would seem to be a part of a wider trend involving a general failure of mainstream social work to engage both holistically and effectively with youth ‘at risk’. As Sharland (2005: 247) puts it: “*In social work practice, young people have become largely ‘someone else’s problem...*” .

5.3.4.2: The Implications of the Abolition of *Doli Incapax*

Secondly, the abolition of *doli incapax* and the emphasis on offender responsabilisation has made it more difficult to protect those young people who are more vulnerable. This is particularly true of the traumatised, immature and those with learning disabilities. Such young people may also be ill-suited to some forms of restorative justice.

This finding would appear to support the view taken in the literature that is critical of the youth justice reforms (Gelsthorpe & Morris, 1999; Goldson, 2000; Pitts, 2003; Haines & O'Mahony, 2006). The concern that vulnerable children would be placed at risk by the abolition of *Doli Incapax* (Haines, 2000) is supported by the findings in this chapter and the supporting appendices.

5.3.4.3: 'Careism': The Indirect Discrimination of the 'New Youth Justice' Against Children Placed in Residential Units

Thirdly, there is a clear example of the priorities of the 'New Youth Justice' having an unintentionally deleterious effect upon those in public care. By lowering the threshold of 'persistent young offender' children in residential units have become extremely vulnerable to being placed in this category. The processes of criminalisation that take place in residential units (described in this chapter and the supporting appendices) place them at a disproportionately high risk of custody. Clearly, it is possible for many young people in residential units to acquire criminal convictions within a comparatively short space of time.

Whilst the literature certainly highlighted the risks of 'up tariffing' (Haines & Drakeford, 1998; Goldson, 2000) the new risks that the reformed youth justice system posed to young people in residential care was not anticipated fully. Certainly, the effect of relaxing the definition of 'persistence' is a new finding which extends previous analysis in this area.

5.4.4.4: The Impact of New *National Standards* with Particular Reference to ISSP

Finally, *National Standards* are clearly much more prominent in the work of practitioners and the lives of young people. However, as mentioned previously, there is still considerable scope for individual agency and professional discretion. The case summaries present examples of young people who were not breached by their supervising

officers. In most cases this professional deviance appeared to be supported by management. However, there appeared to be limited scope for professional discretion in the case of ISSP. Despite the positive reviews given by the young people subject to ISSP, the whole programme is trip-wired by the strict enforcement of *Standards*. The risk of custody is, therefore, high in respect of vulnerable young people in unstable circumstances.

The point should be emphasised that ISSP is, in many respects, the embodiment of an ever-centralising 'penal-welfare' complex (Garland, 1985). The simultaneous delivery of social work, education and employment training – tightly bound together by *National Standards* - collapses the boundaries between welfare and punishment. 'Discipline', it seems, is less dispersed than previously (Cohen, 1985). Another example of this trend is John Calvert's DTO Licence which required him to attend an Employment Training Placement that was run by the agency which also provided his accommodation. When one of the support workers began to accuse John of 'manipulative behaviour' it was feared that this might precipitate a 'walk-out' by John. Fortunately, the timely and diplomatic intervention of the supervising YOT worker averted the crisis. Had John 'walked', though, he would have lost his employment training placement, accommodation and liberty. When community 'discipline' is so tightly regulated, the threat of custody casts a long shadow across 'welfare'. Rehabilitation' and 'punishment' co-habit in the community.

The findings in this section both support and modify the existing literature. *National Standards*, whilst undoubtedly impactful on practice, were applied differentially. This links to earlier points made about the continuing importance of professional discretion and individual practitioner agency (Lipsky, 1980; Gelsthorpe & Padfield, 2003; Evans & Harris, 2004). The main area of activity in which such discretion was virtually absent was ISSP. The original research on those subject to ISSP, indeed, highlighted the risk to which vulnerable young people in unstable circumstances were subject. On the basis of what is already known about punitive community-based regimes (Coates *et al*, 1978; Coates, 1981; Lipsey, 1992 and 1995; Haines & Drakeford, 1998; Pitts, 2003; Burnett &

Roberts, 2004; Mair, 2004; McNeill, 2006), this was not an entirely unsurprising finding. However, the way in which socially inclusive measures have been hard-wired into an inflexible Programme based on strictly enforced *National Standards* has been represented here in respect of representatives from the 'looked after' population. This could be said to be original as the reader will have been made aware of a whole hinterland of welfare needs and issues that are – paradoxically – partly met *through*, and simultaneously jeopardised *by*, ISSP.

5.5.5: A Brief Summary and Signpost:

Having analysed much of the documentary material, the following chapter foregrounds the interview data in respect of service users' experiences of the public care system. Nevertheless, it should be noted that subsequent chapters will also draw upon further documentary evidence.

Chapter 6: Public Care

6.1: Introduction:

As will have already been clear from the preceding chapter, the relationship between the public care and criminal justice systems in respect of the lives of the young people concerned were closely intertwined. This is a theme, indeed, that was referred to in Chapters 1, 2 and 3; and is well supported by the literature (Cornish & Clarke, 1975; Collins *et al*, 2001; and Jonson-Reid & Barth, 2000). The notion of care and criminal justice being parallel 'twin track' systems has perhaps been replaced by that of a 'fast track' from the former to the latter (Collins & Kelly, 1996). Consequently, to divide Chapters 6 and 7 under the headings of 'public care' and 'criminal justice' is, to some extent, to force the data into almost artificial categories. For many of the young people, for example, the experience of being criminalised actually commenced when they entered the public care system. This is, indeed, a finding that has been echoed by other empirical research (Taylor, 2006). Nevertheless, despite the close relationship between the two systems, each system does have its own aims, priorities and processes. As such, they deserve discrete treatment in consecutive chapters. The central purpose of the chapter is to explore the nature of child welfare services and the public care system in order to be able to uncover those social processes that push young people in the direction of the criminal justice system. What is common to both chapters is that the voices of young people, parents, practitioners and a manager are well represented. Occasional references to documentary sources are also made.

Section 6.2 records the initial experiences and abiding impressions of those involved in the care system. As the emotional impact of being admitted into care is documented here, this section attempts to privilege the voices of those who have been recipients of these services. The same is true of the succeeding sections on foster care (6.3), life in the residential unit (6.4) and Leaving Care (6.5). Section 6.6 represents the debate about the respective merits and problems of public care under Sections 20 and 31 of the Children Act 1989. Section 6.7 explores service users' experiences and evaluative comments

about their dealings with social workers and other professionals. As the interventions by professionals are delivered in the name of welfare, it is important to consider whether this is how they have been received by the actual service users. Section 6.8 concludes the chapter.

An important final point to make is that all of the service users and their parents recalled good social workers, episodes of constructive support, straight-dealing and sensitive practice. For the most part, though, these positive references were overshadowed by negative feelings about their experiences. Given the population being described this is perhaps not so surprising. The young people represented in this study are, after all, those from public care who have entered the criminal justice system. To some extent they will perhaps highlight the failures of both systems. Those young people who did not enter the criminal justice system have not been researched. That said, some effort has been made to include some of the more positive comments that have been made about both professionals and the systems within which they operate. Although some of the criticisms may be unfair, it is important to make the point that no-one blamed all of their problems on social workers, YOT workers, psychiatrists and courts. All acknowledged their own mistakes and misjudgements. In many cases, what was striking was the low level of expectation in respect of public services.

6.2: First Impressions and Abiding Memories:

At the outset it is imperative to acknowledge the emotional impact of a young person's first reception into public care as these will have coloured initial views and feelings about the services. Whatever the circumstances of the admission, the child is likely to feel an acute sense of loss, disorientation and bewilderment. John Calvert, for example, recalled the trauma of being taken into care. At this point in the interview he was clearly emotional and, as perhaps the pauses convey, found it a little difficult to speak. John thought he may have been aged about four or five years old at the time he went into temporary foster care:

John: *"Uh, well, I just locked myself in the toy box, I did."*

JE: *"You locked yourself in...?"*

John: *"In the toy box...."*

JE: *"In the toy box."*

John: *"I just emptied all my toys out and laid in there all day."*

JE: *"I see...."*

John: *"I didn't want to see anybody...I just wanted to be with my Mum."*

Paul Gullimore remembers his first experience of a residential unit:

"I was a bit scared, didn't know anyone. All the other kids were 15 or 16. I looked up to them...copied them."

Even when children had been away from their homes for some time, they missed being away from their families. For some, the distance of the physical separation from the family and, in some cases, the home area had the emotional effect of motivating absconsions, as Anthony Turner testifies:

"...they kept, like, just moving me out of county and that. They kept, like, moving me to like Pontcoch and Dregorllewin and all that. So then I just kept running away and running away and then getting into more trouble.... So it wasn't really helpful, like."

Put simply, Anthony,

"...didn't like being away from my area, like, from my friends...and family."

Michelle Lyons recalls being accommodated in an English residential unit:

"It was just too far for me. A cottage in the country. I used to like it, but it was just too far from my mother's'."

Michael Ross remembers missing his mother whilst being placed in a residential unit. At some points he became quite desperate to see her:

“My little brother who was there, he was being bullied.... I missed home. I robbed the safe to visit my mother.”

The emotional impact on the parents interviewed was also profound. When their children entered the care system for the first time the parents were at different, but equally, low points in their lives: Mrs. Walker was overwhelmed by mental health problems; Mrs. Madhur’s daughter was ‘out of control’ and she was terrified that all of the children would be placed on the Child Protection Register; and, in the aftermath of her estranged husband’s death, Mrs. Ross succumbed to a multitude of pressures and agreed to accommodate Michael. All of the parents describe the anguish of separation from their children. This raw emotion is, though, complexified by feelings of anger, resentment and guilt. Although Mrs. Madhur – an intelligent and rational woman - understood that social workers were ‘just doing their job’, the intrusiveness of social work involvement was experienced as something approaching violation. Of the initial investigation she said:

“Basically really disturbing. I had to have the pastor from the church here.... I was crying all the time. I didn’t like it at all. I didn’t want anything to do with them (social workers). I’d never had them on my life and I didn’t want them in my life then.... My worst nightmare was almost coming true because of the fact that they were having the meeting to talk about putting the children on the ‘at risk’ register.... I know that as mothers go I’m fairly competent, you know, and I look after my children, you know...and I just, like, it totally disturbed me. Totally. And then I really felt hate and anger, you know, with that meeting and, you know, social workers in general because I didn’t want anything to do with them.”

For Mrs. Madhur a sense of shame and feelings of parental incompetence were dominant when Nicole entered public care:

“I didn’t like it all. Just.... It was just a very disturbing time in my life, really, you know, and in hers, well in all of our lives, I expect.... I felt ashamed and...incompetent, I lost confidence, I think, you know it was like.... I think it made me over-protective of my two little ones, you know and, um, like I said, it was just a total upset, really.”

For Mrs. Madhur, moreover, the feelings of inadequacy were heightened somewhat when the local authority were able to provide money for Nicole to buy clothes. At the time Mrs. Madhur was struggling to raise a family on a low income. Contrary to the populist stereotype of the 'welfare Mum', she bitterly resented these 'handouts' given directly to her daughter.

"Like I say, we're on income support and, you know, and that was another major factor, you know. I couldn't give her many things she wanted, you know what I mean? Whereas it seemed, you know, I got the impression first of all that when she was in care she got whatever she wanted and stuff and I didn't like that. I didn't think that was good and then later, I found out later on, that every three months or so they gives them seventy odd pounds or something for clothing and I couldn't do that with her, you know. Her older brother was here at the time, too, you know, so there were four children here, do you know what I mean? It was difficult, even though she never really went without, you know. They were always kept tidy and clean, you know. So, um, money you know, lack of money, played a big part."

It is interesting to note that the provision of additional resources, a seemingly unequivocal act of welfare, should be constructed so very differently by the mother of the recipient. Indeed, it was perceived as an act of social control and a source of alienating the child even further from her background. Mrs. Madhur took solace from the fact that she wasn't as bad as some parents:

"Social workers come here, you know, they see the house is quite clean, they see I look after my house, my children and you know I'm glad in that respect that I'm not one of the mothers that lives dirty and stuff, you know, and um, I just, I loves Nicole, I loves my kids...."

The point at which 'care and control' of the child is formally relinquished is weighted with significance. As Mrs. Walker put it:

"The day they (the children) stopped living with me was the day I lost control, because you just don't gain that back. They (social workers) don't listen."

Mrs. Ross, meanwhile, believed that once social workers were in one's life, it was difficult to shake them loose. Rightly or wrongly, she felt that she was being judged for

events that had happened when she was very young. The fact that she might have matured, changed and moved on were - she felt – disregarded. Her refrain throughout a long interview was that,

“They’ve been on my back for years.”

Although the professional rhetoric of partnership was commonly used with parents, for the women interviewed it could not be operationalised in meaningful, day-to-day terms. For Mrs. Madhur, the distance from Nicole’s daily routines had the emotionally deadening effect of feeling very detached from the parenting role. The frequent phone calls about her daughter’s offending, absconsions and challenging behaviour were received with a sense of helplessness and resignation:

“I’d go through phases when I’d think ‘I’m not bothering with her’, you know, and I wouldn’t contact or anything, like, and I’d just step back, you know, and I don’t know whether that was a good thing or a bad thing but I used to get so depressed and fed up, you know, with these constant phone calls, you know.”

Feelings of powerlessness and detachment were also evident in the testimonies of the young people. What was also striking was how little some of the young people knew about the reasons why they were moved between placements. Others were even vague about the reasons as to why they had been received into public care in the first place. As one young person put it:

“My mother and father split up. I don’t know what happened. To this day I don’t know why I went into care for it.”
(Trevor Bushell)

Of course, this vagueness may have been a strategy to avoid discussing painful memories. Nevertheless, a number of practitioners commented on young people’s apparent ignorance about the circumstances that led to their admission into care.

Once in public care, some were a little bewildered about what social workers were initially trying to do with them:

"I haven't got a clue. (Laughs). I don't know."
(Anthony Turner)

These are not isolated cases. Whilst social workers may well have told young people the reasons for their being accommodated or placed on Care Orders, practitioners sometimes faced dilemmas about what information to share with them. Failure to share the information, though, can create problems and confusion at a later date. There is, as one Social Services-seconded YOT worker (Bernice Hughes) explains, a great deal to consider. The decisions made at an early stage can also have profound ramifications at a later date. She also believed that funding considerations influenced such decisions. In short, decision-making is a complex process involving many different terms of reference. What follows is a comparatively lengthy quotation. It is included because it is indicative of the kind of dilemmas, multiple considerations and thought processes that go through the minds of practitioners in such cases:

"Their (children) understanding of why they are in care is very poor and often – not because it's simple and no-one has explained it – but because it's complex and someone hasn't explained it sufficiently and often there's...it gets tied up with... and, um, the whole Section 20 – Section 31 thing. If they explain too bluntly to a – that's what I think, anyway – if they explain too bluntly to a child why they are in care, um, and actually put the responsibility back with parents where it should be, um, they basically, well then, should there be a Care Order in this case? Perhaps they shouldn't be there voluntarily. In practice I think that's what the problem is, do you know what I mean?"

A lot of children in Care think it's their fault they're in Care, because of their behaviour and they think that if they behave better they can go home and the reality of that sometimes is that this child is not going to be going home in the very long-term because of parenting ability or concerns about abuse or whatever and, um, basically the – rightly and wrongly – the local authority sometimes I believe tread a bit of a thin line in between Section 31 and Section 20 because of obviously a lot more funding is involved in putting a child on a Care Order than it is through supporting a child under Section 20 and, um...basically, there is often times when ourselves, we and other agencies, say shouldn't there be a Care Order in this case, really? Um, but because we always work with teenagers it's:

'Oh well, the child can vote with their feet, they can make their own decisions as to whether where...they live' ...and I don't think that's realistic because we're talking about children who are sometimes very, very frightened of their parents and to be honest I don't think that risk should be taken.

*I think that if a child comes into care for very severe reasons they should have the right to feel safe and secure and know that they're not going to have to go back home, because it affects disclosures, it affects police investigations, it affects other children who may be at home. So, it's a big one. It's a very complex issue in practice because you could blow it by saying: **'It's not really about you, it is about your parents' responsibility for you and treatment of you'** ...and if they turn round and talk to their parents about that and parents get defensive or edgy or think there's going to be prosecutions in the future, then we could blow a whole abuse investigation, so that's when we put our hands up and say, **'Please help, please could someone explain to this child, other than me – because it's not really my role to do that.'** Not that we mind helping, because we are social workers employed by the Department, but there are times when the roles need to be clear, for good reason."*

Other young people, meanwhile, explained their reception into Care in terms of narratives within which social workers played a negative role in family life. Social workers are thus represented as 'playing tricks' or 'threatening' draconian Care Orders. Michael Ross, for example, felt that he was forced to go into public care in order to protect younger siblings being taken from his mother:

"I didn't like it, 'cause they were threatening my Mum – including taking little babies into Care as well. I didn't like that. I went nuts. I didn't like them at all putting my mother under pressure, trying to stop us from living at home because there were too many of us living at home. They were pressuring my Mum. We volunteered to go in the end. We did it to stop the others going into Care. It's like a trick. I thought it was because they were saying my mum was a bad parent, but she isn't, she's good. I've threatened to blow up the building.... They were trying to keep me there longer than I needed."

Whether these are accurate representations of what actually happened is, perhaps, less important than the fact that they are believed and therefore influence subsequent interactions with social workers. Having said all of that, there is clear evidence that in some of the cases studied there would appear to be some veracity in the narratives that have been retold by service users. Nevertheless, the interviews with parents reveal that,

whatever criticisms are levelled at social workers, they are as nothing compared to the searching self-criticism that surfaced regularly. At one point in my interview with Mrs. Madhur she asked whether I thought her an irresponsible parent. Having explained that my role was not to pass judgement, she went on to reflect:

“I’ve got to live, you know, knowing that I’ve had a kid in care and things and I just...it’s not a very nice experience, really.”

That social work intervention in this area is premised on welfare interests of the child is not disputed. What is apparent from these interviews, though, is that it has often been experienced as invasive, controlling and traumatic.

6.3.: Foster Care:

Foster Care was generally well regarded by the young people interviewed. Malcolm Welham’s comments were typical in that he liked the personal responsibility of the carers and the comforts that accompanied a good standard of material wealth:

Malcolm: *“That placement was amazing.”*

JE: *“Yeah? What was amazing about it?”*

Malcolm: *“It felt like home. They treated you with respect. They give you money, you could eat what you want, you could do whatever you want. If you respected the house, they respected you. You could put your feet up, watch Sky. You could go into your bedroom, there was a nice comfortable bed and you’d wake up in the morning and have a nice breakfast. Just like home, really.”*

Although in Malcolm’s home there was no satellite television and the electricity was metered, it is interesting that being treated with respect and being trusted with a degree of freedom helped him to feel ‘at home’. Although Lawrence Walker was also impressed by the material wealth of one foster placement, describing it as *“the lap of luxury”*, he

also valued the privacy he was accorded by the carers – something that tended to be missing in residential care.

Parents were also generally supportive of foster placements. Some spoke very positively about individual carers. In some cases, a shared sense of partnership seemed to help overcome anxieties about the possibility of natural parents' role being usurped by foster carers:

“They (the carers) were very good with him, I’ve got to be fair. Very good. They were great. We worked well together, you know.”
(Mrs. Walker)

Other young people, however, did not settle into their placements. This may have been due to the fact that the match between the young person and the carers wasn't sufficiently close. However, there are hints of wider issues. Trevor Bushell, who said that the quality of foster carers varied, didn't always feel comfortable in other people's homes and described how surrogate family life could be *“a bit of a wind-up”* because the experience contrasted so markedly with his own experience of troubled family life in a poor neighbourhood. Michelle Lyons expressed similar sentiments about the whole principle of foster care, and -despite its many drawbacks - simply preferred the freedom and autonomy which were available in the residential unit. This, along with the more emotionally neutral environment of residential provision, appeared to be valued by some young people in their teenage years – a finding that is supported by other literature (Kahan, 1995 and Utting, 1997).

Interestingly, John Calvert stated that foster care confused him as, compared with the residential unit, he didn't know about his rights:

“Because I was so young in foster care I didn't really know what was I doing. I didn't know how to go about it. So...I still got a little bit out of them, like little bits and pieces, but other than that I didn't know to take advantage of my situation. When I did actually go into residential I knew exactly what I was entitled to...and all the other bits and pieces.”

Despite the above criticisms, most young people were positive about their experiences in foster care and generally described them as periods of stability during which progress was made in terms of education and staying free of offending. However, it will be noted from some of the case summaries (Appendices 3, 4 and 5) that some foster care placements proved unsuccessful.

6.4.: Life in the Residential Unit:

Just as the experiences of foster care varied between individuals, so young people's reflections on residential care included a wide range of views. Nevertheless, a number of common themes emerged from the interviews.

The notion of what a Social Services-seconded YOT worker (David Henderson) described as "*cross-contamination and criminalisation*" was one that was described in different, but recognisable ways by young people and their parents. Paul Gullimore, for example, said that "*There were no normal people in the homes*"; by which he seemed to mean that all of the residents had a problem of one sort or another. Others also made reference to this sense of belonging to a social group that had problems. Michelle Lyons, for example, commented:

"They're all the same, in they? See, they're all the same as you in the home. All.... They put us all together and we're the same and it just makes us worse...people just like me."

Malcolm Welham, who described his time in residential care as "*shitty*", perceptively said of life in the unit, that "*it's like a community.*" He added that it was difficult to abstain from participation in this community. Some, like Lawrence Walker, simply absconded when things became too difficult. The process of socialisation into the community was usually preceded by a period of initial fear of the other young people. It was then followed by a familiar pattern of emulation, acceptance and apprenticeship. Malcolm Welham admitted to being frightened and intimidated by older boys in his first experience of residential unit life:

“They’d wind you up and take stuff off you.”

This experience has been found in other research (Barter *et al*, 2004). Paul Gullimore, meanwhile, graduated from being scared of the other residents to wanting to be accepted by them. This he did by,

“Smoking, coming and going with them as I pleased, going out, get pissed....”

Michael Ross identified two main categories of activity in residential existence: *“kicking off”* inside the unit and *“doing stuff together”* outside. *“Kicking off”* (or, in professional parlance, *“challenging behaviour”*) usually involved confronting staff or other residents, whilst *“doing stuff together”* meant being exposed and/or introduced to new behaviours and recreations such as alcohol, drugs, sexual activity and, of course, offending.

Some of the children were not ingénus/ingénues before entering Care. Some, like Daniela Harrison, already had friends in the system (first met at school or in the neighbourhood). Others needed little encouragement from others. Such young people were quickly at the centre of incidents where staff were challenged, or else were eager to acquire criminal skills passed on by the more sophisticated residents. Nevertheless, most of them described a hothouse atmosphere in which, as Nicole put it, *“we’d egg each other on”*. This sense of reciprocal corruption was a theme that virtually all of the young people described in respect of their time in residential units. Here are just two passages. Both seem to imply that the residential social work staff are locked into this mutually reinforcing vicious cycle:

“You show off. You’re with the wrong people.... People in children’s homes.... The social workers have got no money, you’re all bored. There’s the tele and that’s it. You’re all in there together, nothing to do, so you go out and steal a car. Boredom. There should be more things to do in children’s homes, more facilities. Social workers should give people more help. They didn’t do anything. You want boundaries. Social workers stick around in the offices. We’d just run riot.”
(Paul Gullimore)

“In Care you’re easily wound up. Kids, six kids with...with all similar problems in one building...all are going to get wound up. Something’s going to happen. The staff don’t give a fuck. Sorry about the language. Then someone breaks something and then they phone the police and then you’re arrested.”
(Trevor Bushell)

In some units, challenging or tormenting staff almost assumed the status of ritual. Nicole Madhur explains the pattern:

Nicole: *“By the time I was 13 I knew all the kids in the Care System. I thought it was great living in Care. Say we all went to McDonald’s. When we got back we’d kick off and go into confrontation; we’d be all hypo and excited. Don’t like (names residential unit). Very strict. They’d restrain you. I got restrained like 50 million times. We hated the staff. The police were there all the time. Every single day we’d face the staff. Do you know why?”*

JE: *“Why?”*

Nicole: *“The handover. The new people discussed us at handover. The new people we’d get into them. They’d have it in for us.”*

Michelle Lyons, meanwhile, described how she and others would scream and shout outside one unit in order to provoke a reaction from residential staff. When things ‘kicked off’ the group dynamics could create a powerful, snowballing momentum. Residential staff were often left with the difficult dilemma of whether to intervene, call the police or allow the incident to blow itself out. One incident, recorded from a residential staff perspective, is worth quoting at length:

“Background:

All residents moved upstairs by 10 pm to settle to bed. A. (a male) had settled to bed earlier and was all quiet in his room. A. settled immediately in his room. B. (a male), C. (a male) and D. (a female) all went out on to fire escape, refusing to settle in their own rooms.

Incident:

The behaviour of D. and C. became increasingly loud, and very abusive towards staff. B. was also 'hyper', but not so verbally abusive. X (staff) went outside to ask them to hurry up and come in and settle. As he walked back into the unit through the fire door C. shoved the door to slam it closed behind X, so catching X's finger in it. At 10.30 the three young people came in off the fire exit. For approximately 15 minutes, they sat on the landing refusing to go to bed. D. and C. were abusing each other, chasing each other up and down the corridor, slamming doors and screaming. At one point D. got into C.'s bedroom. She came back onto the landing brandishing a pair of scissors and a short metal bar. She waved these at C. repeatedly, threatening to smash his face in. Both staff monitored constantly, and D. was repeatedly asked to hand both items to staff. After 5 minutes, she did so. Shortly after this (approx. 10.45 pm), D., C. and B. all secured themselves in B's room. At this point A. came out of his room looking for some fun. He spent 10 minutes shut in the room with them, before they threw him out. He remained on the landing chatting with staff who were monitoring the situation. Whilst in the room the young people could be heard shouting that they were having a threesome, and that one of the boys was 'wanking off'. The language was extremely sexually explicit throughout.

A. was allowed back in the room by about 11.30 pm, giving staff the opportunity to keep the bedroom door open and monitor them all closely. C. became increasingly abusive and aggressive, screaming insults in staff's faces. He also repeatedly pushed X., and was told to stop or the police would be called. They began to quieten a little and so staff decided to withdraw attention, and moved into the main staff bedroom. At about 12.15 am C. began banging on the staff bedroom door, asking staff to take B.'s aerosols in with them (bought in Secure) as D. was trying to sniff them. This was done. Over the next 20 minutes, C. in particular began to quieten. A. had gone to bed about 12.30 am. D., C. and B. secured themselves in C.'s room. Staff continued to monitor them until 1.00 am when they were quiet.

Action Taken:

- 1) Staff monitored situation throughout, and repeatedly asked all young people involved to settle in their own room.*
- 2) Scissors and metal bar wire were confiscated from group, as were the aerosols later in the incident.*
- 3) Attention was withdrawn when staff felt it was appropriate to do so.*

Outcome:

A. settled at 12.30 am and was asleep almost immediately.

At 1.00 am, C., B. and D. were all settled, barricaded in C.'s bedroom.

By morning, D. had at some point settled in her own bedroom.”

The challenges for residential staff of dealing with such situations cannot be over-estimated. By the same token, it can also be seen how easily a young person on the periphery can be drawn into such an episode. Although most of the young people admitted to being either active participants or peer-collusive in such incidents, one claimed that ‘old scores’ were settled violently by some members of staff under the cloak of the general mayhem.

“I got punched in the face by the manager and another boy had his face rubbed in glass.”

(Nicole Madhur)

For the most part, though, the young people described a demoralised residential workforce that was uninterested and indifferent rather than cruel. As has already been described in one case, residential workers are often represented as sitting in their offices while the children did as they pleased. Another commented on residential staff ‘going through the motions’:

“They were all basically the same. They wanted to help you, but they never really tried, if you know what I mean. They looked like they were doing their job...well, that would be good enough for them. There would be the odd member of staff who did try, but then others just couldn’t be arsed. Whether it was their past experience of kids, I don’t know.”

(Trevor Bushell)

This feeling of being warehoused was echoed by Mrs. Walker:

“They’re put into these units and forgotten about.... They don’t do what they should be doing. The thing they should be doing is looking after that child and its needs; not put them in the unit and forget about them, because that’s cruel.”

It was, though, the absence of clearly enforced boundaries that most concerned the parents. Apart from the kind of challenging incidents already cited, they were deeply worried about the way the in which children would come and go as they pleased and even abscond - sometimes for quite long periods of time. According to two of the parents, the residential units weren't safe:

"I think they're lax anyway, in the care system, anyway. I think they're too lax with them, you know.... I was told before, if they says to her she's grounded and she goes out, there's nothing they can do. They can't, like, stand by the door and say, 'No, you're not allowed out.' It all sounded a bit, you know, it should have been some firmer methods I think, if they were to work for her, you know. She is a very strong-willed girl."

(Mrs. Madhur)

Mrs. Walker echoed these views:

"It's a different life when you go into a residential unit. It's a different life. There are no boundaries. There are no rules. They are allowed – and I don't care where you play this tape – they are allowed to do and feel free to...and go wherever they want to go. Now when you say a unit is a place of safety for a child, I disagree. I disagree because when Lawrence went into that unit he was allowed to leave the unit and do what he wanted to do, which is something that wasn't acceptable because I wouldn't allow him to do that. Um...and that was it...and then he ended up committing these crimes, um, and doing all sorts of things and the only thing I was told was, 'We're not allowed to keep them in.' Now to me, if a child is put into the care of the local authorities, whether he be taken off you or accommodated voluntary, they should have rules and regulations, which is something they haven't got. They got them in writing, but believe me they don't to stick to them."

She went on to contrast the expectations that were, quite rightly in her view, required of parents:

"Now if I was to allow my 13-year old outside late at night, walking the streets and whatever, I would be in trouble for that because I'm his mother. I've got to make sure he's in and not walking the streets. I mean, he cannot leave this house after a certain time, but it's a different life in a residential unit. They're allowed to do it and they cannot stop them."

The absence of properly enforced boundaries was also commented upon by some of the young people. Some said they felt uneasy about being involved in challenging behaviour, whilst others pointed to the lack of structure in a typical day for many of the young people. Anthony Turner linked this back to the issue of professional and corporate indifference. It was, he said, most evident in respect of attitudes towards school attendance.

“Like you didn’t have to go to school or nothing when I was there. You should be made to go to school, innit?...and stuff like.... When I was in there they’d say in the morning, like. ‘No-one wants to go to school do they?’ So everyone would say ‘No’ and then everyone would be lounging around all day and then everyone would end up robbing, like. So, you know, first of all they should try and make ‘em go to school, innit?”

Trevor Bushell’s account of developing new problems when he entered a residential unit included a very similar experience in respect of education.

“The fact I didn’t go to school. They didn’t force me to go to school, so I never went. They’d say, ‘Do you want to go?’ and I’d say, ‘No’ and that’d be the end of it. So I got into the habit then.”

Some, like Malcolm Welham, perceived little qualitative difference between the boredom of being warehoused in the residential unit and the futility and casual intimidation that seemed to characterise the typical school day. He described a *modus vivendi* in which teachers and pupils appeared complicit in ‘marking time’:

“All we do there is play pool, um, and swear and some of the older ones go up the fields and smoke cannabis and come back stoned and they’re, like, influencing all the others and sometimes they twist you around like that (puts arm behind his back), push you around like that and chuck you on the floor.”

Most, though, mourned the missed opportunities of mainstream school education. Nicole Madhur for example, commented:

“I’d do anything to go back to mainstream school. You don’t know what you’ve got until it’s gone.”

Retrospectively, at least, the young people interviewed concerned could perceive the process of criminalisation to which they had been subject as residents. On the one hand there had been the risk of being exposed to other troubled, unhappy and – in some cases – criminally sophisticated peers. Anthony Turner, for example, said of his first time in residential care:

“Because of everyone else in the homes are always, like...in the homes where I was, there was everyone...everyone was committing crime, like. The first time I went to (names residential unit), like, and everyone was robbing – and I wasn’t robbing, like, then straightaway – but then, you just get roped in and then in the end you think you might as well, so....”

John Calvert believed that a feeling of hopelessness sets in after a while. Young people just give up hope:

“Because of their background. Because really they think that they can’t really get any worse because they’re already in care, so they think, ‘Well, might as well get something out of it’.”

On the other hand there was the way in which they were prosecuted for behaviour that had taken place in the unit. Whilst it was conceded that the more serious incidents might need to involve police intervention, it was pointed out that many of the episodes were comparatively trivial. As Trevor Bushell pointed out:

Trevor: *“I’ve been arrested for breaking a cup. I’ve been through the court systems for just a cup that cost £1.00. Just because they had one over, one over them. And it’s just things like that....”*

JE: *“So you think it’s...?”* (JE interrupted)

Trevor: *“Social workers should do the job themselves and not get the police to do it half the time. But...loads of times they call the police because we just don’t go to bed. We’re sitting downstairs, so they’re phoning the police just to get us to bed. So the police walk in and we’re all wound up because they’ve called the police and they stop it and arrest us. You should work in one. I suggest (names a residential unit).”*

There was also a feeling that sometimes there was a lack of understanding of the reasons why young people become upset. Anthony Turner explained how he would become emotional when he couldn't make telephone calls to his family. The rationing of phone calls was, indeed, one of his major criticisms of life inside the residential unit. The importance of family contact was highlighted by his comparison of residential units with Secure Units. Paradoxically, despite the loss of freedom, telephone contact with family members was easier.

Anthony Turner: *"They'd allow you to do things, like, you know, phone calls."*

JE: *"Did they stop you doing that in the children's homes, then?"*

Anthony Turner: *"Yeah, yeah. They'd normally let you have one call, like, and that would just be hearing from one person. In the Secure Unit, like, you'd be allowed to phone the whole family. One day a week or something you could call the whole family, like, and then everyone knows you're ok, innit? In the Children's homes I'd just phone my Mum and that's it."*

Not being able to speak to different members of his family was the cause of a number of disputes between Anthony and residential staff. It was Anthony's belief that the frustrations and upset at not being able to contact family members was not always fully understood. He suspected that many of the incidents that developed between unit-based social work staff and residents often had their origins in genuine grievances, feelings of injustice and sheer frustration. Sometimes, the young people may have been behaving unreasonably, but this was probably because they were missing family and upset about their situation. He was clear, though, that when staff called the police for trivial misdemeanours it caused deep and lasting resentment.

Melanie Gale, one of the police officers seconded to the YOT, provided an interesting insight into police attitudes towards being called to incidents at children's residential units. Although it could be argued that - as someone who had volunteered to join the

YOT - she was already well pre-disposed to young people, it would seem that her views are not unrepresentative of an occupational group that comes into regular contact with serious crime.

“You think, ‘Oh...’ (groans) as someone makes a complaint, you know. I mean you’ve got to, you do it, if you’ve got a complaint, you’ve got to take the complaint. You can’t say, ‘No, I’m not going to take a complaint’. They say, ‘No, it’s Porthglo County Council and they’ve damaged a door and we’ve got to have a crime number’. So they have to get it repaired and the crime number is...but that crime number is against that child...and it’s sometimes a way of controlling the children. You go in and they’ve lost control of the home. There’s been like a major incident and they call the police in, the police sorts it out and another crime number. I’m not just dismissing it. Sometimes there are some very nasty incidents and the police have to be called. But if they’ve smashed a window or something, do you really should be calling the police?... I had another child, George, in Hollybush (a privately run children’s residential unit). He was in an out of county placement and he kicked doors, slammed the door, he slammed the door and it went into a worker’s head. They’re not going to get him for assault, they’re not going to get him for kicking a window in. He had sanctions: he wasn’t allowed his pocket money, he wasn’t allowed his MTV television, he was...it was a small unit, lots of staff, you know, they managed him. It was a lovely environment, it was right in the (names rural area), and this child, right, I said: ‘Why you keeping out of trouble?’ He said: ‘I’ve got a nice home now and I don’t want to lose it.’ And I come back and see Marianne (Stewart) and I see her in (names Porthglo residential unit, shudders and grimaces) and see she’s ok and then I go to Hollybush and it’s unfair, really. All children should be offered that type of provision.... George, they manage him. There are very firm boundaries with him, you know: he wouldn’t have his trip down to (names activity), or wouldn’t have his day trip to (names nearest city to Hollybush). He has to go to bed at a certain time or he doesn’t have his pocket money – things that mean something to him. If that’s taken away that’s because you’ve been naughty and you’ve done this. Not phone the police and get a crime number!”

Despite the foregoing criticisms of residential units, it is important to make the point that most of the young people could identify residential placements that had been well managed by helpful staff. Brian Giles’ only complaint was that residential life placed constraints on his individual autonomy:

“Just the rules, like, some of the rules. Just the rules.... What time you’ve got to go to bed. What TV programmes you’re allowed to watch.”

Nevertheless, he could still conclude,

“A bit strict, like, but ok.”

Daniela Harrison went further and described the staff of a local authority residential unit in glowing terms:

“They were all lovely, they all understood, like, that it was my first time in care and that, like, I was a bit scared and they were all really nice to me. They made sure I was like really comfortable with everything and that kind of thing. It was nice.”

Some privately-run ‘Out of County’ therapeutic units, like the one already cited by Melanie Gale, attracted high praise. YOT workers concurred with the assessments of young people and parents. Fiona Griffiths, a Social Services seconded practitioner, articulated many of the views expressed by others.

“I mean they’re very expensive, these organisations, but to an extent they are valuable. They try and offer children structure, boundaries, safety and offer them the chance to actually just be children and grow up as ordinary teenagers, given that they’re not in an ordinary situation and, um, much as I didn’t like the rise of privatisation of children’s services -these sorts of specialist units – I have to say my experience of them has been positive. Maybe it’s because they are able to recruit – because perhaps they have more money - they can recruit people with specialist skills. I guess that’s what they do because it seems to me that all the people who work in these units have very specific things to offer and even if it’s down to doing things like someone who can take the children out surfing. But it’s something that develops self-esteem, self confidence; also work with them well. It isn’t just, ‘Oh, I’m a surfer, I’m enjoying it’; it’s ‘I’m a surfer, but I’m a residential worker as well and I can do this....’ And I think that’s what they tend to do. I think they recruit people who tend to have other skills they can offer. Great. I’m pleased about that, but it just costs, it costs the local authorities a fortune. But, yeah, I think they’re...perhaps because they’ve got better conditions of service, they’re paid more, because it does matter...and maybe a lot of them are qualified staff as well. I think they sustain...and perhaps the ratio of staff to child is better, they’re able to sustain the difficult periods better. So, yeah, for all those reasons I like what they do.”

This quotation captures the widely held view that such units very often develop high standards of practice with troubled and difficult young people. The regret for many was that local authorities did not offer this high level of public service. Another concern was that many of these impressive and expensive units were located at considerable distance from the young people's families. This made family contact difficult, weakened positive (as well as negative) community ties and placed the young person at considerable risk if they did try to abscond because of homesickness or family crisis. Nevertheless, there was consensus that the positive practice lessons that could be drawn from these small therapeutic units should be shared more widely.

6.5: Leaving Care:

It is important to remind the reader that the fieldwork was conducted at a time when the full impact of the Leaving Care Act 2000 had not been fully felt (see Broad, 2005 for a recent evaluation). Although few were critical of the Social Services Department's Leaving Care Team, most service users thought that more assistance should have been provided in terms of accommodation and income maximisation, a long recognised and well documented problem (Biehal & Wade, 1999; and Biehal *et al*, 2000). This proved an especially acute source of anxiety for those who had been approaching the end of custodial sentences. The Leaving Care Team social workers were generally considered to be helpful, but there was a feeling that independent living was just extremely difficult for young people: appropriate accommodation was scarce and most employment for the age group too low paid for survival. In other words, expectations of service delivery in this area were generally low because it was perceived to be such an unpromising terrain. The reality, then, for many young people was that when they left public care they were generally accommodated in homelessness hostels or low-level supported projects with other young people who had similar backgrounds. For the variety of reasons outlined in Chapter 5 and Appendices 3-5, these tenancies were often short-lived.

Most of the young people were positive about their experience of Leaving Care services. Anthony Turner found the service "*quite helpful*" in "*trying to get into living outside the*

prison”, whilst John Calvert relied heavily on his social worker for practical assistance during the critical period of transition from training to full-time employment:

“She’s helpful because at the moment I’m still in training and, um, they just help with bits and pieces, basically getting me things I need, basically.”

Melanie Gale, YOT worker, also spoke highly of the social worker in Leaving Care with whom she had had the most contact. The working relationship was described as a good ‘partnership’. The social worker’s attendance at DTO Reviews was greatly valued. As will have been noted from some of the case summaries, other YOT workers were far more critical of the provision of Leaving Care services by the Social Services Department. David Henderson, a seconded social worker to the YOT, criticised the failure to return phone calls and general abdication of responsibility in some difficult cases. One young person was also scathing about the Leaving Care Team and refused to have any dealings with them on principle.

JE: *“Do you have any contact with them?”*

Trevor Bushell: *“Very rarely. Well, nothing. I just told them, ‘I don’t want to work with you’. I know they’ve got to be involved, but I don’t want anything to do with them to be honest.”*

JE: *“Why?”*

Trevor Bushell: *“Well, not long ago I was involved in - where I live - in theft of a cash box and it all came back on me and they phoned up Social Services and said,? ‘We’ve going to have to move him out; have you got anywhere else to put him?’ And they said they didn’t want to know and basically hung up the phone. So, they don’t want to know, so I don’t want to know.”*

It is difficult to draw definitive conclusions about the quality of services provided by the local authority Social Services Department on the basis of the views of such a small sample of service users and practitioners. Clearly, there were different experiences and, to some extent, these seemed to depend upon the efficacy of individual social workers. There was consensus, though, that leaving care was profoundly difficult and fraught with

risks. Whilst social workers tried to provide suitable accommodation, education and training, these carefully assembled packages were often very fragile. The need to provide adequate support for these young people was a serious challenge. Moreover, there was real concern expressed in respect of those young people with very high needs. Even with a well-resourced and efficiently functioning Leaving Care Team, these young people were at risk of slipping between the crevices of existing social welfare provision and, as a result, being picked up eventually by the criminal justice system. Fiona Griffiths here discusses the case of Amanda Bealing, a young person for whom the transition to independent living was going to be perilous:

“Our Department will clearly not be able to support her in (the area in which her ‘out of county’ placement is located). They (the Leaving Care Team) didn’t, as it happens, turn up for the last statutory review, which was in December. We’ve got another statutory review in June, a month before she’s really 16, and hopefully someone from Leaving Care will attend that meeting, but then will hopefully visit her once or twice and acclimatise her to the fact that it (independent living) ain’t going to happen that quickly and we can’t find you somewhere in (the ‘out of county’ placement area). I dread her coming back to Porthglo and the lack of restraint on her. The best we could hope for would be supported lodgings or somewhere like a hostel for the young homeless, but she’ll run riot. She’ll offend, she’ll get heavily into drugs, she’ll probably end up prostituting herself. I just dread it. The prognosis is a bit bleak for our Amanda and I don’t think, I don’t know of any other area that would have a service that would really look at the needs of someone like Amanda. The Department and her social worker, who will change when she’s 16 – because that’s the policy in Porthglo now – but her current social worker would prefer she stayed at the present ‘out of county’ placement until she was 17, 18. We have to fund that. It’s a Care Order. But she wants independent living. I know it fills all of us with horror.”

6.6: Section 20 or Section 31?

The question of which section of the Children Act 1989 should have been invoked in respect of the cases presented here was not one that was raised directly by the young people or their parents. However, on a number of occasions it was noticeable that in those cases subject to Section 20 service users were quick to point out that in their particular case it had been “voluntary care”. One does not wish to read too much into the force of some of these interjections during interview, but the concept of retaining full

parental responsibility – even when not expressed in those terms – seems to have been important to research participants. For the young people it meant that they were still ‘wanted’ by their parents; and for the parents it meant that they were still regarded as ‘competent’. The unofficial tariff was important to both children and parents: a full Care Order was equated with Abuse, Neglect and bad parenting; whilst Section 20 meant that although the parents weren’t always coping well (because of ill health, poverty, etc.), they were still basically in control of the situation. Such sensitivities illustrate the importance of the principles of voluntarism and minimum sufficient intervention to service users. Nevertheless, YOT workers expressed concern that Care Orders had not been made in some cases.

These concerns fell into two categories. Firstly, there was a strong feeling that there was an unacceptable sense of planning blight in respect of some cases. This could perhaps be said of some of the cases described in Chapter 5 and Appendices 3-5. Sometimes, this sense of drift was a cause of major disruption to the child – especially when a child was being bounced back and forth between the family home and local authority accommodation. Both Teresa Liverton (a Probation-seconded YOT worker) and Bernice Hughes (a Social Services seconded YOT worker) identified examples of this pattern from their own caseloads. They considered this potentially abusive to the child, but acknowledged the real dilemmas involved in applying for Care Orders. The application of such principles as voluntarism and minimum sufficient intervention did not always lead to the best interests of the child being met. Some YOT workers, moreover, took a cynical view of local authorities’ management of certain cases, believing that financial savings had an undue influence on whether children were subject to Sections 20 or 31 of the Children Act 1989: the distinction between ‘duties’ and ‘responsibilities’ having, of course, significant financial implications. Bernice Hughes, reflecting on these issues, commented at some length on the complexities and pitfalls of the decision-making process:

“My perception, and it is only a perception, is that the budget is much greater under – you know, and this is finances – is much greater under that section (31) of that Act. Basically, they have a lot more responsibility to provide children with

*just about everything under that section.... It is usually a greater budget than Section 20.... I mean, in terms of the voluntary thing, I think this is really tricky, because I can... there's a debate and I can certainly see where the Department is coming from, because no matter how terrible the situation is and how terrible the abuse may be suggested or whatever, they want to try and work in partnership and try and keep parents onside because ultimately children are best brought up by their own families and certainly ultimately some contact should be preserved if at all possible. But I think sometimes that goes too far. Quite often we see that it goes too far and children are being put at risk and children are having contact and being abused. There, I think, voluntary ends and compulsory begins. Because certainly - not in this county, but another county - I've seen a Care Order has been taken because a parent was taking a child in and out of care all their life. Eventually - and it wasn't the greatest case management - and up to a point where a social worker came along, looked at the situation over the past eight years - the child was 8 when the social worker took over - and the social worker said: **'Hang on, you know, this child has been in and out of care all their life and basically been yo-yoed back and forth and has never been allowed to settle, and then there was a failed adoption and goodness knows what altogether'**. And, um, in that case they took a Care Order and were very relieved because you could see we'd tried to help the child get back on the straight and narrow and then the mum would remove him and you'd like be back to square one. Um, and the child may have been looking at settling in a long-term placement or whatever. And, you know, perhaps because of the mum's own difficulties, you know, it was always at the point when things were going to settle that she'd come along and disrupt... which, you know, is an example of the voluntary/compulsory thing. And, you know, they worked so long with the parent to keep it voluntary. Um, it's a tricky one, it really is, and I mean, you know, we work with children who may not long have come into care as well, not just long-term cases, so you know, it's going to have to go down a certain road. But also sometimes, you know, the reality is that five other children before them have been in care. How many times do we have to go down this voluntary, you know, 'trying to get them back home' road when we know that the child's been put at risk?"*

It is also suggested that the rhetoric of empowerment is sometimes used to justify maintaining young people on Section 20 Orders instead of applying for Section 31 Orders. This is particularly true of older young people. Indeed, Bernice Hughes felt that these older young people are expected to make decisions in areas in which they are often not fully competent. The process of responsabilisation that has been witnessed in the youth justice system is also evident in public care:

"I think sometimes - this is one of my big frustrations in many areas - quite often children are - and children are children until they're 18 as far as I'm concerned

– are given more autonomy than they really should have and, you know, thought to be able to make good decisions about their own care than they really should be making, basically. And that can turn either way: they're doing well, that's positive, they're making the right decisions; if they're doing badly, they're being criticised - and with us they're normally doing badly! And really the child is being heavily criticised from quite a young age, whereas if this child was at home with parents, there's no way on God's earth you'd be expecting children to make some of these decisions.... The child in care is expected to be 25 at 12."

What is described here seems closer to abandonment rather than empowerment. The more loosely packaged parcels of post-care entitlements can thus unravel very quickly. For example, if a training placement breaks down this will affect income and housing benefit which, in turn, obviously impacts on the security of tenure.

In an extract from an interview with Fiona Griffiths (a Social Services seconded YOT worker), the possibility that young people subject to Section 20 of the Children Act 1989 might be pressurised into independent living prematurely is discussed. The problems of maintaining family contact and the costs associated with distant 'out of county' placements are also considered. The cases of Amanda Bealing (Section 31) and Donna Chandler (Section 20) are compared:

FG: *"Donna is accommodated, she's Section 20 not Section 31, um, you know that's interesting...my guess is...once she hits 16 there'll be a 'Let's get you back to Porthglo, let's get you into, you know, college or training.'"*

JE: *"Do you think there would be the pressure for the independent living option in her case...because she's not a Care Order, then?"*

FG: *Yes, I think so. I may be wrong and I hope that I am wrong. I don't have other examples I can think of from the past. These units (privately run specialist/therapeutic residential units) have really developed over the last five years, now. It certainly feels very recent, so I don't have any examples to base that on, but the Department pays a lot of money for these placements and I just don't think that when they're sixteen and they're Section 20 they ain't just going to do it. Let's be pragmatic about it. For example let's get down to the basics, because we're talking about finances. Not only does it cost a lot of money to keep Donna where she is, but she's also continually returning home to see her mum – which actually is another reason why the Department would say: 'Look, you know, you might as well go home because you're visiting your mum every weekend.'*

***Why don't you go home?** It costs something like £800 to transport her to and from the placement. That's just transport. Nothing else. It's not wages for people. It's not any overtime. It's just getting her there and back. Think of that bill. £800. It's a lot of money every year if you do it every week. The Department just won't do it – once she's 16. She's got a long way to go yet. And I...the awful thing is you get caught up in it and thinking: 'Yeah, well, I understand that because there's a budget there that has to provide for children in need', and at the age of 16 it may be that at the age of 16 she won't be classed as being in need as she is now, at the age of fourteen (actually she is aged 15). It's no use suggesting otherwise. My guess is that an accommodated child probably would return to Porthglo at the age of sixteen. I'm not saying it'll happen on the dot, but my guess is that at the age of sixteen they'll be seriously looking for independent living; whereas with Care Orders they have much more of a duty. There's the 'duty'/'responsibility' thing. 'Duty' overrides 'responsibility' doesn't it? Have I got that bit of the Children Act right? So I think they have a 'duty' to Amanda and a 'responsibility' to Donna – to use those two as examples."*

What all of this implies is that parents and young people need access to good advice and advocacy in order to assist them in their negotiations with social workers. This would help to facilitate the realisation of a more meaningful and less inequitable partnership between service users and professionals: an essential prerequisite for making well informed decisions and ensuring access to the resources needed to deliver the services that will support such child care plans.

Whilst planning blight is not absent from some of the Section 31 cases in this study, it is certainly the case that poor planning seemed to characterise most of the Section 20 cases. In any event, it is reasonable to conclude that this sense of 'case drift' appeared to increase the likelihood of criminalisation whilst in care.

6.7: Child Care Social Workers and Social Services:

The perceptions of service users in respect of the professionals who work with them will be revisited in later chapters. However, it is worth making a few preliminary observations about perceptions of child care social workers in addition to those that have already been made. Children's Services are explicitly and unashamedly in the business

of welfare. It is important, therefore, that some space is devoted to the recipients' perceptions of being helped.

Interviewees didn't draw sharp distinctions between those who worked in Children's Services and those located in youth justice services. Some, indeed, were unclear about the difference. The rationale and *modus operandi* of the new YOT, for example, was generally understood well by young people, but less so by their parents. There was a general awareness that youth justice workers were involved in the youth courts, but - like child care social workers - they also addressed welfare issues. One parent seemed to regard the YOT as yet another incomprehensible reorganisation. After 25 years of involvement with statutory services, Mrs. Ross memorably observed after yet another change of social worker following yet another reorganisation of services:

"They do that, social workers, don't they?"

The rapid turnover of social workers was probably the most consistently mentioned complaint. Although the young people and their parents were more critical and suspicious of child care social workers than those attached to youth justice services, there were certainly some impressive accounts of good social workers. The problem was that they didn't stay long enough to make a long-term difference. The abiding memory, therefore, tended to be of those who hadn't been perceived as helpful, straight-dealing and reliable.

On the basis of her long experience of social services, Mrs. Ross made four very astute criticisms of child care social work practice. Firstly, her initial involvement with social services had tainted her subsequent involvement with the agency. The initial assessment, made when she was a teenage mother, had allegedly stayed with her for 25 years. Virtually every social worker since that time had bought into the assumptions of that first social work assessment. As she repeatedly reminded me: *"They've been on my back, now, for twenty-five years."*

Secondly, although she was speaking initially about doctors, Mrs. Ross broadened her criticism to professionals in general. It didn't matter how good or nice they were, their first loyalty was to one another. As she put it, *"They never go against each other"*. Uncannily, Mrs. Walker spoke in almost exactly the same terms. Her initial criticism was of the psychiatric profession, but it was one that she broadened to include social workers and other professional groups:

"Although you can get a second opinion, they will not go against each other. They won't do it. I mean, I know that, you know...and that's the problem and this is where the problem stems with Social Services, with the education, the schools...with the health authority...whatever."

Thirdly, Mrs. Ross suspected discriminatory attitudes in respect of having a large family. She was a Roman Catholic who had herself been brought up in a large Welsh Italian family. This was what felt right for her. She believed that her social workers, though never expressing it directly, disapproved.

Fourthly, some social workers really didn't seem to understand the challenges of bringing up a family with very little money on a poor, socially disorganised urban housing estate. The following extract is indicative of the frustration she felt about being criticised for things over which she felt she had little control.

*"According to them, they say there's rubbish in the garden. All that is is the bags are in the trolleys (refuse sacks were put in shopping trolleys because she didn't have bins) to stop the dogs getting at them...**'Clean up your garden or else'**, they say. She (the social worker) wants to look at the other gardens around here, you know. I'm always out there in the garden, but people chuck stuff in there. Two weeks ago I went out and when I came home there were all glass bottles smashed in there. I get fed up of it. When I wash down the windows eggs get thrown or something. There's something on there now. They write all over the doors. So I don't really like it here and the kids don't like it here. That's why I want to move. But the social worker said, **'What's going to be the difference (with a house on a different social housing estate)?'**"*

This point also extended to social workers failing to understand how difficult it was to keep appointments sometimes. The timing and location of such appointments caused many logistical headaches; likewise visits to her children at 'out of county' units and custodial institutions. Mrs. Ross, however, discerned the operation of double standards in respect of appointment-keeping.

“There was supposed to be a meeting yesterday, but they cancelled that because they had something else on or something, so the meeting’s put for another day, but I mean even last Friday or the Friday before she (the social worker) was supposed to take me up there (to visit one of her sons in an ‘out of county’ placement) to see him anyway, because she needed to see him and she also cancelled that, but I mean, if I cancelled something they’d go nuts on me or ‘You’ve got to stick to these appointments’, but then they expect you to drop everything and do what they want you to do. I mean, they want you to go to travelling all the way up there with the kids and then they’re saying, ‘The kids don’t listen to you’ and then that gets reported in the meeting.”

This latter point echoes similar examples where Mrs. Ross felt that social workers were forever fault-finding or, as she said elsewhere in the interview, *“picking holes in me”*. Indeed it this comment that relates to the final point of seemingly always being assessed as a ‘bad mother’. It was, to put it another way, social workers’ default-setting. Thus, she felt, everyone assumed that any problems presented by the children were her fault. For example,

“If there’s a problem in the school they always say there’s got to be a problem in the house.”

The notion that her children’s problems or behaviour in school might be related to wider social conditions, teachers or, indeed, other pupils was seldom considered.

Mrs. Ross was, though, positive about some of her social workers. More recently Mrs. Ross had attended a parenting class that, she believed, she had been *“forced to attend”*. She wasn’t subject to a Parenting Order, but Mrs. Ross was left in no doubt about the consequences of non-attendance:

"They said: 'If you don't go to these or do what we say, we're having the kids.'"

Despite this strong element of coercion, Mrs. Ross did value the experience.

Mrs. R.: *"I got out of the house, I was meeting people. I got on with them. There was only about six, seven of them, maybe. I spoke to them all. Everything came out."*

JE: *"Was it useful?"*

Mrs. R.: *"Yeah, it was useful. They were telling you different ways to talk to kids, like, and what have you, and instead of shouting and everything else."*

Once she had overcome her initial suspicion and resentment, the mixture of practical advice and mutual support provided by other mothers in similar situations proved to be an important source of assistance. The fact that Mrs. Ross could also 'get out of the house' and 'take a break' from the children (who were placed in a crèche) was also highly valued. This model of support, moreover, demonstrated that it was possible to form more collaborative relationships with practitioners in statutory agencies.

That social workers should listen to service users is well evidenced by the lengthy interview conducted with Mrs. Ross. On one level it could be argued that Mrs. Ross tells us little that is not already known about good practice. However, the terms in which she expresses herself capture the sense of wariness and resentment with which certainly some service users regard professionals. There is the failure of some practitioners to truly understand the ways in which individual and family difficulties are also located within the context of life in socially distressed neighbourhoods. There are the double standards in respect of appointment-keeping. Underlying all of this, perhaps, is the resentment of being 'otherised' by the professional classes. Being the object of the unblinking 'clinical gaze' (Foucault, 1973) can feel uncomfortable and oppressive.

6.8: Conclusion: Research Questions Revisited

As with the previous chapter it is necessary to pause and reflect upon the themes that have emerged from the new data presented here. Does the data yield anything new? How does the new data refine and develop the themes already identified in Chapter 5? As with Chapter 5, it may be helpful to organise this critical summary by re-visiting the original research questions. This will also involve revisiting the state of understanding as represented in the literature review in Chapters 2 and 3. To what extent does the analysis of the data confirm, modify or challenge the state of knowledge presented in these earlier chapters? That said, it will be appreciated that some of the findings do not necessarily fit neatly into this schematic approach. This is partly because the original research questions could not have anticipated certain findings and partly because the very nature of knowledge production defies simple categorisation.

6.8.1: What is the nature of the relationship between the public care system and the criminal justice system?

On the whole, the data presented in this chapter adds weight to the themes identified in the conclusion of the preceding chapter. What is striking, though, is the degree of consensus between professionals and service users on certain issues. The degree of correspondence is also evident in shared discourses (see 6.8.2).

At the outset it should be acknowledged that the public care system is not a monolithic institution. Experiences will, therefore, be differentiated according to such factors as the stability and quality of placements experienced (Taylor, 2006). As such, it is important to acknowledge that service users' experience of public care is therefore not one of unremitting gloom. Examples of positive placements are cited in this chapter. Nevertheless, the point should be emphasised that the overwhelming view of public care was negative. The focus of this study, however, is not to quantify or evaluate the extent of the dis/satisfaction with public care provision - although that in itself would be a worthwhile exercise. Rather, one of the principal aims is to identify those social

processes and institutional practices within the public care system that are likely to criminalise children and decant them into the criminal justice system. It is, then, to these processes and practices that attention will be given here.

6.8.1.2: The Impact of Separation from Home, Family and Neighbourhood:

The first theme relates to the impact that separation from home, close family and - very often – neighbourhood has upon young people in the public care system. Whilst the reasons that precipitate entry into the care system will sometimes include abuse and neglect, separation from close family will involve varying degrees of distress and trauma to the children concerned - as well as to their parents and siblings - as well as different accounts of the extent to which they might be affected adversely in the long-term (Bowlby *et al*, 1965; Tizzard, 1986; Quinton & Rutter, 1988; Cairns, 1999; Howe *et al*, 1999; Schofield, 2001 and 2003; Taylor, 2006). Nevertheless, young people in public care will inevitably be unsettled, anxious and upset. Evidence of this has been presented in the form of testimony from both young people and their parents. There are two main implications that flow from the predicament of being separated from family and these can have profound implications for these young people's subsequent careers in the criminal justice system.

Firstly, difficult and challenging behaviour should be regarded as a natural reaction to both the circumstances that brought them into public care **and** the fact of their separation from home and a familiar environment. How that difficult and challenging behaviour is constructed, categorised and processed will determine the velocity with which they enter the criminal justice system. The criminalisation of challenging behaviour in residential units is an example that is considered below.

Secondly, the nature and distance of the public care placement from the family home are factors that will influence the way a young person responds to living away from home. The nature of the placement includes the concept of 'appropriateness'. Matching young

people to the most appropriate residential or foster care placement is a notoriously complex task that is made more difficult by the constraints placed on choice by the availability of resources. Some time ago Utting (1997) identified the problem of diminishing choices in local authority residential provision. As practitioners have commented in this chapter, this has led to a situation where specialist residential provision in the private sector has grown to meet the 'gap in the market'. Whilst the quality of this provision has been lauded by some research participants, the financial implications for local authorities have also been noted. That financial considerations are an important factor in the social work assessment equation in respect of placement provision is inevitable. Whilst it is perfectly understandable that blank cheques cannot be written for looked after children, it will have been seen that the (in) appropriateness of placements has influenced the behaviour of the young people concerned.

The distance of a placement from the family home will also have a bearing on the nature of children's behaviour. This is a difficult issue because there are 'child rescuing' (Platt, 1974) and child protection arguments in favour of placing children at considerable distance from their home. However, such placements not only attenuate relations with the birth family and home area (to which, because children's services are organised on a local authority basis, they generally return), but also precipitate absconsions. There is evidence in this and the previous chapter that shows offending behaviour often accompanies such absconsions: young people either steal money to return home or commit transport or survival offences *en route*. Equally, though, for some young people close proximity to negative family and neighbourhood influences seemed to increase the risk of harm and offending behaviour. The balance between child protection, stability, communication with the birth family and constructive engagement with the home neighbourhood is a difficult one to strike. The importance of flexible communication with family - along with recognition that such families can have complex structures and contact should not be reduced to one weekly phone call - emerges clearly from the data. Irregular or frustrated communication with significant family members seems to increase the likelihood of challenging behaviour and absconsions.

This set of findings represents a modification of the literature. Whilst it has been recognised that entry into the public care system is a cause of distress for children, what is suggested here is that the physical and emotional separation from home, family and community is likely to provoke a ‘naturally’ challenging reaction to changed circumstances. What is also examined is the effect of physical distance from home on offending behaviour and the other risks to which they may be subject. It is worth underlining the point that when young people’s efforts to communicate with home were frustrated their conduct often deteriorated and the propensity to offend was thereby increased. Given the revolution that has taken place in the communications industry in recent years – a revolution, incidentally, in which young people have been in the vanguard – it is reasonable to question whether physical distance might be diminished by the ‘virtual’ close proximity afforded by email, mobile telephone and text.

6.8.1.3: Placement Instability:

Placement instability is another factor likely to increase the likelihood of challenging and offending behaviour. The problem of multiple placements has been highlighted in both the literature (SEU, 1998a, 1998b, 1999 and 2003; Hayden *et al*, 1999; Jackson & Thomas, 1999 and 2000; Jackson, 2000 Martin & Jackson, 2002; Sinclair *et al*, 2000; DfES, 2003; Jackson *et al*, 2005) and the data presented thus far. The findings, though, suggest that traditional conceptions of stability need to be modified. The stability of a placement should not be equated solely with the length of time a young person is resident at a particular postal address. Some residential units, for example, will accommodate highly transient populations: the arrivals and departures taking place with great rapidity and frequency. Instability is thus sometimes an inherent part of life within particular residential units. This finding represents an important modification to our knowledge of the subject of ‘stability’. Current measures of stability utilise the number of times a young person moves to a new location. The finding presented here makes it clear that instability can be experienced at just one location when that happens to be a residential setting characterised by almost continuous change.

Nevertheless, the data also supported other research literature that has highlighted the frequency with which young people were moved *between* placements (see above). Whilst individual agency on the part of young people - in terms of behaviour (especially absconsions) - will also have a bearing on whether they remain in a particular placement, the institutional instability of the public care system undoubtedly plays a part in the sometimes seemingly erratic movement of children between placements. The genuine professional dilemmas associated with whether children should be 'looked after' under Sections 20 or 31 of the Children Act 1989 account in part for this state of affairs. This represents an important contribution to knowledge.

Evidence cited elsewhere, however, would suggest that resource issues and the high staff turnover in Children's Services also offer the other part of the explanation. What is apparent from the data, though, is the need for young people in public care to have structure, stability and access to clear information about the decisions that affect them.

6.8.1.4: The Criminalising Processes at Work in Residential Units

The third theme concerns the potentially criminalising processes that can occur within residential units. Clearly some young people have benefited from good residential provision, just as others have been unsuited to foster care. Hopefully, the data presented in this chapter supports a more nuanced assessment of the merits and limitations of both forms of provision; the key finding being that the efficacy of any placement will depend upon its appropriateness for the individual child. Nevertheless, the processes at work in the residential unit could be regarded as a microcosm of the wider processes at work in the public care system. It is for that reason that a few points should be emphasised.

The first point is that entry into a residential unit introduces a young person into a ready-made and often new social network of peers (though in some cases there may be some degree of pre-affiliation facilitated by family, school or neighbourhood connections). The calibre and personal professional qualities of the residential social workers, whilst

important, are likely to be of less significance than the relationships that will be formed with other residents: contact with staff members, including keyworkers, will be subject to the vagaries of the rota of shifts and annual leave whereas residents may be sharing the same accommodation on a continuous basis. 'Getting along' with peers is, therefore, a priority for young people when they enter a residential unit. To some extent the increased significance of peers, as opposed to parents and other significant adults, is a 'natural' part of young people's development (Coleman, 1980; Youniss, 1980; Harber & Harper-Dorton, 2002; Bradford Brown & Klute, 2003; Smith *et al*, 2003; Zimmer-Gembeck & Collins, 2003). Allusions have been made by the young people to experiences of bullying and intimidation, especially in relation to younger residents. However, it is important to reiterate the point that many of the relationships formed in residential units are intense and mutually supportive. Nevertheless, these relationships bear the characteristics of 'bonding capital' (Boeck *et al*, 2004; McNeill, 2006) and are unlikely to facilitate participation in the mainstream activities of wider citizenship or, indeed, social mobility. Reference has already been made to the concept of 'differential association' (Sutherland, 1947; Sutherland & Cressey, 1974): the idea, based on the groundwork undertaken in the Chicago School (Shaw, 1930; Shaw & McKay, 1942) and complementary to social learning theory (Bandura, 1977 and 1986), is that criminal activity springs not only from conditions of social disorganisation, but also from the intense social cohesion of specific groups of individuals with shared or complementary characteristics. Under such conditions criminal activity – by definition, of course, a social construct – and other anti-social, risky or harmful behaviours is culturally transmitted and becomes normative through a process of mutual reinforcement. As will have been noted in this and the previous chapter, the residential unit provides the ideal 'hothouse' within which challenging, offending and high risk behaviours can be cultivated and reinforced (Burgess & Akers, 1966; Jeffrey, 1965; Skinner, 1969; Sheldon, 1982 and 1995; Hume *et al*, 2000; Barter *et al*, 2004; Taylor, 2006). It will be recalled that Michelle Lyons expressed this in the following terms:

"See, they're all the same as you in the home. All....They put us all together and we're the same and it just makes us worse...."

Nicole Madhur, meanwhile, spoke about how “*we’d egg each other on*”. Indeed, what is striking about the data presented in this chapter is that there is clear evidence that the young people themselves – along with many practitioners and academics - recognise the social processes at work in the residential unit: the process of socialisation into the culture of the unit is described vividly in terms of emulating older or more powerful residents and graduating to apprenticeships with criminally sophisticated peers. An underlying sense of despair and resignation infuses some of the accounts by young research participants. There appears to be a shared belief about the inevitability of succumbing to the dominant peer values and of surrendering individual moral agency to the corrosive culture of the residential unit. It will be recalled that John Calvert commented wearily about young people in residential units,

“...really they think that they can’t really get any worse because they’re already in care, so they think, ‘Well, might as well get something out of it.’”

These comments and other supporting data suggest a modification of the ‘differential association’ thesis (Sutherland, 1947; Sutherland and Cressey, 1974) in that there is an awareness of the processes at work. Whilst the cultural transmission of values that are supportive of crime certainly appears to be a process at work, the young people seem to recognise that there exist other values and ways of doing things. What they describe is a very context-specific set of values and practices to which they eventually succumbed in order to survive the residential experience. The perceived inevitability of succumbing to the dominant culture actually seems to be counter-balanced by an awareness of what is happening to them. This awareness actually implies that, in a different context, many of these young people’s beliefs and behaviours would also be different.

Michael Ross identified two of the more problematic activities of residential existence: ‘kicking off’, which involved challenging behaviour - sometimes taking the form of almost ritualised set-piece confrontations with staff; and ‘doing stuff together’, a catch-all

term that involved bonding with other residents in such activities as substance misuse and offending. Michael Ross' analysis of the deviant collegialism that appears to prevail in many residential units is shared by other service users and practitioners interviewed. It will be appreciated that his analysis of how one's friends also become one's co-offenders and co-defendants is entirely congruent with the previously cited 'differential association' thesis (Sutherland & Cressey, 1974). As has been noted in Chapter 5, whilst the public care population share many social characteristics, there exists within this group a wide and complex diversity of personal backgrounds, needs and issues: some enter the care system for their own protection; others because their parents or carers can't cope; and there will be those whose route has been characterised by challenging behaviour. Moreover, in terms of criminal background some enter the Care system with no previous convictions whilst others will arrive with substantial records. Nevertheless, the secure attachment of the Care label is recognised by the young people interviewed here as the defining identity badge of a distinctive tribe. That this sense of collective identity is forged, in part, through the common induction of the residential unit is acknowledged tacitly. Malcolm Welham's observation that "*it's like a community*" is echoed elsewhere, but notably in Michelle Lyons' reference to "*people like me*" and Paul Gullimore's shocking acknowledgement of a stigmatising sense of 'difference' from the general population: "*There were no normal people in the homes.*" That the residential unit has played a crucial role in the identity formation of these young people appears to be recognised by most of those interviewed. That a part of this residential unit identity was also associated with crime and other forms of 'deviance' and 'delinquency' is also very clear. In the interviews there is a strong sense of the inevitability of the relationship between the residential unit and the career criminal. Whereas the literature tends to imply that criminal activity is an unintended by-product of the care system, the young people interviewed appear to perceive the relationship as integral and therefore almost unavoidable. This represents a modification of the claims made by the literature reviewed in earlier chapters.

As will be clear from some of the case summaries described in Chapter 5 and the appendices, the issue of case drift and planning blight is not confined to those placed in

the residential sector. Moreover, in some cases there are good examples of planned work being undertaken with young people in residential units. Nevertheless, case drift often appears in its most palpable manifestations when young people are placed in residential units. This comes through very strongly in some interviews: the sense of being warehoused rather than worked with constructively by professional staff. This was a concern for such parents as Mrs. Walker who believed, *“They’re put in units and forgotten about...”* It is also implicit in the accounts of boredom and days without structure or stimulation. As Paul Gullimore put it: *“You’re all in there together, nothing to do, so you go out and steal a car.”* The failure to encourage children to attend school was, moreover, cited by more than one participant as a factor that intensified the emptiness at the heart of each indistinguishable day, thus increasing the likelihood of offending with fellow residents. As Anthony Turner explained:

“When I was there they’d say in the morning, like, ‘No-one wants to go to school do they? So everyone would say ‘No’ and then everyone would be lounging around all day and then everyone would end up robbing, like.”

It is interesting that Paul Gullimore appropriates the language of social work practice in his lament for structure: *“You want boundaries”*. The absence of properly enforced ‘boundaries’, it will be recalled, was one of the major concerns of the parents. The failure of staff to prevent children from leaving the unit late at night was one complaint. Not only might this increase the risk of re-offending; these vulnerable young people were also being allowed to place themselves at risk of harm.

The final point to make on the theme of residential units concerns the criminalising practices of professional social work. Young people, exposed to the full glare of the welfare spotlight and the practitioner’s ‘clinical gaze’ (Foucault, 1973) were at risk of having their ‘challenging’ behaviour constructed as ‘offending’. Once again the probable influence of labelling (Lemert, 1951; Becker, 1963) and deviancy amplification (Wilkins, 1964; Cohen (1972/1980) in this setting should be mentioned. Moreover, the policy of the local authority concerned, seemingly in common with others (Taylor, 2006) was to

treat even minor emotional outbursts and petty vandalism (e.g., breaking a coffee mug) as criminal acts and insist upon cases being prosecuted through the formal criminal justice system. Given the profile of some of the young people and the hothouse dynamics of unit life, it is unsurprising that many of the young people attracted criminal records as a direct result of this policy. In some cases, moreover, it could be argued that by placing vulnerable young people before the criminal court the local authority Social Services Department have violated the essential principles of the Children Act 1989. How, for example, is the child's welfare being made paramount by giving her/him a criminal record and/or placing her/him at risk of custody? There is clear evidence in the data presented here that the criminalisation of petty vandalism and comparatively minor incidents was bitterly resented by young people. Being shipped from the welfare domain to the criminal justice system for such incidents was regarded as wholly inappropriate. It was thought that unacceptable behaviour enacted within the unit should be dealt with by sanctions administered within that welfare domain rather than being inappropriately re-contextualised in a criminal justice context where, of course, community or custodial *penalties* would ultimately be imposed. As Trevor Bushell put it: "*Social workers should do the job themselves and not get the police to do it half the time.*" Trevor Bushell's point actually highlights the fact that social workers possess individual agency and the decisions they take about how to deal with incidents within residential units will affect the trajectories of young people between the public care and criminal justice systems.

In conclusion, therefore, the findings discussed represent some significant modifications to the state of previous knowledge as represented in the literature review.

6.8.1.5: Independent Living and the Criminal Justice System:

This theme concerns the difficult transition from public care to independent living and the ease with which the boundary to the criminal justice system is so commonly crossed. Whilst the situation may well have improved since the implementation of the Children (Leaving Care) Act 2000 (Broad, 2003 and 2005), there can no be serious doubt that even with the full support of well-resourced and functioning Leaving Care Teams this

transition is inevitably perilous and can often lead to re-offending and much worse. A few brief points should be made in respect of this area.

Firstly, even the best Leaving Care Team cannot manufacture the social conditions that might support a successful transition to independent adulthood: a buoyant youth labour market in which there are well paid jobs and/or high quality training is clearly beyond the reach of statutory social services and its partner agencies. Likewise such Teams cannot guarantee the availability of appropriate supported accommodation. As will already be apparent from the case summaries presented in Chapter 5 and the relevant appendices, even in those cases where good quality accommodation is available there is often the attendant danger of ghettoising young care leavers in the same post-care/custodial housing projects; thus perpetuating the processes of differential association (Sutherland & Cressey, 1974) and –with young people’s movement between different but linked institutional sites - transcarceration (Cohen, 1985). The evidence of the case summaries would certainly suggest that - to embellish upon Lynch’s metaphor (1998) - the ‘waste-pipes’ running between the residential units, ‘independent living’ projects, bail hostels and custodial institutions are already very well maintained. This represents an important empirical and theoretical finding of some significance and originality.

However - as has already been noted earlier in this chapter, the previous chapter and related appendices - even in those cases where the young people are well accommodated away from the usual institutional ghettos and satellites, care leavers have a tendency to seek each other out for support. As has been already been suggested, such friends often double as co-defendants. At best, the Leaving Care Team can only assist young people to navigate their way around the inhospitable terrain on to which young care leavers are deposited. Unlike those young people who are supported and sponsored by comparatively stable and prosperous families, there is little scope for the care leaver to make mistakes or take bad decisions. As Coles (2000) and others (IRIS, 2001; Reiter, 2003; Craig & Reiter, 2005;) have pointed out, the youth transitions paradigm should not be represented in purely linear terms: there are faltering steps, false starts, returns to base, fresh starts and sometimes sudden unforeseen changes in social context (e.g., the collapse

of a local economy) with which to contend. A supportive family can help absorb some of the disappointments and shocks of fractured transitions. Notwithstanding the passage of the Children (Leaving Care) Act 2000, care leavers can be forgiven for thinking that – from their vantage point - the safety net looks a little threadbare. The data presented here therefore supports what is already known about the difficulties and risks of post-Care transitions, but in so doing also provides important new evidence of the extent of the high level of need and vulnerability of some young people. It also depicts the limitations of present levels of publicly provided support.

Secondly, an important point to emerge is that practitioners believe that not only are young people leaving care prematurely, but some are also being expected to take difficult decisions which are incommensurate with their maturity and level of intellectual and emotional competence. As Bernice Hughes commented, children “...are given more autonomy than they really should have and, you know, thought to be able to make good decisions about their own care than they really should be making, basically.” If this assessment is valid, then the poor decision-making exhibited by young people – including offending – is almost inevitable. This raises two issues. Firstly, in some cases social work practitioners appear to be making poor assessments about the young people’s level of intellectual and emotional competence. In other cases social work practitioners may make good assessments, but these do not always lead to the agency making the ‘right’ decisions about where such young people should live on leaving care. Resource considerations will clearly have an influence on such decisions. The data suggests that the rhetoric of ‘empowerment’ and ‘personal responsibility’ is sometimes invoked to justify such decisions. This represents a new finding. The references to ‘personal responsibility’, moreover, not only echo the responsabilisation agenda in criminal justice (Garland, 1996; Goldson, 2001) but also the rise of what Deacon (2002: 63-77) describes as a strand of social policy that links ‘welfare’ to notions of service user ‘obligation’ (Etzioni, 1995, 1997, 1998 and 2000; Sacks, 1997; Selznick, 1998a, 1998b; and Giddens, 1998). The issue of personal autonomy and responsabilisation will be re-visited in the next section.

6.8.2: How have such discourses as ‘welfare’ and ‘punishment’ influenced what has happened to young people with care backgrounds in the youth justice system?

As the focus of this chapter has been the public care system, it is not possible to answer this question as directly or as fully as the previous question. Nevertheless, a few oblique but broadly relevant themes should be identified as they do have some bearing on the themes developed in the two remaining chapters.

6.8.2.1: Professional Rhetorics of Welfare, Empowerment and Responsibilisation

The first theme quite simply concerns the fact that the delivery of public care services is done in the name of Welfare. Thus, the rhetorical strategies deployed by professional social workers invoke variously hybridised principles of Welfare (Deacon, 2002) – within which state ‘help’ and service user ‘obligation’ are inextricably tied (Etzioni, 1995, 1997, 1998 and 2000; Sacks, 1997; Giddens, 1998; Selznick, 1998a and 1998b) - and anti-discriminatory practice (Dalrymple & Burke, 1997; Thompson, 1997; Burke & Dalrymple, 2002; Dominelli, 2002;). What will be considered later (see below) is the way that service users ‘receive’ and construct such welfare interventions. Before proceeding to that, however, it is worth pausing to identify those social work discourses that surround the issue of young people’s personal autonomy – a subject noted in the previous section. It will be recalled that Bernice Hughes, who questioned many young people’s ability to exercise autonomous decision-making in respect of their own welfare, was also an advocate of restoring *Doli Incapax*. As far she was concerned “*children are children until they are 18*”. Whilst such a position could justly be depicted as representative of an essentially protective, paternalistic and conservative discourse of welfare, Ms. Hughes’ concern was that insufficient attention was being given to an assessment of the developing – and, in some cases, arrested – competences of young people. As she put it: “*The child in care is expected to be 25 at 12.*” This represents an interesting challenge to the above-mentioned discourses and rhetorical strategies of radical social work. It is also reminiscent of Williamson’s (2005 and 2006) observation that offering choices and then ‘walking away’ will often be experienced by young people

as abandonment rather than empowerment. One of the risks of ‘radical empowerment’ rhetoric is that it can very easily be linked to a neo-liberal responsabilisation agenda. In the context of a discussion on the tension between voluntarism, minimum sufficient intervention and a more directive approach (with reference to Sections 20 and 31 of the Children Act 1989) to social work, Ms. Hughes noted with concern the premature responsabilisation of children within the domain of social services:

“...really the child is being heavily criticised from quite a young age, whereas if this child was at home with parents, there’s no way on God’s earth you’d be expecting children to be making some of these decisions.”

It could certainly be argued that such responsabilisation practices within the domain of social services and the public care system go some way towards preparing young people for the experience of criminal responsabilisation within the youth justice system.

This finding represents an important theoretical insight. It shows the possible connections between the radical social work rhetoric of empowerment and the neo-liberal responsabilisation rhetoric that characterises much of the discourse in the criminal justice domain. It also shows how the operationalisation of such discourses in the welfare domain has influenced practical decisions about which Section of the Children Act to invoke and where a young person should be placed post-Care. In the former case it has been seen that the invocation of such principles as voluntarism, choice and empowerment have resulted in case drift and planning blight. In the latter case it has resulted in vulnerable young people being given inappropriate post-care packages. More insidiously, perhaps, the rhetoric of ‘empowerment’ and ‘choice’ prepares young people for the criminal responsabilisation that takes place in the youth justice system.

6.8.2.2: Service Users’ Constructions of Welfare

The second theme relates to the way in which service users construct the experience of welfare. It will have been noted that service users and practitioners share some of the

same discourses, explanations and analyses. Young people, field practitioners and – indeed - criminologists, for example, describe variations on the ‘cross-contamination’ thesis in respect of the residential unit. There are, however, also important differences. Some of these are summarised below.

Firstly, service users do not always experience the delivery of welfare as helpful. As has been noted in this chapter, even additional material resources can be constructed as unhelpful. For Mrs. Madhur the additional money given to her daughter was perceived as a potential source of alienation from family and social background.

Social workers were, for the most part, uninvited providers of welfare. Parents, of course, well understood that social work is double-edged: welfare often being conditional upon compliance with the social control exercised by professionals. The data yield raw evidence of how invasive, stressful and frustrating it can feel to be placed under the surveillance of social services: to be constantly reminded of the documented personal failures of the past whilst at the same time having one’s present parenting capacity scrutinised and calibrated. What emerges very clearly from the data is a strong sense of ‘us and them’. There is the failure of social workers truly to understand the chronic pressures and stresses of financial hardship in difficult, socially disorganised neighbourhoods: the ‘narrative of life’ being privileged above the ‘narrative of place’ (Rush, 1992); and the social and structural explanations always being subordinated to those based on personal and family deficits (Mullaly, 1997; Jones, 2002). The issue of social class, though never identified explicitly, is palpable in some passages of interview. Whilst there are ‘good’ professionals who generally do their jobs well, there is the strong suspicion that ‘they’ stick together and “*never go against each other*” - although there is actually clear evidence that *some* professionals will criticise *other* professionals in certain circumstances. Nevertheless, it is still the case that what the professional may choose to represent as effective multi-disciplinary work and ‘joined-up’ services, might be represented by the service users as an ‘alliance of the powerful’ against them (Drakeford and McCarthy: 2000). Powerlessness and poverty are unspoken but ever present discourses in the many pages of interview transcripts with parents.

The young people, whilst acknowledging those they considered good, were overwhelmingly negative about the professional staff that delivered children's services. Some case accountable field workers are represented as devious, duplicitous and threatening, whilst most residential staff are bored, de-motivated and indifferent. These discourses concerning the social work profession are important because they shape and structure the narratives constructed by young people about what has happened to them. The 'unreliable social worker' may well have some basis in reality, but the 'unreliable social worker' may also be a motif or useful narrative device for making sense of events. Social work practitioners are, though, the living embodiments of Welfare. Consequently, when a social worker is considered unreliable, dishonest or devious, s/he will give Welfare a bad name – or perhaps confirm the pre-existing stereotype. A concept such as 'Welfare' is not so much understood by reference to dictionary definitions but, rather, in terms of how it is operationalised by those who claim to act in its name: by the bearers and their fruits are such concepts known and understood by the recipients. Given that service users are often accused of being manipulative, it is ironic that this assessment appears to be approximate to young people's estimation of child care social workers. Punishment may be unpleasant, but it perhaps possesses a quality of honesty that is less easy to find in Welfare. Perhaps discredited Welfare is in need of re-definition and rehabilitation; perhaps Welfare needs help.

It is difficult to comment authoritatively upon how service users actually operationalise these constructions of welfare and social work; and, more importantly, how this might actually affect the way they behave in their dealings with professionals. It could be speculated that their relationships with child care social workers are cautious in some cases and evasive action is taken in other instances. In truth, though, such conclusions can only be tentative. Nevertheless, the findings presented here do shed some fresh light on the way in which some young people and parents experience and construct what is happening to them. As such, this represents a small but not insignificant contribution to knowledge.

6.8.3: How have the youth justice reforms of the 1997-2001 Labour government impacted upon practice at ground level?

Given that the focus of this chapter is on public care, there are only a few points that should be mentioned.

6.8.3.1: Perceptions of the Re-organisation of Youth Justice Services

Firstly, the significance of the radical re-organisation of youth justice services does not appear to register highly with service users. However, in Porthglo the youth justice reforms meant that YOT workers would not be case accountable for ‘looked after’ children on their caseload. This meant that – unlike youth justice social workers - they were not responsible for such core activities as organising and reviewing public care placements. This actually represents a hugely significant change in role and responsibilities for the youth justice practitioner. One of the themes that does emerge from the service user interview data, though, is that the young people do not always know what is going on or understand the decision-making processes at work in social services – including placement issues. There is a sense in which they seem to spend a lot of time ‘in the dark’. Whether such young people in care were kept better informed about placement issues when youth justice social workers were case accountable for LAC cases is difficult to say. There is no conclusive evidence either way. That said, it is reasonable to say that the situation *may* have been better in this respect. This is certainly the view of practitioners (see Chapters 5, 7 and 8), but this has not really been validated by the service users.

Secondly, there is the finding that Youth Offending Teams are – despite the reforms – still perceived to be in the business of welfare: they are there, in part at least, to be helpful to young people. Whilst the amount of data to which reference is made is very small, this would appear to support other literature (Burnett & Appleton, 2004a and 2004b).

6.8.4: A Brief Summary and Signpost:

This chapter has identified the salient themes that emerged from the data in respect of the public care system. In allowing the voices of service users and practitioners to articulate these themes, it is hoped that something of the quality of their thoughts, feelings and experiences is conveyed. By the same token, it is hoped that some of the processes by which young people are criminalised are identified: the planning blight in case management; the process of ‘contamination’ and ‘differential association’ (Sutherland & Cressey, 1970) in residential care; and the institutional process of labelling (Becker, 1963) challenging behaviour as ‘criminal’ and transferring responsibility for its management to the courts (Taylor, 2006). That the “...*the care system under pressure will offload its more troublesome young people into justice establishments*” (Collins & Kelly, 1996: 37) is tantamount to identifying a transcarcerative process at work between the welfare and justice systems (Cohen, 1985; Foucault, 1977; and Lowman *et al*, 1987). Chapter 7 attempts to extend this analysis in relation to the criminal justice system. How, then, do those practitioners working in the criminal justice system discharge their welfare responsibilities to young people with Care backgrounds?

Chapter 7: The Criminal Justice System

7.1: Introduction:

This chapter extends the analysis of the experience of service users and professionals into the arena of the criminal justice system. In so doing, it seeks to explore the ways in which young people with care backgrounds are constructed and dealt with by the system. Crucially, it asks what part is played by practitioners in this process. The chapter also addresses the nature of the changes that have taken place at practitioner level in respect of the reformed youth justice services. Clearly, the way in which practitioners interpret and manage these changes will have had an influence on the delivery of services to young people and their families. The early sections (7.2 – 7.4) consider direct experiences from some of the key domains of the youth justice system: the police station, the court and the sentence. The service users' voices are reasonably well represented in this early part of the chapter. Sections 7.5 -7.6, meanwhile, are more representative of the viewpoints of professional staff: reflections are offered respectively on both the 'old' and 'new' youth justice systems. Section 7.7 concludes the chapter by revisiting the original research questions.

7.2: The Police Station:

The police were generally well-respected by most of the young people interviewed. For the most part they were perceived as simply doing their jobs. Although not particularly liked, on the whole the police were represented as being fair and straightforward in their dealings with young people. That said, it will be noted below that not everyone shared this view. Those supervised by a seconded police officer at the YOT, meanwhile, were very positive about her work with them. She was perceived as hard-working, reliable, approachable and straight-dealing. Indeed, none of the young people felt uncomfortable about having a police officer as a supervising officer.

The areas of criticism levelled at the police concerned certain aspects of the way in which specific inquiries were conducted and, more particularly, the experience of being in the police station. Three aspects of young people's experience at the police station should be mentioned: the role of the Appropriate Adult; being held in police custody and the cautioning process.

The role of the Appropriate Adult in police interviews appears not to have been understood fully or, indeed, valued by the young people. It is noticeable in some of the transcripts of police interviews (studied in the course of conducting documentary analysis) how passive the Appropriate Adults tended to be in the whole process. These findings would seem to be in line with much of the research literature (Brown *et al*, 1992; Evans, 1993; Bucke & Brown, 1997; Littlechild, 1998 and 2001; Jones, 2005). The importance of having a trusted adult present who can intervene on behalf of the young person emerges clearly: to comment on issues related to the interviewees' level of understanding; to help clarify or re-frame questions; and to simply request breaks when the young person is tired, confused or upset. The role of the Appropriate Adult should also be crucial in terms of facilitating communication with the outside world, especially with family members. In the last analysis, the role of the Appropriate Adult is to ensure that children's legal and human rights are protected in police custody. Daniela Harrison here describes how powerless and alone she felt. Her inability to contact parents resulted in feelings of frustration and vulnerability. It would seem that this sense of abandonment was exploited by the police officers in this particular case. The extract below is worth quoting at length because it conveys powerfully the vividly recalled feelings of disorientation, isolation and abandonment. Daniela speaks of the arrest for which she was eventually sentenced to custody.

"We got arrested and were in there from the Wednesday morning till the Friday morning when we had to go to court...and me and Janine said 'Can you phone our mums, like?' And they says to me...I says to 'em when they come back about an hour later: 'Oh, did you phone my mum and told my mum where I am?' 'Well, we phoned your mum and your mum says she doesn't want to know you because you've done such a horrible thing.' And I said: 'Fair enough, like – I understand now why she doesn't want to speak to me now.' Then I went back in

there (the cell) and I didn't hear nothing and I said: 'Can you try my mum again, please. Please can you just try and phone me mum again. Please just try and phone my mum, like, again. I need some clean clothes, too.' In the end I had to phone my boyfriend at the time – he's not my boyfriend anymore – but I had to phone him at the time and said to him: *'Listen, can you bring some clean clothes down for me?'*, because most of my stuff was over at his house, anyway. He said: *'Where are you?'* I said: *'I'm in the police station'*, and explained everything. He said, *'Don't worry, I'll be there'*. So he came down, brought some clean clothes and that and then on the Friday morning Reliance came for us – we went in the back of Reliance - went down to the court cells, went to court, they said to us: *'You're remanded to the local authority'* – and I went back outside and a social worker, she said: *'C'mon, I'll take you back in the car'*, coz I didn't have to be handcuffed anymore and I thought, *'Thank God for that'*. I goes out the front and my mum and dad was outside. My mum ran up to me and give me a hug and I thought: *'Hang on, I thought she didn't want to speak to me'*. I said to my mum: *'Do you want to speak to me now?'* She said: *'I reported you missing and they said they couldn't find you'*, and I was like, *'What?'* And she goes, *'Honest to God, Daniela, this is the first time we heard where you are or anything'*. And I said, *'Honest to God, when I was in the police station I asked them to phone you, right, and tell you where I was'*. And she goes, *'Well, I haven't had no bloody phone call. I phoned the police station and reported you missing'*. And the bloke who answered the phone to my mum told my mum his name and that, and it was the same bloke which arrested me, so obviously he knew where I was. But he said, *'Alright, we'll look for her'*. He didn't say to my mum, *'Oh, she's locked up'* or anything. And that was the last thing. My mum was up from Wednesday to Friday morning looking for me - and my dad was looking for me as well. And it was raining really badly and that then and my dad's got bronchial asthma and my dad was climbing fences and all out of breath and that. Anything could have happened to him. But none of the police even bothered to tell my mum because you've got to have...what's that thing?...Appropriate Adult, innit? And I says to them..., they says to me, *'Who do you want as your Appropriate Adult?'* I says, *'Get my mum and dad, ask my mum and dad.'* And they said, *'Oh'* and this and that and the other and they came back with some person from Social Services and I said, *'Hang on a minute, you ain't my mum and dad'* and they (the police) said, *'Your mum and dad don't want to know'* and that's all I kept getting all the time, *'Your mum and dad don't know you'*, but my mum and dad were out looking for me. Oh...I just thought it was well out of order what they done. Messed me around like that."

In this case, as in most of the others, the Appropriate Adult seemed to do very little to put the young person at ease, attempt to explain the situation or liaise with the family. The above passage also highlights the second point: the fact that the police station is, at the best of times, uncomfortable and alien territory that is controlled by the officers. It is entirely possible that some of those acting as Appropriate Adults also feel intimidated

into assuming a passive role in the police station. The police cell, meanwhile, was described by many young people as simply a place from which you wanted to be released as soon as possible. The austere conditions and isolation were profoundly dispiriting. Malcolm Welham argued that children should not be kept in police cells for long periods.

“I’ve been in the police station over the weekend.... The beds, the facilities they give you to sleep and, like, toilet facilities and doors and walls, it’s all...and they just stinks.”

At times the police cell can also be a frightening place. Daniela Harrison recalls the first time she was arrested. She was aged 13 years at the time and arrested because she was with a friend who had been caught shoplifting. Although she was released without charge, this was only after a night spent in the police cells.

“At first I was really scared. It was, like, the first time I’d been locked up. And I was, like, really scared and all my friends...and there were all these drunken people in there screaming and shouting and banging all the time and I was thinking, ‘What if someone comes in here and tries to beat me up or something?’ I was really scared.... Looking back on it now it wasn’t that bad, but I was only little.”

Daniela offered an interesting postscript to the episode:

“Well, they didn’t say nothing, they just let me go and said, ‘You didn’t do nothing’ and I didn’t have no caution nor nothing, but they just said to my dad, ‘Listen, we kept her in just to scare her so she doesn’t come back because she’s so young, like.’ And my dad said, ‘Oh, fair enough, like, it should scare her, like.’”

The fact that some young people damage their cells during prolonged periods in custody is, perhaps, unsurprising. More commonly, though, extended periods spent in the cells risk placing young people under duress and increase the likelihood of ‘co-operation’ with the interviewers. The impulse to end the experience as soon as possible is perfectly understandable and was referred to by some of the young people.

Finally, the way in which the cautioning process was administered appeared to vary enormously. Whilst Brian Giles and Lawrence Walker admitted to feeling quite intimidated when a police officer - probably adopting a 'scare them straight' tactic - raised his voice during his exhortations to desist from criminal activity, others - like Anthony Turner - were dismissive of the experience. Michelle Lyons commented, "*They shout at you, that's about it*", whilst Trevor Bushell - who thought he was approximately 10 years old at the time of his first caution - said quite simply that it was "*crap*". When asked to elucidate he explained, "*Well, you just sat there, head down, and you were told, 'Never do it again' ...it was, like, how am I going to do that?*" Nicole Madhur's dismissiveness, meanwhile, carried more than a hint of defiance:

"I thought: 'So this is what you get at a police station. I'm surprised'. I wanted the next stage up - to get locked up."

The above comments do not, of course, constitute a comprehensive critique of cautioning processes past or present. It should be borne in mind, moreover, that the young people interviewed are not representative of the wider population of those who receive cautions, Reprimands or Final Warnings. For many young people, the pre-court cautioning stage remains their only contact with the criminal justice system (Jennings, 2003); although this is probably because the new system draws into its widening net a younger and less problematic population (Bell *et al*, 2000; Goldson, 2000; Hine & Celnick, 2001; Pragnell, 2005). What does emerge from these interviews, though, is the importance of both police officers and young people having a clear understanding of the aims of the process.

What is striking about young people's experiences of the police station is the casual violation of their rights and welfare interests. It is also a cause for concern that the social work profession appear to be complicit in some of these processes. For the less robust young people, moreover, the police station is a frightening, disorientating and intimidating place to be held. Given the vulnerability of most of the young people in this study, it is vitally important that the role of Appropriate Adult is fulfilled effectively.

7.3: The Court:

Most of the young people interviewed thought that they had been dealt with reasonably fairly by the courts. They may have had issues with some of the offences with which they had been charged (e.g., some of the residential unit-based offences), but once these had been placed in the court arena there was a general feeling that their cases had been dealt with in a balanced and thoughtful way. The importance of helpful pre-sentence reports in the sentencing process was recognised by many of the young people. There were, however, exceptions to this generally positive view of the courts. Anthony Turner, for example, didn't feel he had been given "*a fair chance*" by the courts. He thought that community-based sentences, particularly Supervision Orders, could have been used instead of custody in some of the cases in which he was involved. It will be noted from the case summaries presented in this dissertation that, despite often considerable welfare needs, some young people have received custodial sentences at an early age (or early stage in their criminal careers). Daniela Harrison and Mrs. Walker also queried the length of custodial sentences.

Very few of the young people thought that they had been discriminated against by the courts on the basis of gender, ethnicity or public care background. In contrast to the evidence of 'careism' (Lindsay, 1996) presented in this study, Nicole Madhur thought that "*the courts are soft on care kids*" and girls in particular, although she thought that the new legislation might change that tendency over time. Daniela Harrison, on the other hand, believed that sexism did exist throughout the criminal justice system. In her own case, she thought that the severity of the sentence was related in some way to her gender because "*girls aren't supposed to do that sort of thing*". The subject of sexist tendencies in the system had, indeed, been discussed with some of her friends in custody. Apart from the differential access to sporting facilities within the institution, Daniela and her friends also described their perceptions of a sentencing culture influenced by gendered stereotypes:

"One of my friends and her brother, right, got into trouble over both the same thing. It was both their first offence and everything and they gave my best friend three years and they gave her brother two...and I was talking to her social worker about it and they said, 'Because she's a girl!' and I said (laughs), 'What do you

mean because she's a girl?', and they said, 'Well, they don't really believe in girls getting into trouble. It's just the boys mainly, so the girls have to be punished more' and that's so out of order, like, do you know what I mean?...and they both got done for the same thing at the same time and everything and she still had a year extra because she's just a girl. I thought that's out of order. It is wrong. You can't just treat everyone different because they're a boy or a girl."

The pathologisation and criminalisation of girls' 'bad behaviour' has been well analysed by Worrall (1999), Walklate (2001) and Gelsthorpe (2004). Welfarist constructions of girls in trouble have tended to be double-edged. Whilst some were diverted from the criminal justice system and dealt with by mainstream social work or mental health systems (two systems that are laden with their own risks), others were fast-tracked up the sentencing tariff for comparatively trivial offences in order that their 'needs' could be met by the criminal justice system (Harris & Webb, 1987). More recently, the growth in actuarialism appears to have given rise to ostensibly 'gender-equitable' practices with the result that more girls are entering the criminal justice system (Worrall, 2001).

As one would expect, perhaps, the Youth Court received more positive reviews than the Crown Court in terms of the way in which cases were managed. They were generally perceived to be more 'child friendly'. In the Crown Court the young people admitted to being more nervous and not always understanding what was happening. Daniela had always acknowledged that she "*did a bad thing*", but the imposition of a custodial sentence came as a complete shock because no-one had prepared her for the possibility:

"I dunno, really. It didn't sink in at first. I was just really shocked and that...that they actually sent me away, like, and my Mum and Dad was crying and my sister and everyone and I was just sat there and I didn't know what to say.... Nothing. I was just like.... I just froze. I couldn't move and they just said to Reliance: 'Take her down to the cells.' Then I went down to the cells and me and – they put me in the same room as my Co-D – I said (voice rises with urgency): 'Jade, we're going down, love, we're not staying here, we're going, like!'" And we was both crying, like, for ages and then my barrister come down, like, and said: 'Oh, never mind. At least it could have been worse.' And I was like: 'Uh! What you on about?', coz all the time I was in court he was saying was: 'Don't worry, you won't get a custodial sentence, I promise you, you won't get a custodial sentence.' And that's all my barrister kept saying to me: 'You won't get it, you won't get it.' Because it was a big shock after being told you weren't going to get

nothing, like no custodial sentence, and then you get two and a half years, it was, like, a really big shock. I was really scared."

After this court appearance, Daniela was also extremely confused and distressed about where she would be serving the sentence.

"They said to me at first when I was in the court cells: 'Oh, listen, you're going to Langley Court Prison (a YO1).' And I was like, 'Oh my God' and shaking and everything and then about 5 minutes before I was due to leave they said: 'Dan, you're going to Westfield.' And I said: 'Oh, I'm going to a prison in Westfield?' And they said, 'Yeah'. I said: 'Oh my God, where's that? Where's Westfield? Like, I knew where Langley Court was because my friend had been there. And they said: 'Well, you're going to a prison in Westfield.' And then I got up half the motorway and I said, 'Oh' – to my escort because they didn't tell me, the people in the courts did – I said: 'Where am I going again?' They said: 'You're going to a Secure Unit in Westfield.' And I went: 'Hang on I've been told I'm going to a prison.' 'No, you're going to a Secure Unit, which is much better than a prison.' Like, because all my friends who'd been in Care on Care Orders and that had been in Secure they'd come back and tried to scare me and that: 'Oh, it's terrible in there, Dan, you get locked in your room all the time, you get locked in your room.' And I was like: 'Oh no, oh no – do I? Do I?' And I was, like, thinking all this coming up in the car: 'Oh no, I'm going to be locked in my room all the time.' And then I came here and thought: 'This is nothing compared to what they said it was like.'"

The importance of vulnerable and distressed young people receiving clear information and support post-sentence is clearly evidenced in the above passage. Young people's emotional volatility cannot be over-estimated following the imposition of custodial sentences. There is also clear evidence that they are particularly at risk to self-harming behaviour (including suicide attempts) during periods of transportation and detention in court cells (Howard League, 2002 and 2003).

Mrs. Walker, meanwhile, was very angry about the manner in which her son's appeal was handled by a judge in open court. The fact that the appeal to reduce the length of the sentence was dismissed was not, for her, the issue. Rather, it was the judge's failure to make any concessions to her son's age, mental health problems and learning difficulties.

At the time she feared the effect his aggressive behaviour in the court room might have on Lawrence:

*“We went to Crown Court to appeal against it. In all fairness to David (David Henderson, the Social Services-seconded YOT worker), he wrote a very good report. The judge took offence against his report and was very abusive to the solicitor...in Crown Court. He was very, very abusive, shouting at the solicitor, telling her what her rights were and what she was not and what he was going to do. He felt that with the report David had put forward that David was telling him how to do his job. Now, in all fairness that report wasn't like that, um, you know, and that judge shouldn't have acted like that because I even went to the extreme of thinking, well, who can I complain to about this judge? Because he was very, very wrong...his attitude was, he was horrible. Lawrence was standing in that Crown Court, um, and he's a child compared to the people they do serve sentences to...and, you know, and they turned his appeal down. Not only did they turn his appeal down, um, but the judge was very rude and the way he dealt with that was out of order. You know, we're not talking about having an adult in that box there, appealing against his sentence. We're talking...he was fifteen and a child and the way he done it and acted was out of order. He's a child who has mental health problems. He's a child who also suffers from depression and he's also on medication for that. You know... and nothing like that was taken into consideration. (Imitates judge) **'I'm afraid you finish off your six months seeing as it's doing you so good'**”*

If the cases of young people are to be heard in higher courts it is clearly important that judges receive proper training and guidance in their conduct.

This section highlights the fact the way that young people fully anticipate sanctions when they commit offences: 'punishment', as it were, goes with the territory. Nevertheless, there are also expectations of fair treatment and help. What also emerges is that for some young people it is sometimes difficult to perceive wider processes of discrimination.

7.4: The Sentence:

This section considers data relating to the experiences and views of research participants in respect of the different sentences to which they or their children have been subject. It has been sub-divided into sentences served in the community and in custody.

7.4.1.: In the Community:

Young people were generally very positive about those community-based sentences that had, at their core, a supportive supervisory element (Supervision Orders, Community Rehabilitation Orders, Action Plan Orders and Referral Orders). For them, such Orders were experienced almost solely in terms of the transactions that took place between young person, parent (if applicable) and practitioner. This became clear when young people couldn't always recall the exact Order on which they had been placed, but knew their YOT worker. Despite sometimes being vague about the exact nature of their Order, they all understood that the role of their YOT worker was to help them stop offending by, as Brian Giles put it, "*listening and talking to me about it*". Paul Gullimore, meanwhile, took the view that it was the role of the YOT worker to act as an intermediary between the young person and the court, as well as providing assistance with practical issues that might exert pressure to offend. He summed this up neatly in the phrase, "*doing good PSR's for the court and helping you to find somewhere to live and that.*" Those young people who had greater experience of the new youth justice system also expressed positive views about help received from other workers in the YOT in such areas as employment training, accommodation, drug use and health. However, these relationships with other colleagues never seemed to displace the central significance of the supervisory relationship with the main worker. As Brian Giles put it:

"You always go back to them. They're the main ones you talk to and listen to."

The relationship with the supervising officer was universally described as being 'helpful' rather than 'punitive'. All of the parents interviewed also found the Youth Justice /YOT workers generally helpful, although Mrs. Madhur did feel that more assistance could have been provided in getting Nicole back into mainstream education.

All of the young people were aware of the fact that their YOT workers could breach them if they failed to keep appointments, but they didn't seem to think this was likely to happen unless, as Michael Ross explained, "*...you really take the piss.*" 'Taking the piss'

appeared to involve missing a lot of appointments, failing to phone up to explain an absence and/or moving without telling anyone. In those circumstances, they thought, it was reasonable for supervising officers to breach them. There was awareness, however, that ISSP had a very stringent breach regime. Lawrence Walker, in fact, was in the process of being breached when interviewed. He was not concerned about this, though, as he knew that his YOT worker was going to present a positive report to the court after an initially shaky start to the Programme.

The young people who were interviewed about ISSP were generally very positive about their experiences. The education, training and leisure activities seemed to provide a welcome structure to the weekdays. Trevor Bushell, for example, said:

“It’s good. They’ve got me doing what I want to do and I want to do it, you know.”

Lawrence Walker, a young person with learning disabilities, mental health problems and high welfare needs commented:

“I’m getting the help I need now.... It’s good. Staff treat you alright, uh, they take you on activities to get you into a routine to go out to places instead of staying out all night and they just sort of help you....”

Mrs. Walker, meanwhile, thought the structure and routine of ISSP and the training scheme that had been integrated into the programme were helpful to her son. She referred to the Programme as being like ‘work’.

“He’s gone from doing all of these offences to getting up in the morning. He’s up at 6 o’clock. He’s out of the door by ten to seven, waiting for his lift to go to work.... The money he’s getting is not a lot for the hours he’s doing, but then he’ll progress from there and go up the ladder.”

Despite being positive about ISSP and most aspects of his training, Lawrence had strong reservations about his training placement at the time I interviewed him. This was a young person who had demonstrated that he could respond extremely well to

encouragement and positive feedback. However, he also had a history of walking away from situations that he experienced as stressful and challenging. That he found the robust, hierarchical and macho culture of the building site difficult and upsetting was perfectly clear. He disliked the cruel banter and crude badinage of the men with whom he worked.

“I’m a brickie now. I’m on placement on building sites and that, being a bricklayer. But it doesn’t seem like bricklaying to me. It seems like a labourer. It is, honestly! Mixing cement, uh, stacking bricks for ‘em, making cups of teas for ‘em, getting their bags for ‘em, getting their deckchairs for ‘em and they gives us poxy cushions! I don’t enjoy it to be honest with you...people...it doesn’t seem right to me...to be trained like that.... Coz when I first started there, they were taking the Mick out of me and that, swearing at me, doing all stuff like that, talking about your family and stuff like that. It was horrible. I don’t want to go on placement there. I don’t think I’m ready. It’s like, I said: ‘Yes, I want to go on placement’, but when I first went there, like...uh, it’s like, it’s shouting, everything is just being slammed at you: ‘Do that!’ It’s horrible. I don’t think bricklaying is the trade for me.”

It was a credit to Lawrence that he had braved this baptism of fire. He was, though, still very unhappy there. When asked how he planned to go about changing his placement or registering concerns about these experiences, he replied simply: *“Haven’t got a clue.”* Lawrence’s bewilderment could be attributed in part to naivety and/or intellectual limitations. Certainly in interview he presented as much younger than his actual age. Nevertheless, there did appear to be a genuine confusion at the heart of Lawrence’s programme: the boundaries between criminal justice sanctions, welfare provision and mainstream employment training seemed rather unclear. He actually didn’t believe that he had much choice in his training placement. As far as he was concerned, if he left his training placement he would be breached.

One Probation-seconded YOT worker (Teresa Liverton) expressed disappointment that the only way in which young people could access resources was via an offending route.

“It’s a shame, you know, that it takes for them to have to be put on that to get an education provision they should have been having all along anyway. That’s the thing that I feel really sorry for, like: families of young people in trouble, about

that they've been battling for ages trying to get education sorted out for the child and then they (the child/ren) commit a load of offences, end up in court, parents are thoroughly chastised and then all of a sudden, you know, Education sort of suddenly comes up with the goods."

The use of electronic monitoring (Whitfield, 2001) was met with a mixed response. Nevertheless, Ms. Liverton was surprised that some young people actually welcomed wearing a tag as part of ISSP. Although for some it bestowed kudos, for others it provided an easy and persuasive excuse to resist peer pressure:

*"I think Intensive Surveillance and Supervision Orders - even though I was pretty horrified at the thought of having, like, young people tagged - certainly some really felt it's taken the pressure off them and it's helped them give a reason to friends, like they say: '**I can't come out because I'm tagged**'. And I was surprised at that because I really didn't like the idea of it all. So I've been surprised that people have actually said: '**No, actually it really has been really helpful**'.*

Lawrence Walker said he didn't mind being tagged anymore. He made the astute point, however, that the maturity of the person being tagged is a factor. He recalled his own first experience of being tagged:

"To be fair, when I first went on it I used to breach it. I used to rip 'em off and chuck 'em and used to chuck 'em against walls. The one time I put a screwdriver through one and the smoke bomb with it went off on it and my friend's house was full of smoke."

Apart from ISSP there were little interview data available on other community-based forms of statutory supervision delivered in group settings. Although many of the YOT workers had received training in cognitive behavioural (Ross *et al*, 1988; Vanstone, 2000; and LMT, 2002) and social skills groupwork (Priestley & McGuire, 1983; and Thompson, 2001), only a couple of tentative attempts at running such programmes outside the parameters of ISSP had been made at the time. The young people who had participated in groupwork seemed fairly agnostic about the value and efficacy of the programmes. One, though, described the groups as "*a bit repetitive*" (Brian Giles). For the most part, therefore, the quality of the relationship with supervising officers appeared

to be the most significant factor in terms of young people's experience of statutory supervision in the community.

Unfortunately, there were little data available in respect of those aspects of statutory supervision that involved victim mediation and reparation. This was partly due to the fact that principles of restorative justice had yet to become embedded in the Orders and wider culture of the YOT. Indeed, one of the criticisms of the Porthglo YOT made by some practitioners was that victim work had not been developed sufficiently. A second reason for there being so little interview data was that many of the young people who formed part of this study were considered vulnerable and/or otherwise unsuitable to participate in direct work with victims. What little data that were available on this subject tended to involve the young people in fairly formulaic forms of apology and reparation.

Young people did not generally consider their experience of community-based sentences as being discriminatory on the grounds of ethnicity, gender, background in care or any other basis. One exception was Nicole Madhur who explained why she refused to comply with an Attendance Centre Order.

"The boys made sexual remarks about me, so I didn't go. I was the only girl there and there were thirty other boys there. I got summoned to court, but the social worker backed me up and explained; so I got a two year Supervision Order."

Nicole's experience, of course, raises the wider issue of juvenile service provision in group settings (offending behaviour groups, cognitive behavioural programmes, ISSP's, Community Punishment Orders, etc.). As young males constitute the overwhelming majority of service users, the question of how to work with girls in groups is a perennial one.

The overwhelming view of young people and parents, then, was that community-based sentences were perceived as being helpful and constructive. At the centre of these

sentences was the valued relationship with the case-holding practitioner. The issue of breach was not raised as a central concern, but this may well have been because there was not a strong culture of enforcement at the YOT. ISSP was, however, perceived as qualitatively different from other sentences in terms of its considerable demands, the element of surveillance and the strict breach regime. Despite some of the reservations and problems experienced by one of the young people, it was still considered to be constructive. That said, for the vulnerable young person living in unstable circumstances, the Programme was trip-wired with highly demanding *National Standards* that could trigger breach proceedings almost instantaneously. For young people with Care backgrounds it was, therefore, a Programme packed full of potential pitfalls as well as opportunities: in short, it represented a hazardous game of Snakes and Ladders.

7.4.2: In Custody:

The early stages of being in a custodial institution were generally the most difficult time for young people. It was a phase that included coping with the initial transition to confinement, being away from home and adjusting to the rules and routines of the regime. 'Getting on' with staff and, even more crucially, fellow inmates was critical to both survival and making the most of the custodial sentence. Paul Gullimore, a young person who had experienced acute difficulties in custody, recalled his first time 'inside':

"On my first remand I was the youngest person on the wing. I was small and couldn't stick up for myself."

Lawrence Walker's initial experience of being remanded at a YOI was also very distressing:

"It was quite difficult being locked up all day. Just allowed out for breakfast, dinner, teas and association in the night. I was banged up for twenty-two hours a day."

Being 'different' from other inmates in an institution could also be difficult. Trevor Bushell, for example, didn't like a period when he was "...*the only Welsh boy there*". It

was not so much an issue of active discrimination. The predictable banter about being a 'sheep shagger' was not necessarily hostile, but Welshness was a mark of difference that could feel uncomfortable to the isolated inmate. 'Fitting in', even anonymity, was better than being marked out from the others. Once established in a routine, though, time began to pass reasonably quickly and Trevor settled. Indeed, this young person highlighted the dangers of institutionalisation; something he experienced in both a Secure Unit and a Secure Training Centre:

"The first time I was only young. I went to a Secure Unit in (names an English city). It was alright. I got used to it. A bit too used to it. I didn't want to go. Didn't want to leave.... The second time it was a bit more different. There was a Secure Training Centre in (names English town). It was too far away and it was a lot more stricter. If you wanted something you had to earn it. It would take you weeks to get something.... I got used to that again. But I did want to go at the end of it."

Anthony Turner describes how initial feelings of fear eventually subsided with the appearance of a few familiar faces from home:

"Scared. Far away, like. Sent me to (names English custodial institution) the first time. At first, like, it was a bit weird, but I got on the main wing then, like, and a few of my mates was on there, like, and it was ok there, then, like."

Whilst the nature of regimes varied enormously, Secure Training Centres were spoken of more positively than YOI's. The staff were generally considered to be more personable and access to education and other activities easier. For some (e.g., Anthony Turner, Lawrence Walker and John Calvert) their period of incarceration was marked by significant progress being made in education. These achievements were reflected upon with a deserved sense of pride and mentioned as being amongst the more positive aspects of their time in custody:

"I got loads out of it. I got most of my qualifications out of it. I was working in the gym. Everything."
(John Calvert)

“It was alright (the STC). They treated you with respect. Education was brilliant, like. Qualified teachers! I passed my Maths exam in STC, coz they taught me my Maths Level 1 – I had 85%! So it was good.”
(Lawrence Walker)

Although Daniela Harrison had found her time of confinement hard at times, she believed the experience might be salutary in the long-term:

“It’s been really helpful, like. Made me realise that there’s no point in getting into trouble because you just end up getting half your life chipped away, don’t you? So it’s done a lot of good for me, definitely.”

For all of the positives, there were many negatives: missing home; being totally dependent upon others to act on one’s behalf; worrying about being moved to another institution; anxieties about accommodation on release; and occasional episodes of bullying and intimidation from other young people. The young people I interviewed didn’t wish to discuss peer violence in detail. It ‘went on’, but the ones I interviewed preferred to present as individuals who ‘handled it’. As will have been noted in some of the case summaries, some young people did actually experience serious difficulties in custody.

Being separated from family, friends and home had an effect on all of the young people interviewed. For the most part, they tried not to think about their families until a visit was imminent. Inevitably, though, fugitive thoughts returned home. As Paul Gullimore put it:

“You miss your family. It starts to play with your head after a while.”

Imagining an independent life outside the institution also became difficult the longer one remained ‘inside’. The immediacy of the inward-looking world of the institution existed in a state of a tension with growing anxieties for the future. Even John Calvert, who was positive about what he had gained from his time in custody commented:

“It was positive to a certain extent but, because I had so much waiting for me out here, it was getting me down a bit...I had my girlfriend and my family here.”

The outside world would, of course, intrude periodically in the form of visits and letters from family and professionals. Visits could be double-edged, though. Whilst they were keenly anticipated, they also sometimes highlighted problems at home. Moreover, when young people returned to their cells after visits, feelings of depression would sometimes descend. Irregular contact was also an issue for some. The practical problems experienced by parents in respect of visiting children in distant institutions have already been mentioned. The complicated childcare arrangements in relation to siblings at home were cited by both Mrs. Ross and Mrs. Walker as major obstacles to making regular visits. Needless to say, missed visits could have a huge impact on the young people in custody. It was obviously much worse when there were family problems back home. As the Social Services-seconded YOT worker Mike May pointed out, there was a gender dimension to the issue:

“If you (a girl) offend you are more likely to get locked up younger and sent further away than a boy. This makes visits more difficult for the families and the social workers. It’s a problem.”

For young people imprisoned a long way from home, the importance of being able to communicate with family, professionals and significant others cannot be over-estimated. As has already been mentioned in relation to Anthony Turner, being able to make telephone calls to family improved the quality of life in custody immeasurably.

Many young people found their experience of re-settlement back home difficult. After the initial ‘high’ of the long anticipated return home, the realities of low income, the resurrection of old problems and the often temporary ‘feel’ of the accommodation in which they had been placed began to take the gloss off of life on the ‘outside’. Many friends back home were, of course, still involved in offending, partying and high risk behaviour (substance misuse, etc.). The pressures and temptations were often considerable. Indeed, Anthony recognised the problems of returning to his home area on release. Although there were strong community ties and some genuine supports in the

neighbourhood, he actually preferred the idea of a 'fresh start' in a new area. He believed that when certain friends were released from custody and returned to the neighbourhood, the temptation to use heroin and/or reoffend would increase. Although the Detention and Training Order was supposed to provide an integrated sentence, the old dichotomy between life on the 'inside' and life on the 'outside' seemed as big a gulf as ever.

Whilst certainly a distinction should be drawn between the nature of the different regimes in the juvenile secure estate (Hook & Hobbs Consulting, 2000), what they have in common is a number of negative features: the deprivation of liberty; the erosion of family and community ties; the potential for peer abuse; and the risk of 'contamination' and 'differential association' (Sutherland & Cressey, 1974). The effect of custody on young people, especially those who are more vulnerable, is well documented (Sampson & Laub, 1993; Lyon *et al*, 2000; and Goldson, 2002). Even those regimes that take a more holistic and child-friendly approach risk causing considerable damage to young people who may already be suffering the effects of abuse, neglect and mental health problems. At the time this fieldwork was conducted over half the YOI population had a background in public care (HMIP, 2002). For many young people in custody, therefore, the case for foregrounding welfare considerations is compelling.

7.5: Reflections on the Old Youth Justice:

Sections 7.5 and 7.6 begin to answer the question about the effect of the youth justice reforms on the nature of practice at ground level. This research question - along with the others - will be revisited in Chapter 8. For the most part, it will be noted, it is the voices of the professionals that dominate the rest of this chapter.

Before the Crime and Disorder Act 1998, social workers in Social Services Departments were arguably guided by two main pieces of legislation: the Children Act 1989, in which was enshrined the welfare principle regarding the paramountcy of children's interests; and the Criminal Justice Act 1991 which - originally at least - was underpinned by the sentencing principles of proportionality and 'just deserts'. Thus, young people were

sentenced according to their deeds rather than the 'needs' thrown up by their personal, family and social backgrounds. With the application of a 'systems management' approach, these paramount welfare needs were supposedly met outside of the criminal justice system; a system from which young people should be diverted or, at the very most, dealt with in accordance with the principle of minimum sufficient intervention. For this strategy to work properly, it depended on the availability of agencies capable of meeting young people's needs. The existence of high performing Children's Services teams was, of course, pivotal.

Jan Smith (Middle Manager), in one of her three interviews, also explained that in the old order, Youth Justice Workers were thoroughly integrated into the culture of the Social Services Department. Youth Justice social workers subscribed broadly to the same values as their counterparts in Children's Services and shared the same training. Crucially, they also shared many of the same corporate responsibilities in terms of child protection and 'looked after' children. As she put it:

"I suppose because we were case accountable then, we certainly identified ourselves as social workers and being part of the greater Social Services. There was quite good understanding and relations, I think.... The Youth Justice manager used to be a part of the 'on call' system for residential care and part of the management team which was at a sort of peer Principal Officer level, um. Also, I think there were historical contacts with Placements Section personnel who had either been in this building or through Leaving Care or there was an established working relationship and some kind of sympathy and understanding of common difficulties. At that time I think we had remand carers that we had recruited.... Um, I think also we chaired the Secure Panels, um, we were very much part of the welfare systems as well, um.... I think credibility and understanding of what we were doing was higher than it is now. Um, resources and provision was better than it is now, although Children's Services have always struggled.... So the system you are familiar with, we were very much part of it. We were part of the Child Protection systems, the welfare systems, the Secure Panels and in terms of placements we had a meaningful dialogue with Children's Services, I think it's true to say."

The system of case accountability operated by the Porthglo local authority meant, of course, that young people from Children's Services' caseloads (particularly those in the LAC system) who committed offences and were made the subject of criminal

Supervision Orders would be transferred to the Youth Justice Team. The Youth Justice worker would thus assume responsibility for the holistic welfare needs of the child concerned, be that in relation to a 'child in need' (Section 37), child protection, accommodation (Section 20) or Care Order (Section 31). This is not to suggest that Youth Justice social workers did not enlist the expertise of specialist colleagues or make referrals to other agencies. What was important, though, was that the Youth Justice social worker was fully case accountable. This system of case allocation would, however, sometimes create situations where – in cases where there were younger, non-offending siblings in a family – social workers from both Children's Services and the Youth Offending Team would be visiting the same home. This arrangement would sometimes be the cause of tension. Despite the child-centred approach adopted by youth justice workers, this is not to suggest that there were not significant philosophical differences between social workers in Youth Justice and those based in Children's Services. According to Jan Smith,

"Philosophical tensions always between, like, the Harm Reduction and empowerment model – which is always the way that Youth Justice Teams have worked with adolescents – and a systematic approach (on the one hand, and on the other) and tensions with the more paternalistic, interventive methodology of child protection. That's still true now, actually. There'll always be these philosophical differences, I think."

The difference, of course, was that these philosophical tensions had subsequently become institutionalised with the withdrawal of Youth Justice from the Social Services Department and the establishment of a Youth Offending Team. This is a theme that will be revisited a little later.

The systems approach, allied with a commitment to radical non-intervention and diversion from the criminal justice system, was not always understood by Children's Services social workers under the old system. This was particularly apparent when young people in the Children's Services system would appear in the Youth Court for offences and the Youth Justice social worker would propose a Conditional Discharge in the PSR. The resulting return of the case to the Children's Services Team would sometimes cause

resentment. As Fiona Griffiths, a former Social Services Adolescent Team and Youth Justice social worker, observed:

“I think once upon a time we were still part of Social Services, but we were those people who worked in Youth Justice but did nothing all day and I know that people had this perception that we never did anything...now they were often very desperate to get rid of cases with difficult teenagers. Once they started offending you could almost see the glee in their eyes: ‘Great! We can get rid of this one.’ I didn’t have a problem with that, because they had, they’ve got, enough to be doing with child protection without difficult teenagers.”

Whilst the approach of the Youth Justice Team made perfect sense in terms of the systems management philosophy, older young people were not always well served by Children’s Services Teams. With the demise of Adolescent Teams, the Children’s Services, it was argued, tended to concentrate on the needs of the younger age range: a group considered to be more vulnerable than teenagers (rather than, say, a group subject to *different* risks). Adolescent Teams, moreover, didn’t necessarily draw a distinction between criminal behaviour and other forms of challenging behaviour. They were, however, more likely to be aware of the dangers of processing some types of behaviour through the criminal justice system. Jan Smith, the middle manager, mourned the demise of Adolescent Teams within Social Services. She believed that it had had a deleterious effect on services to older young people and on the more general practitioner culture in Children’s Services.

“I think I would prefer if there was an Adolescent section in the County. I think young people would get a better service if there was a specialist resource exclusive to adolescents because they’re really just a tag on at the end of Child Protection and a lower priority and because they generate a lot of work that they’re very much seen as a nuisance in the system. I think because they require a lot of input day to day, whether that’s because they’ve been away or because they’ve been in the police station – which can be quite frustrating for social workers who have more severe child protection cases that they have to prioritise. I understand those tensions. It’s just that I don’t think the child protection philosophy which then pervades adolescents really works and that’s what tends to happen. They always want to ‘do to’ young people rather than ‘do with’”

Many former refugees of the closing Adolescent Teams found their way initially into the Social Services Youth Justice Teams (and, subsequently, into the YOT). Many research participants took the view that the establishment of YOT's, and the corresponding withdrawal of youth justice services from Social Services Departments, resulted in an impoverishment of practitioner culture within Children's Services: the hegemony of Child Protection was thus established decisively.

The experiences, expertise and perspectives that social workers brought from Youth Justice Teams to the YOT at Porthglo contributed to a practitioner culture that took a relaxed view of *National Standards*. The *Standards* in the 'old youth justice' had very much been regarded in terms of aspirational guidelines. Because the welfare of the child was regarded as paramount, moreover, the needs of the young person tended to override the requirements of *National Standards*. As Jan Smith, the middle manager, observed:

"Although we were charged with National Standards work, we actually prioritised need, um, and I think what we tended to respond to was crisis and young people who needed a degree of input in that week. So although you might be set up as a service that was ostensibly to prioritise National Standards regardless, you tended to have to respond to whatever came through the door, which was anything from homelessness to a family crisis or risky behaviour...and that was a frustration because you were being judged on National Standards. But having said that, at least at that time there was a concept of childhood and a concept of welfare that came through the breach and the National Standards that allowed you to ...you could actually be reviewed as being seen to be doing some excellent work with young people. You could be audited on other things and be shown not to be hitting the nail on the head in terms of National Standards."

Given this account, it is perhaps unsurprising that a 'breach culture' did not exist at Porthglo at the time that the Crime and Disorder Act passed through parliament.

7.6: Reflections on the New Youth Justice:

This section is sub-divided into two sections: the first deals with the early days of the new YOT at Porthglo; and the second reflects the state of play towards the end of the fieldwork.

7.6.1: Early Reflections on the New Youth Justice:

The new legislation effected profound organisational change at the level of youth justice service delivery. The shift from a service that was directed and delivered almost exclusively by trained social workers was replaced by one that also included police officers, probation officers and staff representatives from education and health. Multi-disciplinary settings are interesting from a sociological point of view because they provide an arena within which different professional and occupational discourses compete and interact. In multi-disciplinary mental health teams, for example, social workers appear to be marginalised by the dominant discourse of psychiatry (Mello-Baron *et al*, 2003; Housley, 2002; Denney, 1998; Campbell, 1996; Rogers & Pilgrim, 1996). This is perhaps, unsurprising given the comparative social status of these two groups. In the sphere of mental health, moreover, the legislation confers greater powers upon the psychiatrist. The Youth Offending Teams are very different. The occupational playing field may be uneven, but social workers in Youth Offending Teams do not seem to experience the same steep uphill gradient of their counterparts in Mental Health. The contest for ideological hegemony within this new arena is far less easy to predict. Given the lower status of the occupational groups involved, this could be represented unkindly as a squabble between semi-professionals.

It is not simply at the level of contestation that this new multi-disciplinary setting is of interest. Occupational groups bring with them their own agendas, conditions of service, values, professional discourses and language. In the case of language, for example, it is perfectly possible to use the same words or jargonised phrases and mean completely different things. 'Challenging behaviour' in one professional context may mean something quite different in another. Different occupations make sense of their work in different ways. The scope for misunderstanding is certainly present in the early stages of an agency's formation. Differences in working practice and style can also cause friction on occasions.

It is, nevertheless, very important not to interpret every disagreement or incident of friction as a clash at the rarefied level of philosophical difference. Leaving aside the idiosyncrasies of personality clashes at the local level, there are often underlying contradictions at the material level. Different occupational groups enjoy or endure different conditions of service. Everyone in the office may read *The Guardian* and share the same value base, but one cannot over-estimate the rancorous effect on a busy office of a thoughtless postcard sent from summer climes by a staff representative from Education who is enjoying a school-length summer break. In one of the interviews conducted with a social worker, the conditions of service enjoyed by probation officers was raised as an issue: car allowances, mileage rates and annual leave were mentioned. The longer leave entitlement of probation officers, of course, had an impact on workload distribution. Differences in working practice can also cause frictions and frustrations.

It is important to acknowledge that professional occupation is not necessarily the defining feature of a person's identity in the workplace or the sole basis on which social interactions are negotiated. What was striking about all of the individual practitioners interviewed was the diversity of their *curricula vitae*. Before entering social work, probation or the police these individuals had worked in transport, construction, youth work, building societies, the armed forces and many other work-sites. One research participant, moreover, considered her experience as a working class mother and feminist as being far more significant than her professional training as a social worker (Mari Porter). Likewise, one of the police officers challenged traditional stereotyping when she described the influence of her training in person-centred counselling on her approach to YOT work (Melanie Gale). It is important, therefore, not to read the transactions within a multi-disciplinary environment solely at the level of occupational identity.

At this point it is worth considering the early days of the Youth Offending Team at Porthglo. It will be recalled that the research site on which the fieldwork was conducted was already occupied by a well-established Social Services Youth Justice team. This was apparent when many social workers interviewed spoke in terms of the personnel from other agencies "*joining us*". This idea of being joined by new colleagues outweighed the

sense of the social workers themselves joining a new agency. This interpretation of events was reinforced by the initial confidence derived from a sense of territoriality. The social workers were remaining in their home building and thus saw themselves as 'hosting' the arrival of new colleagues. These new arrivals did not, however, tend to think of themselves as 'guests'. They were planning to stay. The sense of 'disruption' and 'inconvenience' caused by this territorial incursion was palpable in some of the early interviews and focus groups.

Initially, there were some misgivings about the sinister influence of the police. It was initially felt that their presence would corrode the liberal ethos of the office and inhibit conversations:

"People were worried about the police – stories about them storing CS gas here – and issues of confidentiality. Police officers are never off-duty. But it's not been a problem."

Jan Smith, Middle Manager

Another member of staff commented:

"I think it was the police who were worried that their officers would go native when they came here...and really, they've been fine. I get on with them ok."

Mike May

There were also positive comments about representatives from Education:

"In terms of Education – X, for example, has done a lot of youth work."

Jan Smith, Middle Manager

The main tensions – in evidence both in the early and later interviews - seemed to be manifested in relations between social workers and probation officers. Before unpacking the sources of this tension, it is worth revisiting the ideas and beliefs that formed the basis of the Social Services Youth Justice Team as they emerged from the interview data. The durability of the ideas contained in the unofficial Youth Justice manifesto of the 1980's (summarised by Haines & Drakeford, 1998 and discussed in Chapter 2 of this

dissertation) is clearly discernible in the transcripts. In one focus group exercise, social workers were asked to list their core beliefs, values and principles on a flipchart. Below are the actual words written:

“Impact of Care system on kids (learning to offend, etc.)”

“Offending natural process in children”

“Kids make mistakes - as such they’ll grow out of offending behaviour”

“Custody not helpful”

“Child welfare -public protection”

(This was partly about balancing child welfare against public protection).

“Maintaining children in own family and community as far as possible (home, school, community networks, etc.)”

“Build up trust and relationships with child (get alongside them)”

(This referred to the traditional social work value placed on the ‘relationship’ between worker and client).

“Give children choices (empowerment)”

“Children are discriminated against (ADP)”

(‘ADP’ refers to Anti-Discriminatory Practice – Thompson, 1997). This was the notion that children were discriminated against **because** of their age and all the usual cultural assumptions about childhood/youth).

“Other agencies fail miserably (schools, health)”

“Concept of childhood: don’t put children in the ‘adult picture’”

(Participants emphasised the point that ‘children are children’ and should not be processed through a system that was designed for adults).

The echoes of the 1980’s are unmistakable in this compilation of core beliefs and values. The same exercise was undertaken with a group of probation officers. Their list was shorter, but entirely compatible with the beliefs generated by the social workers.

“ADP”

“Respect for individual – but recognising problems for community.”

“Effect of care system on YP’s”

“Social work value of empathy”

“Advise, assist, befriend - though they are bludgeoning it out of us.”

“Belief in change”

(This was the belief that even young people that are apparently entrenched in offending can change).

The extent of common ground that existed between probation officers and social workers – at a philosophical level, at least – would appear to have been considerable. These were of course, social work-educated (CQSW and DipSW) probation officers. Whether the new training arrangements for the probation service will eventually yield radically different values and beliefs remains to be seen. At this point in time, though, there were no apparent significant differences in the value bases of the two professions.

There were, nevertheless, differences in emphasis and outlook that emerged in discussion and interview. Probation officers, schooled in the then recent debates of ‘what works’ (McGuire, 1995), were more confident regarding the focus on offending behaviour. Social workers tended to place more emphasis on the welfare dimensions of their work. Many expressed concern – others relief (exhibited in an ‘at least I don’t have to worry about that anymore’ attitude) – about the diminished or delegated responsibility for welfare issues. The loss of case accountability for ‘looked after’ young people, it was felt, would result in these older children being neglected by hard-pressed Children and Families teams where the priority was inevitably on the protection of younger children.

It was interesting to discover why people applied to join the new Youth Offending Team. For former youth justice social workers this was not a question that many had considered. For them, to continue in youth justice work – albeit with new legislation and new colleagues - was about career continuity or ‘staying put’. Others cast themselves more in the role of custodians of an honourable tradition. Being in the new agency afforded them an opportunity to influence the shape of things to come.

The probation officers were more like asylum seekers or, perhaps, dissidents trying to escape from a new and unwelcome ethos in the probation service. Bureaucratisation of practice and the more oppressive features of the 'new public managerialism' (Raine & Willson, 1996; and Kettl, 2000) were cited as reasons for leaving the Service. What, then, was the baggage being carried by these refugees?

To put this in context, it should be stated that the probation officers had – at one time or another – worked in what they regarded as a good Young People's Team in the probation service. The team had been disbanded by management in – what one member believed was - an attempt to stifle a counter culture within the organisation.

"From my perspective...we had a specific team to work with young people on the basis that they had specific needs, there was a particular philosophy of working with young people, greater need for flexibility, greater need to recognise their chaotic lifestyle, that sort of thing – but my impression is that a lot of that has gone now – there's no specific team looking to work with under 21's."

Josh Paul, Probation Officer

The sense of disaffection with the new probation project was keenly felt:

"For me the ethos has gone out of Probation, of 'aid, assist and befriend'. That has been dismantled over three, four, five years – there's been a culture change in probation where you're just given these draconian measures, National Standards boots and 'if you don't kick them, we'll kick you!'.... That's destroyed the good work we did with young people."

Josh Paul, Probation Officer

Other comments echoed the sense of regret and bitterness at the changing role of the probation officer:

"We were punishment officers not offering a service. I just don't know myself here. It's unreal."

(Josh Paul, Probation Officer)

"You were a production worker: just battery hens knocking out reports."

(Josh Paul, Probation Officer)

“You’d be stuck in the office in probation – there’s an office reporting culture in probation – here you are in the community.”

(Teresa Liverton, Probation Officer)

At this juncture it is, perhaps, important to say that not all youth justice social workers looked back fondly upon the halcyon days before the implementation of the Crime and Disorder Act 1998. This smaller group of social workers confided a sense of frustration with an old systems management approach that had failed to address both social need and offending behaviour. Some spoke in very strong terms in a focus group:

Alison Hall: *“This system just manages offending. It doesn’t do anything about it...we did nothing because we did ‘minimum appropriate intervention’, which means Conditional Discharge or Attendance Centre Order. Supervision Orders in the community, if they actually meant anything, would have meant at a much younger age - and I know that gets you into sticky areas with all the liberal stuff about stigmatising and labelling, but what we’ve actually done is left kids out with every indicator knowing that they are going to come back to us through the system. It’s a load of crap, really.”*

Danny Burns: *“That’s because Children’s Services...”* (Interrupted).

Alison Hall: *“Yes, but these are false demarcations, aren’t they? Ultimately, at the end of the day, as a local authority with an obligation to legislation – it’s just crap.”*

The majority, however, defended most aspects of the old juvenile justice orthodoxy, but acknowledged the need to address the wider structural issues they believed were the true causes of youth crime. The following exchange in a focus group for Social Workers provides an illustration of this view:

“I think it’s the British love of the disease model – you know, the medical model – take them away, fix them and put them back – not seeing it as a community development issue to be dealt with at this level. If they spent all the money on community development they spend on prisons, you’d get a reduction in crime. No doubt at all.”

(Mike May, Social Worker)

“Yes, we know it, it would cure a lot of ills, but that’s not on the agenda at all.”
(David Waite, Social Worker)

Extract from Social Work Focus Group 2

Apart from the legislation itself, there were three main factors that appeared to be shaping the new practitioner culture at this particular YOT. The first concerned the impact of highly prescriptive *National Standards* on practice. Although feelings were mixed about the new legislation, there was a shared anxiety about the introduction of new *National Standards*. One of the most cited complaints was the requirement to see young people twice a week as a condition of supervision in the community. Mike May was concerned that this requirement would prove to be so unworkable that practitioners would actually give up trying to implement the *National Standards* with the perverse result that there would be less contact with service users. That said, practitioners were happy to have this level of contact if it was deemed appropriate and purposeful. Examples were given where a young person might be receiving additional input from a colleague within the team on a specific issue: accommodation, substance misuse or education were quoted by way of illustration. What was resented, however, was the routinisation of practice for ulterior political purposes. The fact remained, though, that *National Standards* were the inescapable key performance indicators by which Youth Offending Teams would be evaluated. As Jan Smith, the middle manager, put it:

“National Standards are what we will be judged on. It’s as important as legislation from that point of view. We have to find ways of implementing them that are creative and meaningful.”

Meanwhile, a probation officer whose experience of *National Standards* had been with the probation service commented:

“I would hope that there would be the flexibility. It’s how you implement them; how you make them meaningful.”
(Teresa Liverton, Probation Officer)

The word 'meaningful' is used in both quotations, it will be noted. What became apparent in the interviews was that contact had to be 'meaningful' to the young person and the practitioner. Whether the Team would be forced to establish essentially administrative 'reporting' systems to deal with the additional demands of *National Standards* remained to be seen. Practitioners expressed concern that Youth Offending Teams might emulate the sterile and meaningless mass reporting culture that appeared to dominate probation practice outside of the showcased intensive groupwork programmes. Former probation officers commented that as it had proven to be an unsuitable and ineffective means of engaging with most adult offenders, it was therefore a wholly inappropriate way of working with young people.

The second trend that seemed set to influence practitioner culture was the apparent move towards a case management model of working with young people. This had partly arisen because the contact demanded of *National Standards* encouraged practitioners to share clients with one another. Within a multi-disciplinary context, moreover, practitioners were obviously being encouraged to refer to colleagues who possessed specialist expertise and could access relevant networks in such areas as education, training and substance misuse. On one level this made sound sense. Nevertheless, there was a danger of young people experiencing a sense of being 'passed around' between professionals. For children with a background in public care there was the possibility that they might also feel an uncomfortable sense of *deja-vu*. The risk of youth offending teams replicating the chaos of the public care system could not be discounted.

Case management also posed dangers to professionals. The probation service was at that point moving at a brisk pace towards a case management model of practice. Increasingly probation officers were assuming the reduced role of calculators of criminogenic need and actuaries of risk assessment. Meanwhile, service 'packages' were being delivered by probation service assistants and privatised partners in crime reduction. A reduced occupational role could, of course, ultimately result in reduced training requirements: rounded professionals being replaced by trained operatives.

As has already been mentioned, one of the concerns expressed by the move away from full case accountability to case management within the Porthglo YOT was that 'looked after' children in trouble with the law were at greater risk of being neglected under the new arrangements. Children's Services social work teams were understaffed and thus compelled to concentrate on child protection cases at the younger end of the age spectrum - because this was where the risks were assessed as being greatest. Youth Offending Team workers were left expressing frustration at their colleagues' inability to discharge statutory responsibilities with older children and adolescents. As one social worker pointed out, the parenting deficits of the local authority could not be remedied by Parenting Orders.

The third factor influencing the new practitioner culture related to a set of working practices pioneered in the probation service. These practices not only included case management reorganisation to cope with the reporting requirements of *National Standards*, but also the use of new technology, streamlined case recording systems and specialist groupwork interventions (particularly those that employed cognitive behavioural techniques). Those developments in the probation service represented an integral and 'taken-for-granted' part of the socialisation process for most officers - even for many of those who regarded themselves as radical critics of the philosophical direction of the agency. Rather like the experience of the post-war generation conscripted into 'National Service', some working habits had become almost second nature to them.

It was at the level of working practices that tensions between social workers and probation officers appeared to be closest to the surface. At risk of caricature, there was almost a sense in which the social workers regarded probation officers as aliens who came in peace. They looked like social workers, dressed like social workers and - more or less - spoke the same language. They were friendly, but probably believed that they had evolved into a slightly higher life form. They were computer literate, used streamlined systems and possessed, at their fingertips, mind-altering cognitive behavioural programmes. To put it another way, "*it was social work, but not as we know*

it". In a focus group, Kevin Carter jokingly referred to the probation officers as "*the enemy within.*"

The middle manager regarded probation officers' presence as a 'modernising' influence on the rest of the Team. She also commented positively on the high quality of the pre-sentence reports, sound administrative skills and general attitude towards work. Below are some comments that illustrate this view:

"They've got word processing skills. They can do all that stuff. It's a bit of a shift for ours."

"They are used to structures that are clear and firm and strong, directive – they are used to being told what to do – not asked. When they came here they were quite lost; not everything had been sorted."

"They've been positive about the work they are doing."

*"They devour the work – you give them work and they get on with it. They know exactly what they're doing. You ask them if they'll do a PSR and they just look and say: '**Just put it in my pigeonhole**'. I'm not used to it. I'm used to going around and - virtually – going down on bended knee and cajoling."*

It is worth emphasising the point that two of the probation officers concerned hailed from a critical and fairly radical sub-culture within the probation service. They were active in the National Association of Probation Officers and, within probation management circles, would almost certainly not have been regarded as compliant members of staff. In the circumstances, the following comments from probation officers about their Social Services colleagues cast an interesting light on the state of both practice cultures. They say as much about probation culture as that of the old Youth Justice Team in Social Services:

"There needs to be team building. Some people, certain people, carry on as if it's business as usual."
(Teresa Liverton)

"We come from a 'do' culture. We get the job done."
(Josh Paul)

"We might be seen as the 'goody two shoes'."
(Teresa Liverton)

"They miss the training. It reinforces the impression that we've had that we're just joining someone else and they think there's no change."
(Teresa Liverton)

"They have little or scant interest in it – there's a different feel to the way we approach it."
(Josh Paul)

"We had to be interviewed and seconded to get here -that didn't happen for Social Services."
(Teresa Liverton)

Probation Officer Focus Group

It is difficult to avoid the conclusion that these are the voices of people who believed they did belong to a slightly higher life form. These were people who appeared confident in their professionalism and the skills they brought to the job. As the middle manager pointed out, however, these probation officers did not appreciate the skills of working with children and young people that many of the social workers possessed. Also, there was a failure to appreciate the sense of loss that many social workers experienced as a direct result of the organisational changes. At a professional level these social workers had relinquished a wide range of responsibilities. There was a sense of frustration that many of their powers had been confiscated and, for some, there was genuine guilt about abandoning young people to a hard pressed and under-resourced Children's Services team. The narrowing of their role had also meant that this might result in an attenuation of the rounded professional relationships they had always enjoyed with children. The middle manager identified one Team member who had refused to close 'inappropriate' welfare cases and continued to try to work in the same way as previously.

Whether Youth Offending Teams were doing mainly social work or mainly law enforcement was a difficult question to answer in a straightforward way. The answer to this question rather depended upon what the worker was doing before joining the Youth Offending Team. The refugees from Probation were closely followed by a wave of

refugees from Children's Services. As one Probation-seconded YOT worker with experience of a Social Services Children & Families Team expressed it:

"Child protection? Talk about social control! There wasn't any social work in Child Protection. There's more social work in YOT's and Probation than you'll ever find in Child Protection."
(Mari Porter)

The question of whether social work was being preserved or squeezed by the apparent process of probationisation is one that will be revisited.

7.6.2: Later Reflections on the New Youth Justice

Although this section deals with later reflections on the New Youth Justice, it is important to make the point that there was little sense of arrival. Virtually every practitioner interviewee complained about the perpetual revolution in youth justice services. It was argued that the reforms had not been allowed to 'bed down' and be evaluated properly. The intervening period had been characterised by new statutes, new initiatives and politically reactive statements from government ministers. It is important to remember that at the point at which the fieldwork took place, Youth Offending Teams had not settled into established operational patterns. Skirmishes around role and agency boundaries were ongoing. The author therefore acknowledges freely that there have been developments in multi-agency and multi-disciplinary work in youth justice since the fieldwork was conducted. However, it will be appreciated that I am not in a position to comment authoritatively on these developments with reference to the data gathered here. Having said that, those interviewed were still able to reflect on the substantive changes that had taken place and offer critical comments on the direction of youth justice policy and practice. Summarised below are the salient observations of those interviewed.

Members of the Porthglo YOT Supervision Team were generally very positive about the new services provided by the new agencies involved in youth justice. Particular praise was given to the counselling and advice available in respect of substance use, sexual

health and other health-related issues. The agency that arranged employment training placements was also highly valued as its staff understood the low level of confidence of many of the service users. As Teresa Liverton explained:

“I just think that they’ve been brilliant. That’s exactly the sort of support that young people need: they need people, like, for the first week picking them up and taking them to a new training venture and it’s so, like, intimidating, sort of, starting something new, especially if you’re looking at, like care leavers. I mean, they don’t have anyone to go home to and, say at the end of the night, about what they’ve done. You know, the Employment Training people have been invaluable...and it’s been quite good working with them, really, on cases. Just, like, some amazing cases of some people completely turning around from just saying: ‘Oh, I’m just going to go back to prison’ to...you see them a week later and they say: ‘Well, I can do this, I can do that and I can do the other’...and it’s really quite, really good.”

The new agencies had all improved access to services for young people, although there was still scope for improvement in such areas as accommodation, mental health, education and learning disabilities. Whilst service shortfalls did exist, this was not considered to be the fault of the individuals concerned. Rather, it tended to be related to local difficulties and the problems that sometimes flowed from secondees being insufficiently statused to influence key decisions (Burnett & Appleton, 2004: 45). Thus, for example, it was suggested that a seconded headteacher might have exercised more influence in the Education Department than a junior teacher. This hypothesis had not been tested, but it was a perception of some of the practitioners interviewed.

Nevertheless, overall, the practitioner evaluation of multi-disciplinary working was overwhelmingly positive. Most practitioners felt a sense of liberation by being able to refer some aspects of their work to specialist colleagues. Commenting on the working life of the practitioner under the old youth justice system, Mike May observed, *“In the past I’ve seen workers lose days trying to find accommodation for someone and not be able to do any other work.”* By pooling the expertise of different agencies in a multi-disciplinary site, practitioners generally felt that the crisis management aspect of the job had diminished. Indeed, Jan Smith (Middle Manager) observed that since the establishment of the YOT, *“I notice how much quieter it is now; there is much more planned, task-centred work.”* Ironically, though, it was the relationship between the

Youth Offending Team and Social Services that had become more attenuated since the establishment of the Youth Offending Team. The fractured connection between youth justice and local authority accommodation placements was particularly telling. Indeed, as will have been apparent from some of the case summaries analysed in Chapter 5 and Appendices 3-5, it was likely to be one of the main areas in which crises were likely to occur.

The loss of case accountability in respect of children 'looked after' was felt particularly acutely by those YOT workers who had worked under the old regime. There were other frustrations related to Children's Services that made the working lives of YOT practitioners more difficult, too. The relative inaccessibility of Social Services case files was a problem. Whereas previously the case file would have been kept within the building, the YOT workers now had to make special visits to the Children's Services office where only notes could be made. It was no longer possible to photocopy documents contained within the case files unless they related to meetings which the YOT worker might be expected to attend. This made the preparation of pre-sentence reports more complicated. Those YOT practitioners who were employed by Social Services found this situation especially galling. As Fiona Griffiths commented, "*I'm still paid by Children's services*", but "*I think we have a poorer relationship with Children's Services than we used to*". She then went on to describe the emergent practices of professionals in both agencies:

*"I'm finding more and more that people are seeing us as a different breed, so if I ring...so, for example, if I'm writing a report on a child who is accommodated or looked after or whatever and I need some information I have to go and look at the file and jot down bits of information. I'm not allowed to have any...once upon a time they used to just photocopy stuff or let me and say: '**Have that, that and that.**' My experience is that they are less willing to do that so you have to...it's slightly more laborious. I mean my time is...it would be so much easier if they gave me that information, photocopied the information, anything, case conference minutes or assessments that they've done on young people, um, would be very helpful because we may be talking about things that are quite major issues and I've found that harder. And again I can't actually say it's, '**Oh, it's a policy thing.**' It seems - and it's not just an individual thing because it's happened in certainly quite a few family centres. It's quite hard going. It has happened since*

and I find that quite difficult. I mean I'm quite happy when I've written a report, but what I used to do always was send a copy of the PSR to the relevant social worker if the child wasn't going to come on my caseload, um, or our caseload in Youth Justice and I'm still happy to do that. I don't do that as regularly as I did, but I have not got a problem with that if the kid is known to Social Services or known to a family centre. I still do that, but I don't do it as regularly as I did because perhaps I don't value the relationship as I did, either. So, yeah, I think there are issues...."

The situation described may well have only been a little local difficulty and perhaps unrepresentative of practice in other local authority areas. Nevertheless, the process of boundary hardening between the two agencies in the Porthglo district was mentioned by many other practitioners in the YOT and is therefore worthy of comment. As the identity of the Youth Offending Team assumed a distinctive shape and solidity, so the initially porous agency boundaries were sealed. Access to Social Services, even by its own seconded employees, was restricted and policed closely. In the early stages there appears to have been some confusion amongst practitioners in Children's Services about the nature of the new youth justice service. The narrowing focus on offending behaviour was certainly not understood fully by Social Services staff. This resulted in some inter-agency disputes about role boundaries. There were also instances of attempted 'case dumping'. Mike May, a Social Services secondee with Probation experience, cited a recent case example:

"The manager (of Children's Services) wrote to me and said, 'You're involved, you're obviously covering some of the stuff we are covering; it's not a good use of resources for both of us to be involved.' I wrote back saying: 'If you decide you haven't got the resources to provide Karl with a social worker that's one decision; but my presence or absence in the case should have no bearing on the decision because we're not there to replace a social worker.' The temptation may be to dive in and help out now, because of the stress Social Services are under, but it's not applicable. We're now in a similar position to Probation where, um, they used to try to get us to take some key roles in child protection and you'd say 'no' and the reason is we don't have the same powers to accommodate or whatever. We don't have the links to the relevant resources. If we keep diving in and help out, well, they'll love us but won't do anything to

provide the resources there should be for these young people. So, 'co-operative, but separate' is, I guess, the phrase - and good information sharing."

It also seemed to take a little time for it to be understood that the YOT was not solely staffed by qualified social workers. As Melanie Gale, a police officer, noted:

"I don't think Children's Services really understand the role of the Youth Offending Team. I think they think we are all social workers and I have a great glee in telling them that I'm a police officer because they try and shove on the welfare issues... 'Oh, you're a police officer? Is there anyone else working with them?' 'No, I'm the case supervising officer and we need a social worker on the case.' So I think they don't really understand the role. I think it's getting better as time goes on. It's a resource implication, really. I understand."

It was not, though, only personnel from Children's Services who struggled with the narrowing focus of the work of the YOT. As has been mentioned previously, some of those who had worked in the old Social Services Youth Justice Team – whilst valuing the contribution of their new colleagues – were reluctant to relinquish their traditional social work role and unwilling to succumb to any pressure that might move them towards a bureaucratic model of case management. The close working relationship between service user and case accountable practitioner was still widely perceived as being central to effective work with young people. There was concern, therefore, that the new regime of case management would erode the centrality of that working relationship: "...from a social worker's point of view it might mean less time with a young person and more time on the computer" (Jan Smith, Middle Manager). The shift in the working priorities of practitioners in the new agency certainly did not come easily to all. Jan Smith argued that some of these changing working practices were as significant as the establishment of multi-disciplinary Youth Offending Teams:

"It's another major philosophical shift in terms of case management systems and we've got the whole effective practice, performance management. For me, even in my role, it takes me into new areas of skills and expectations as a manager in terms of my management style. I'm being asked to operate totally differently. I think some people wonder whether they want to go on the journey or not.... There's this sudden drive then to say: 'You're all accountable. We're your paymasters', like the Youth Justice Board, 'We've given you all of this money

and now we want to see something for it. You will deliver.’ And the pressure comes all the way down.”

She also considered how the changing emphasis of working practices was impacting on young people.

“More challenging around their behaviours and what they’re really doing in that sense, more focused work, more expectations of them in terms of attending and the breach. It’s not a strong breach culture yet, but it obviously is evolving and will be there. So, try to reframe things so they take more responsibility, so although it could be perceived as less support I still think hopefully the support is there, but I think young people’s perceptions of Social Services and Youth Justice was that just... social workers would run around and mopping up and you would make excuses and people would always just accept and deal with what was presented. I think obviously there is more frameworks and structures. Having said that, they’re probably getting a range of services that probably they didn’t access before.”

The rise of case management and the shift towards offender responsabilisation caused some practitioners to question whether they were still, indeed, engaged in something called ‘social work’. One thought that the term “*criminal justice worker*” (Mike May) provided a more accurate description of the role. For some of those who had joined the Team from other agencies, it was a struggle to even understand the question. As Melanie Gale commented jokily: “*I don’t even know what social work is!*” However, despite some uncertainty about the nature of social work, it was pointed out that social workers did not have a monopoly on principles of welfare:

“As a police officer the Children Act comes into it. The welfare of the child is important. That’s just basic.”

Some of the strategies used by Melanie Gale to promote children’s welfare were very interesting. Firstly, she made a point of attending court in uniform when her pre-sentence reports were being presented. This powerful visual statement of authority would not have been lost on the court. It may also have reassured them that, despite the very often heavy welfare content of the report, this was a ‘no-nonsense’ police officer. When the authoritarian role was assumed, Melanie Gale’s brand of muscular welfare was actually

quite formidable. On one occasion, for example, I was working at a nearby desk in the office and overheard one side of a telephone conversation with a social worker from Children's Services. Introducing herself with the chilling opening line, "*This is PC Gale here*", she proceeded to point out that a young person's "*rights*" were being denied because the local authority were failing to fulfil their "*legal obligations*" and duly quoted the Children Act 1989 chapter and verse. Her challenging and interrogative verbal style was markedly different from the more diplomatic and conciliatory approach adopted by social work trained colleagues. When PC Gale was in role, there were no concessions to collegialism and no sympathy expressed in respect of the Department's difficulties surrounding resource issues: in short, the law was being 'broken' and there could be 'no more excuses'. Out of role Melanie Gale was sympathetic to the problems that beset Children's Services. Her first sympathy, though, was for the children.

Police officers, of course, formed a minority of the practitioners in the YOT. The debate amongst social work educated practitioners (which included probation officers) was probably, therefore, of greater significance. Bernice Hughes, a post-1998 social worker, made the following comments on the different understandings and models of social work that co-habited within the Porthglo office

"There's a lot of issues just within the people who would normally get on – Social Work and Probation, in other words. You've got people coming from the same background, or so you would think. However, you've got Probation coming from the Probation agency. If you take someone from the DipSW and put them in Probation, they develop in terms of cognitive behavioural, case management, reporting, um, you know and all that. And it's very non-Social Worky and very case management, farm it out to everyone else. It's how I see it, anyway. Then you've got 'Old Youth Justice' who are going to do social work regardless of any Act that comes out (Laughs) and will act exactly as they have done for the last twenty years and will be doing Standards as and when they can and won't get very worried about things like that and will probably never breach in their life and basically the whole YOT thing is a very great source of anxiety to them. That's the reality. We know that...is that it's a complete alien thing going on there. Then you've got, um... so you've got 'Old Youth Justice', Probation, then you've got people who've come purely from Childcare into YOT's and their doing Social Work regardless as well, usually. And then you've got YOT workers – 'Yotties' – people who've come into YOT's straight from qualifying. I'm probably a bit more in that camp. And the problem is we – myself and Tony, who's left now

– get a pretty hard time. It's not just you coming in as a social worker or a YOT worker; you're coming in and you practically are epitomising the Crime and Disorder Act."

The exact taxonomy of social work in YOT's can be debated endlessly, but a sense of the different practice tendencies is well conveyed in this passage. Even amongst the committed 'Yotties', though, there was not uncritical support for the New Youth Justice. There was, for example, a strong feeling that because of the immaturity of the young people with whom they worked, too narrow a focus on offending behaviour would be both inappropriate and counter-productive. For some YOT workers, although the Crime and Disorder Act 1998 was obviously significant, it did not override other legislation completely. One 'Old Youth Justice' practitioner considered it important to supply the rising generation of YOT workers with the '*ammunition*' they needed in the continuing guerrilla war against the 1998 Act:

*"The Children and Young Persons Act 1933, still in use, primarily...it's quite a handy little...Section 44 of the '33 Act still gives you, social workers, the ammunition in pre-sentence reports to state to the courts that the welfare of the child **must** be considered every time a child is placed before them and that's, like, the 1933 Act, which people tend to forget. I always teach students that they should remember to often quote that piece of legislation in their pre-sentence reports. It's still quite a powerful piece of legislation."*
(Kevin Carter)

Many, then, still foregrounded the welfare principle and considered the interests of the child to be paramount (which, of course, could be defined differently by various practitioners). Whilst being broadly supportive of the new legislation, Bernice Hughes was deeply concerned about some aspects of the new statutes, especially the abolition of *doli incapax* – a concept that still informed her assessments of young people.

*"...it's something I've certainly struggled with in practice since qualifying, in interviewing children and thinking: '**Hang on, I don't think you've got the understanding necessary to, um, for this case to proceed.**' I mean, it can be really quite dire sometimes. The only recourse we've got at the moment is through psychiatric reports. But quite often they've been less good than we are at assessing children's criminal understanding.... It doesn't apply all of the time, but when it does it's almost desperate, we tend to find - and no more so than*

*when children are in Care. Because if we've got children who've been in Care a very long time, possibly from birth, then they're likely to be more damaged, their likely to be more disturbed – not necessarily from their experiences in Care, although I'm sure that plays a part in it – but by the initial reasons why they went into Care so early. It means it must have been pretty severe, usually. And so quite often there has been – what's the word? – irreparable damage, if you like. Um, so the children on long Care Orders or Section 20 but been in Care for a long time, um, tend to be my biggest concern when it comes to moral understanding, which is basically where **doli incapax** fits in for me when I'm assessing."*

The abolition of *doli incapax* for some particularly immature, damaged or otherwise impaired young people left them very vulnerable to a criminal justice system that attributed to them full criminal responsibility and moral culpability. It was against this background that practitioners like Bernice Hughes challenged the court's assumption of *mens rea* by following the referral route of mental health or learning disabilities. In most cases, though, this was generally only partially successful. Moreover, even when such referrals were successful, there was the concern that one was simply transferring a young person from one system of labelling mechanisms and risks to another system full of diagnoses and dangers. Nevertheless, there seemed to be a prevalent view that the domains of mental health and learning disabilities were comparatively more child-friendly. Not everyone would agree. Virtually all of the practitioners, though, appeared to think that it was important to construct all young people as not entirely accomplished intellectual, emotional or moral beings. As young people they were, in other words, still developing and were far from being in full control of either their own circumstances or destinies. As such, they should be protected from the criminal justice system's pressure to responsabilise them as fully competent social actors.

It was not, however, simply a question of protecting young people from the adult expectations and constructions of the court room. There were also concerns about some of the services provided by the Youth Offending Team. Thus, for example, even some of those practitioners fully committed to cognitive behaviourism had doubts about the appropriateness and efficacy of some of the programmes in which young people were increasingly being expected to participate. At the time of the interviews being conducted

most of the cognitive behavioural materials available had actually been developed for adult offenders. Whilst this was not an issue for some of the more mature young people, there were still those from the younger age group for whom it was not suitable. Even with the development of more age-appropriate materials, practitioners had to adapt and develop material that fitted more closely to the needs of those more limited or damaged young people. Bernice Hughes, who described herself as a “*cognitive behavioural practitioner*”, commented on how she used existing ‘off the shelf’ programmes:

“...you adapt and develop yourself, you know. Whichever way you look at it, you get... you come out with some type of worksheet or some type of instructions or whatever, but then I tend to get all the stuff, the plasticine, the paper, whatever and adapt accordingly because very rarely are programmes set up, say, for kids with learning disabilities or kids who can’t read. So it’s then about your own creativity, really.”

There was also a worry expressed that, as with the Probation Service, there might be a trend towards neglecting individual needs and squeezing young people into ‘one size fits all’ provision. Moreover, there was the suspicion that the assessment and referral criteria might be shaped by organisational priorities rather than individual needs. The probation officers, for example, believed that in the probation service ‘bums on seats’ often mattered more than what was going on in offenders’ heads. The pressure to refer to politically important and eye-catching initiatives was felt to be a problem in some quarters. Whilst conducting fieldwork at the YOT, some workers commented on the way in which the eligibility criteria for ISSP were changed in April 2002. Their interpretation was that because insufficient numbers of young people were referred to this much hyped Programme, the eligibility criteria were broadened. Thus, in a memorandum from the Youth Justice Board’s Managing Director of Policy Development and Application, the counting unit for offending was changed and ‘short cuts’ to ISSP were introduced in respect of offences committed whilst on bail and for those categorised as ‘serious crimes’.

If one considers some of the case summaries already presented, it is easy to see how a young person accommodated in a residential unit could – for example - very quickly

become eligible for ISSP without necessarily committing a hugely serious offence. For such a young person in this setting to commit four offences within a twelve month period (and to have also attracted one community sentence for one of these offences) would not be difficult. Alternatively, a young person need not have committed so many offences, but perhaps may have committed offences whilst on bail. When young people are living in a residential unit, they are therefore clearly at high risk of being accelerated up the tariff to ISSP before being vaulted over the wall into custody. Whatever the value of the work undertaken on ISSP - and there was certainly evidence from some young people on ISSP that it was valued by them – it is also a Programme that is booby-trapped by strictly enforced attendance and compliance requirements. For vulnerable and emotionally volatile children, the ultimate harm inflicted by the Programme may actually outweigh the help on offer.

National Standards was certainly cited as having the biggest impact on practice with young people. Home Office *National Standards*, of course, had provided a framework for practice with young offenders well before the advent of the Youth Justice Board. However, Social Services Youth Justice Team's relationship to the Standards was quite different to that of the Probation Service. As has already been mentioned in Chapter 3, the Home Office *National Standards*' accommodated a more relaxed approach to work with young people. It was acknowledged, for example, that as the welfare of children was paramount, the strict enforcement of the Standards in respect of appointment-keeping was not necessarily always appropriate. One aspect of the perceived probationisation of youth justice was the fact that the Youth Justice Board's *National Standards* now seemed to occupy a central part of practice within the new Youth Offending Team. Whilst practitioners might also still be using other measures of success, there was no escaping the fact that performance would be evaluated primarily in terms of meeting *National Standards*.

It was interesting that many practitioners didn't draw a clear distinction between the status of statute and that of *National Standards*; they were perceived as being almost indistinguishable. For others, *National Standards* even seemed more important in terms

of the impact on daily practice. The requirement to have a minimum of two contacts per week with a young person was one that carried huge implications for the practitioner. It therefore also had resource implications for the YOT as a whole. The loss of discretion about how often a young person should be seen was widely resented. It was a subject that exercised research participants in the interviews. Mari Porter, a practitioner who was notable for the intensity with which she worked with some young people, was typical:

“I really think I should be allowed to decide how often a young person needs to be seen. Sometimes, when it’s a crisis, you sometimes see them four, five times a week. When things are going well, though, you really don’t need to see them that often. We need to be trusted to take those decisions.”

Whilst the YOT was organising itself in such a way as to respond more flexibly to the increased level of contact required by *National Standards*, the debate about what constituted ‘meaningful’ contact continued. It was felt important to resist the pressure to engage in the routinised reporting practices that were thought to dominate much probation practice. Meaningful contact with supervising YOT workers or specialist colleagues in Health, Education, Training or other relevant services were considered acceptable. It was, though, thought to be a waste of everyone’s time if appointments were only being constructed in order to meet arbitrarily imposed Standards.

On the whole, a ‘breach culture’ was not in great evidence at Porthglo YOT. Even the YOT worker who declared, *“National Standards are my Bible”* (Kevin Carter) actually didn’t breach young people who missed appointments. Perhaps like many Biblical scholars, though, he was selective in his reading; preferring a metaphorical or hermeneutic approach rather than textual literalism. Interestingly, the more rhetorically hawkish members of the YOT did not seem to breach their service users any more than the more ostensibly liberal practitioners. Teresa Liverton observed that whilst the Youth Justice Board’s Standards were more demanding than those of the Home Office’s for the Probation Service:

“The management line in YOT’s is much softer. The management here have more of an understanding of chaotic lifestyles. There’s more flexibility.”

Due allowances were made for the age and often chaotic circumstances of the young people with whom they were working. Whilst everyone claimed there was a time and place for breach, Bernice Hughes was probably representative of the prevailing view that, *“It’s easier to breach than to engage.”* As such, it was the job of the YOT worker to meet the challenge of engaging these young people.

Interestingly, Jan Smith, the middle manager, hoped that devolution would ultimately soften the impact of *National Standards* on practice in Wales and allow for the development of more holistic evaluative measures of performance:

*“The Youth Justice Board and the Assembly are definitely having to talk. I think when they have YOT business meetings, I think the policy people from the Assembly are there. Um. There’s more interest by the Scrutiny Committee on Children’s Services. I suppose that ties in more to the Assembly, so there is interest in different quarters that is not going to be driven by **National Standards**. It is going to be driven by other agendas – I don’t know – like social inclusion or quality of life, whatever. And we’ve got the Child Tsar, of course, but that hasn’t necessarily impacted. There’s a sense of interest, I think, from the Assembly in YOT’s and maybe a sense – potentially – of the Assembly being a champion for us against the Board and also maybe providing other funding streams because I think they potentially are.”*

At the time of this interview the Welsh Assembly Government’s more welfare-oriented position was becoming more discernible. In terms of impacting on the work of YOTs, though, its influence was probably still comparatively negligible.

In addition to the enhanced significance of *National Standards* in youth justice work, one might have thought that the introduction of *ASSET* assessment would also have been important. As a researcher I certainly found completed *ASSET* forms to be an extremely helpful source of data. Interestingly, though, practitioners did not find them at all helpful. As Bernice Hughes commented:

“I mean Asset I use as a tool to get resources, you know. Over the last year or so or 18 months, um – what do you call the people? – the software people and managers and so on have repeatedly tried to persuade practitioners that it’s a practitioner’s tool and I honestly don’t think it is. It doesn’t surpass the PSR as

far as I'm concerned. It does have its value, because it defines the areas of work quite clearly, but ultimately it's always a balance between the amount of time it takes to do any particular task and the use of it - and ultimately it doesn't balance. I obviously see the value of it in getting resources, so they get done, but they're not a priority. They're not used as an assessment tool, for me."

Thus, whilst their value to the organisation was not disputed, they were not really considered terribly important by individual practitioners as assessment instruments, working tools or the basis for developing 'evidence-based practice' (Roberts *et al*, 1996; Chapman & Hough, 1998; Baker, 2004). This was evidenced by the very few instances in which the service users' viewpoints were represented in the documents. This could certainly be constructed as disempowering practice on the part of YOT workers. However, it should be recorded that YOT workers defended themselves by explaining that the ASSET documents were too long and unwieldy to use with most service users.

The view expressed that PSR's were more important documents than ASSET forms was widely held in the YOT. Notes based on my observations while conducting fieldwork confirm that practitioners generally made their assessments independently of the ASSET form. Indeed, the ASSET form was routinely completed after the PSR had been written. Given that risk assessments form part of the ASSET documentation, it is worth emphasising the point that this was also completed *post hoc*. The forms, including the actuarial elements, were completed after the real risk assessment – involving individual professional discretion - had been conducted. The persistence of such practices in the face of standardising 'scientific' procedures would suggest that the death of individual professional discretion is much exaggerated (Lipsky, 1980; Evans & Harris, 2005).

The service user's view of the YOT was generally positive. Some showed an awareness that the New Youth Justice was supposed to be more punitive. As Nicole Madhur put it, "*They're getting stricter now.*" This view seemed, though, to have been divined from the media coverage of government rhetoric rather than direct experience. Having said that, others – like Lawrence Walker - **knew** about electronic tags and breach procedures as part of their lived experience.

Neither young people nor parents seemed particularly perturbed by the way in which youth justice services had been reconfigured. Young people did not consider the involvement of non-social workers in their cases to be an issue. Anthony Turner, for example, was very positive about a supervising YOT worker who was also a police officer. As far as he was concerned he valued her because she was reliable, straightforward, listened and delivered on promises. This track record was, for him, the basis of a good working relationship. For Anthony Turner his relationship with this police officer had been better than many of those he had experienced with social workers. Youth justice services were still perceived as being there to help young people and, for the most part, that is what they seemed to do.

7.7: Conclusion: Research Questions Revisited

In line with the previous two chapters it is important to once again pause and reflect on how the data analysis presented here might help to answer the original research questions.

7.7.1: What is the nature of the relationship between the public care system and the criminal justice system?

What then do the new data tell us about the nature of the relationship between the public care system and the criminal justice system? Summarised below are the main findings.

7.7.1.1: Critical Decisions at Critical Moments - Some General Comments on Individual Agency by Practitioners:

It will have been clear from the case summaries presented in Chapter 5 and Appendices 3-5 that the trajectories of young people are influenced profoundly by critical decisions taken by significant adults at critical times (Williamson, 2001a, 2001b and 2005a). For young people in public care those significant adults will often be professional practitioners. The decisions taken by practitioners at such critical moments are, indeed,

central to an understanding of how young people's route from care to custody is plotted. The decisions of practitioners at these defining moments can ultimately play a part in determining whether a young person is accommodated by the local authority or the juvenile justice estate. Whilst the individual practitioner – directed as s/he is by governmental diktat and micro-managed by management memoranda - may sometimes feel like a mere cog in a large and powerful machine, the reality of individual agency and personal professional discretion are inescapable at such critical moments. In the last analysis, the social services and criminal justice systems are mediated by individual practitioners in their human, face-to-face interactions with young people. To reprise the point made in Chapter 6, policies and abstract principles are enacted and embodied by individual practitioners (Lipsky, 1980; Gelsthorpe & Padfield, 2003; Evans & Harris, 2004; Horlick-Jones, 2005a and 2005b). The importance of the practitioner's individual agency and how it is manifested in exercising professional discretion is a theme that has already been discussed. It re-emerges again here in this chapter. As mentioned above, there are a number of critical points on the route between Care and custody. A retrospective *critical chain* or *critical path analysis* (Lockyer, 1984) includes many such points: the police interview; the court appearance to determine bail; the pre-sentence report; the sentence; and the enforcement of *National Standards*. At all of these points the practitioner can influence the young person's trajectory. This chapter uncovers a number of practices that would appear to draw young people from Care deeper into the recesses of the criminal justice system. This section seeks to identify some of these practices more clearly.

One of the major benefits which may be derived from the way in which the data have been presented in Chapter 5 and Appendices 3-5 is that the sequence of events and the roles played by key players are outlined clearly. This temporal dimension to the data analysis – apart from hopefully adding a quality of narrative vividness – highlights the importance of *timing* and the *dynamic relationship* between systems as mediated via key practitioners. Such an analysis represents a small but original contribution to knowledge.

7.7.1.2: The Police Station:

Some young people's experience of the police interview underlined the deficiencies of the service provided by Appropriate Adults. Whilst their experiences would appear to be consistent with those of young people in general (Evans, 1993; Pierpoint, 2000, 2001 and 2006; Littlechild, 2001; Brookman & Pierpoint, 2003), the point needs to be emphasised that many children in public care will be placed in an even more vulnerable position than other young people because their parents and carers are less likely to have any involvement whatsoever in the process. The role of the Appropriate Adult in protecting the legal rights and promoting the welfare interests of 'looked after' children is therefore particularly crucial in this setting. A passive Appropriate Adult can result in a young person not understanding questions or failing to recognise the legal significance of giving certain answers. A tired, emotionally distraught, impressionable or intellectually limited child may also be inclined to make incriminating statements or inaccurate confessions. In short, the failure to intervene by the practitioner can result in young people from Care being inappropriately charged for offences and thus propel them into the criminal justice system.

The findings presented here tend to support the existing research literature. However, the point is perhaps emphasised that 'looked after' children are placed in a more vulnerable position than their counterparts in the general population. It can therefore be said to both support and modify the existing literature.

7.7.1.3: The Pre-Sentence Report:

Whilst the role of the pre-sentence report is not analysed extensively in this chapter, it is important to reiterate the points already made in Chapter 5 and Appendices 3-5. The representation of the young person and her/his family, social and care background will - along with the PSR author's implicit explanation for offending behaviour and the proposal - have a critical influence on how the court will sentence. The degree of logical congruence between the presentation of personal background information and the

concluding proposal has already emerged from the case summary analyses conducted in Chapter 5 and Appendices 3-5. PSR practice will be revisited briefly below (Section 7.7.2) and Chapter 8. Nevertheless, it should perhaps be mentioned that the analysis conducted in respect of the pre-sentence report represents an important contribution to knowledge.

7.7.1.4: The Sentence of the Court

The imposition of sentences by the court has been duly considered. Whilst any analysis of the sentencing process should not divorce the quality and nature of the PSR presented to the court, it is important to acknowledge the individual agency of other actors in this setting: legal representatives, victims, parents and – above all – magistrates and judges. The influence of all of these players should not be under-estimated. The PSR, whilst correctly regarded as a pivotal document, cannot provide the whole explanation for a sentence.

It will be noted that many of the young people interviewed considered themselves fairly treated by the courts and some took the view that they had been given many ‘chances’ (i.e., non-custodial sentences) – and in some cases this was a reasonable evaluation. Contrary to the views expressed by practitioners, some even thought girls and children from Care were treated more leniently. Other young people felt (and on the evidence of the case summary analyses, justifiably) that they had been treated harshly by the courts. It will be recalled that some very young people with short criminal histories entered custody without first being given a community sentence. Given the foregoing discussion about the complexity of the sentencing process it is important not too leap to intellectually convenient explanations that support the overall philosophical thrust of this thesis. Many factors need to be considered, not least the gender of the young defendant. Nevertheless, it is legitimate to at least ask whether Careist (Lindsay, 1996; Taylor, 2006) judgements about residential units might not be coming into play in some of these sentencing decisions. Does the fact that 24-hour social work ‘supervision’ might appear

to be failing to prevent offending undermine the case for community supervision in sentencers' minds? It should also be recognised that the failures of residential units have been well publicised in the public domain. Indeed, the results of some of these failures will be dealt with by the courts: offences committed within units, late at night in the community or during extended absconsions. If sentencers regard residential units as failing to deliver children to school and generally failing to enforce reasonable boundaries of behaviour, it is possible that sentencers may regard any community sentence proposal on offer as doomed to failure from the outset. Moreover, some sentencers may consider custody a 'safer' option than allowing vulnerable children to roam the streets of urban areas at night. Indeed, there is already evidence available to suggest that the perceived failure of public care to protect young people from harm predisposes some sentencers to consider imposing custody: child incarceration is simply believed to be the safer option (HMIP, 2001). It is also possible, though, that sentencers are subject to the prejudice that children accommodated in residential care are already 'young criminals' (Hayden *et al*, 1998: 24) and that custody is simply the next institutional site of their transcarcerative journey (Cohen, 1985; Jonson-Reid & Barth, 2000). These are, of course, speculative questions to which definitive answers cannot be given here. Nevertheless, they are also reasonable questions that are worthy of further investigation in another research project.

On balance the findings presented here suggest that some young people with a background in public care have been treated punitively by the court. This is an important finding, but it must be treated with some caution as this is a small qualitative study. Moreover, the reasons for the imposition of custodial sentences on young people who had not had a history of community sentences can only be the subject of speculation. What flows from this interesting finding is the need for more research in the area.

7.7.1.5: National Standards and Statutory Supervision

The fourth area in which critical decisions are made – often on a daily basis – concerns judgements about whether to enforce *National Standards*. *National Standards*, of course,

attempt to govern the core activities of the practitioner, whether the young person concerned is undertaking a community sentence or subject to a Detention Training Order (in custody or post-release). Whilst they do not have anything like the same legal status as statute (Drakeford, 1993), this chapter reveals that the new *Standards* appear to have had the greatest *impact* on daily practice (see Section 7.7.3) in terms of regulating contact and structuring the *relationship* between service user and professional. This is an important finding because what begins to emerge clearly from the data presented in Chapters 5-7 is the importance and value of the *relationship* between the service user and the consistently available significant adult (who was sometimes a professional practitioner and at other times someone else – like a minister of religion). In this chapter, for example, it is noted that the young people did not appear to attach much significance to the distinctions between the different community sentences because they were generally mediated by the same supervising officer over a period of time. Despite universal complaints about the increased salience of the new *Standards*, what was notable was the wide range of practices in respect of applying them. The tendency not to breach in the old Social Services Youth Justice Team had been replaced by differentiated patterns of practice: whilst no-one could have been described as a ‘regular’ agent of breach action, some were more disposed to it than others. Some practitioners, meanwhile, appeared to never breach the young people on their caseloads. Three points need to be made at this juncture. Firstly, the fact that there are such differential practices means that different outcomes are likely to follow. Secondly, it would therefore appear that, despite fears about bureaucratic interference in professional decisions, practitioners retain a high degree of personal discretion in their daily work (Lispky, 1980; Gelsthorpe & Padfield, 2003; Evans & Harris, 2004). Thirdly, this freedom allows them – to some extent, at least – to resist any pressure to shift the personal relationship between service user and practitioner to the status of a legal, quasi-legal or a routinised reporting. The practitioner is not, therefore, condemned automatically to a late-modern occupational hazard of ‘compulsive bureaucracy syndrome’. Thus, for example, accountability for a missed appointment remains something that is negotiated between a professional and a young person. In the data analysed it was not a decision governed by an officially authored rule book. Some of these practice issues will be discussed below (7.7.3) and Chapter 8. What

needs to be emphasised here, though, is that whilst *National Standards* are not implemented mechanistically, the persistence of professional discretion under conditions of increased bureaucratisation means that the issue of enforcement is a critical area of contestation between practitioners, managers and politicians: to enforce or not to enforce is *the* question. The daily answers to that question in Youth Offending Teams across the UK will have an influence on the size of the custodial population. There are, of course, some areas of practice where the likelihood of breach action is predictable and highly likely: post-custodial supervision and ISSP are two examples where the scope for discretion has diminished.

These findings, to some extent, challenge the assumptions that were perhaps made about how practice might be influenced by the arrival of the 'New Youth Justice' (Pitts, 2001b and 2003). As such, these findings represent a modification of what emerges from the literature chapters. Although there is a clearly a trend towards prescriptive practice in relation to breach action – especially in the case of ISSP – the scope for personal professional discretion has been diminished rather than eliminated. The Panopticon (Foucault, 1977; Bentham, 2003) government minister (Jordan, 2001) is incapable of exercising complete micro-managerial control over the daily practice of professional workers.

7.7.1.6: Transcarcerative Journeys Between the Domains of Welfare and Criminal Justice

As has been mentioned in the previous chapter, custody is seldom the final destination for young people. Transcarcerative journeys tend to be looping and circular rather than linear. Decisions about their placements – often involving a return to family members, local authority residential units or semi-supported independent living projects – are important in terms of affecting their dates of release, prospects for successful resettlement and likelihood of desistance. It will be noted from the data presented in this chapter, moreover, that accommodation is a source of acute anxiety for these young people while they are in custody. There is evidence here that Social Services' involvement in sentence

planning has been somewhat uneven since the reform of youth justice services. Whereas previously the attendance of the Social Services Youth Justice Worker was sufficient, because that practitioner had overall responsibility for placements, the presence of a representative from Children's Services or Leaving Care is now absolutely critical. It would appear in some cases, however, that input from Social Services has been reduced markedly. The decisions that are thus made about young people's accommodation arrangements risk being less well informed. Indeed, there is evidence here of poor planning and 'eleventh hour' decision-making. It is also worth remembering that accommodation placement decisions affect those with whom these young people live. A return home will affect both a family's dynamics and budget. By the same token, a return to the local authority residential unit will return the young person to the criminalising risks of that environment. It should also be acknowledged that the young person may also return to her/his *alma maters* with an enhanced sense of kudos and a higher level of criminal sophistication and therefore be a corrupting influence on other children.

In summary, then, these critical placement decisions – whilst ideally made in consultation with the young person, family, YOT practitioner and other professionals – remain the prerogative of the welfare domain: they are decisions ultimately taken by the Social Services Department. In some cases already presented it will have been noted that decisions have been made by Social Services practitioners and managers against young people's re-entry into both the family and local authority residential unit: the first on child protection grounds; the second, implicitly, with reference to resources (although possibly arguments could have been advanced that it was not in the interests of the young people concerned). Never far away, either, is the suspicion that there operates a perverse financial incentive to shunt the costs of service provision from Social Services to the criminal justice domain. What is common to both these examples, though, is that the young person who has entered custody is somehow regarded as having weaker claims to the welfare services delivered by the Social Services Department. It as if, by entering custody, they have almost crossed the Rubicon: they have left Welfare territory and entered a criminal justice domain dominated by the darker discourses of punishment and

responsibilisation. Indeed, it could be argued that the process of detachment between the two domains of Social Services and Youth Justice begins with the first court appearance.

The findings summarised in this section represent a significant contribution to knowledge. Much of the literature tends to treat the transcarcerative journey of the young person as linear with custody as the ultimate terminus (Parsloe, 1978; Thorpe *et al*, 1980; Carlen, 1987; Pitts, 1998 and 2001a; Sampson & Laub, 1993; Collins & Kelly, 1995; Rutherford, 1996; Howard League, 1997; Dodd & Hunter, 2002; Lyon *et al*, 2000; Jonson-Reid & Barth, 2000; Hazell *et al*, 2002). The data analysed here goes beyond that assumption and traces the looping recursive journeys of young people. Young people may leave residential care for custody, but they will often return there on completion of their custodial sentence. What is also new is the role played by Social Services in determining where young people are placed post-custody: sometimes this has involved reconstructing the 'child in need' as 'young offender' and thereby blocking a return to the birth family. Finally, the finding that claims to welfare are often weakened by a custodial sentence is new and significant. It is suggested here that when a young person from Care enters custody, the Rubicon has been crossed.

In what other ways, then, might a background in public care influence a young person's trajectory through the criminal justice system? This question is explored further in the next section.

7.7.2: How have such discourses as 'welfare' and 'punishment' influenced what happened to young people with care backgrounds in the youth justice system?

Despite much political rhetoric about delivering 'joined up' services, the last section highlighted the way in which a formal decoupling of the social services public care and youth justice systems has taken place since the 1998 reforms. The fissures that have appeared between the organisations in the intervening period have nevertheless been bridged by linking discourses between the domains of welfare and punitive justice. This

section summarises and reflects upon the main findings in respect of the second research question.

As the author has had greater access to the discourses of professionals compared with that of young people and their families it is perhaps inevitable that practitioners' voices dominate this part of the dissertation. It is they, after all, who conduct assessments, record events and on occasions address courtrooms. Nevertheless, some comment should be made on the experiences of the young people who have been subject to these various discourses. I refer not only to how young people respond to being 'represented' in pre-sentence reports, but also how they react to the different discursive practices and what sense they make of their experience of being processed by the criminal justice system. What young people 'believe' and how they construct the meaning of events will inform how they might act in future. As with any other social group, there are differences in perception. Nevertheless, there are a few observations that should be made about the comments of some of the young people in interview as well as others that were reported by practitioners.

7.7.2.1: Young People's Perspectives: Knowingness and Naiveté

What is striking about the comments of some of the young people is that a streetwise knowingness coexists with a high degree of naiveté about the wider implications of certain practices in the criminal justice system. Thus, for example, there was an appreciation that some aspects of the court role play were something of a game in which information was presented to the court selectively in order to achieve certain sentencing outcomes. By the same token, the same young people believed that the courts – especially the more 'child-friendly' youth courts - were 'soft' on children from Care. Whilst this appraisal was based on the 'lived experience' of having 'got off' with community-based sentences, there was a failure in these cases to recognise the dangers of welfare being delivered through the criminal justice system. Likewise, ISSP elicited very positive comments from the young people who were part of the Programme. Again, though, there was a failure to understand fully the risks associated with the more rigorous

enforcement of *National Standards* in operation. What is also interesting, though, is the positive construction given by some young people to sentences and practices that would ordinarily be considered punitive. The positive reports of some custodial regimes - in terms of being treated with respect by staff, better telephone access to family and good education and training services – is perhaps less surprising than the revelation that wearing an electronic tag can provide an acceptably ‘street cred’ explanation for not going out with friends still involved in criminal activities: ‘street credibility’ more often being associated with the reinforcement of deviant behaviour, as in the case of Anti-Social Behaviour Orders (Youth Justice Board, 2006). Again, though, the risks of some of those criminal justice practices that are perceived positively are not appreciated by all. Having said that, punishment was still largely associated with custody whilst everything else was generally considered more ‘helpful’. Indeed, the word ‘help’ was used as a synonym for welfare.

Young people’s perspectives on the criminal justice system are under-represented in the literature. The communication of knowingness and naiveté is striking. The naiveté, however, highlights the importance of young people being fully informed of the risks of the community sentences to which they are expected to comply. The data presented here therefore represents an incremental but original contribution to knowledge.

7.7.2.2: Practitioners’ perspectives: Reinventing *Doli Incapax*

As far as practitioners and managers were concerned, there are clearly areas on which some comment should be made. Firstly, following the abolition of *doli incapax* and the downward political pressure to responsabilise children, some practitioners were seeking to develop strategies to subvert or confront these developments. Some practitioners, recognising the ‘sedimentary’ layers of legislation (Monaghan, 2000) on which the youth justice reforms had been constructed, foregrounded in pre-sentence reports those earlier statutes and international conventions that privileged a Welfare perspective. Welfare was thus declared openly as the paramount discourse within which young people in trouble with the law should be discussed. Others, however, adopted a more oblique approach by

invoking the discourse of in/competence and effectively prosecuting a covert campaign to reintroduce *doli incapax* by other means. The courts, it seemed to be argued, also needed to be reminded that they were not only dealing with children, but sometimes severely damaged and disadvantaged young people with complex needs. The use of other professionals – notably psychiatrists and psychologists - to pronounce on the maturity, cognitive competence, mental health and emotional resilience of a young person is not necessarily new. What is clear, though, is that the use of such strategies now appears to be being used with an increased sense of urgency. The risks and hazards of referring young people to these other systems - mainly mental health and learning difficulties/disabilities - were acknowledged, but thought preferable to the toxicity of the criminal justice sanctions. These findings add to what was reported in the earlier literature review and provide some new emphases to the dominant accounts found there.

7.7.2.3: Practitioners' Perspectives: the Pre-Sentence Report

As has already been mentioned on several occasions, the pre-sentence report is the site for many struggles between the discourses. The representation of young people with complex histories and multiple needs is also bound up with the representation of their status as children from public care. Representations of public care and the identities of young people associated with the system will be discussed more fully in Chapter 8. Nevertheless, it should be emphasised here that the representation of children from Care in pre-sentence reports appear to have a profound influence upon court outcomes and, arguably, produce an effect upon young people's self-perception. As has been indicated previously, many practitioners play with these discourses artfully in order to achieve certain outcomes. This subject will also be revisited in Chapter 8. Nevertheless, at this juncture it can be argued that the findings presented here add to our knowledge of the processes at work.

7.7.2.4: The Practitioners: Discursive Practices

Discourse, of course, is not all about representation, as powerful and important as it may be; it is also about discursive practices and what people actually do. One highly individualistic discursive practice cited in this chapter is the wearing of a police uniform to court when presenting a welfare-oriented pre-sentence report: the powerful visual statement of authoritarianism enabling a Welfare message to be smuggled into the courtroom. Institutions are also constructed within discursive formations and become concretised in institutional practices. An example of the latter would be ISSP. Here the new 'regime of truth' (Foucault, 1977) is embodied in a programme that conflates the discourses of welfare and punishment within a tightly managed set of strict *National Standards*. That good welfare work and training takes place within this regime is well documented. It is equally clear that the behaviour of the practitioners is, along with that of the young people, regulated by the same *Standards*. There is apparently very little scope for discretion within this regime of muscular welfare. It could be argued, therefore, that both community jailors and community sentence 'inmates' are prisoners of the new discourse or the dominant *episteme*. The findings here tend to confirm the anticipated effects of the operationalisation of such programmes as ISSP in terms of breach rates (National Audit Office, 2004; Youth Justice Board, 2004; Stone, 2005), but also uncovers the ways in which some practitioners camouflage the discourse of punishment. This latter finding is original. For the most part, though, practitioners seemed well aware of the risks posed to service users by ISSP.

7.7.2.5: The Practitioners: Engagement with Young People

The previously mentioned discourse of in/competence is, of course, located within a wider professional debate about how best to work with older young people. The acknowledgement of 'developing competences' (the Gillick principle) in young people links to a very strong current in the social work discourse on empowerment (Dalrymple & Burke, 1997; Thompson, 1997; Burke & Dalrymple, 2002; Dominelli, 2002). The contrast between the empowerment model of working with youth compared with the

more interventionist practices premised on a child protection or 'child rescuing' (Platt, 1974) discourse is commented upon in some of the interviews. Jan Smith described it as the difference between 'doing to' rather than 'doing with'. Although the separation of youth justice services from mainstream social services had to some extent institutionalised the tensions between these two positions, a multitude of discourses persisted in the Youth Offending Team. Indeed, in one of the interviews quoted in this chapter the reader is treated to a taxonomy of the different models of social work and youth justice that appear to flourish within the Youth Offending Team. At the time of the fieldwork being conducted there was certainly no question of there being just one settled discourse within which all practitioners conducted their practice. Nevertheless, there were some trends and these will be mentioned in the next section and Chapter 8. What cannot be commented upon with any authority, however, is the effect the detachment of youth justice services had on the culture and discourses of Children and Families Teams. Reports that 'adolescents' were considered by some children's services as demanding, difficult (Fiona Griffiths) and "*a nuisance in the system*" (Jan Smith) are revealing, though.

The findings presented here expose the fault lines in the debate on how best to engage with young people. This debate rests partly on the implications for practice of young people's developing competences and partly on the importance attached to the perceived risks of the criminal justice system on young people. This research project shows that the widely different positions available in this debate were reflected within the YOT under study. This research evidence adds to what was previously known. What could not be asserted with any confidence was the effect on practitioner culture within Social Services Children & Families Teams on the withdrawal of youth justice services. It was speculated by interviewees that this may have led to depletion in specialist skills within Social Services Departments in respect of 'adolescent work'. This could not, however, be asserted with complete confidence.

7.7.3: How have the youth justice reforms of the 1997-2001 Labour government impacted upon practice at ground level?

The main ways in which the youth justice reforms of the first New Labour government are detailed below.

7.7.3.1: The Impact of Youth Offending Teams on the Welfare Principle, Social Work and Young People

For all the continuities and recycled hybridisations in discourse (Muncie & Hughes, 2002), the establishment of Youth Offending Teams has undoubtedly had a massive impact on practice at ground level, though not always in expected ways. The ingenuity of reflexive practitioners is one factor, but there have also been some unintended consequences.

The arrival of the YOT brought together practitioners from a number of different professions, occupations and disciplines. Previously young people had been supervised almost exclusively by qualified social workers who shared a common training, subscribed to the same values and used the Children Act 1989 as their guiding lodestar. Young people were now subject to interventions from a common organisation but practitioners with not only different training backgrounds and values, but also some individuals for whom the welfare of the child was not necessarily the paramount consideration (Children Act 1989): victims, risk and public protection – though certainly considered in the old order - now enjoyed greater prominence. For the young people – and indeed the practitioners – there was a general acknowledgement that the range and quality of some services had improved enormously. In Employment Training, for example, not only were appropriate placements found but young people were mentored by sympathetic and skilled staff who understood their emotional fragility and low levels of confidence. These were practitioners who could help mediate and ‘smooth things over’ if there were difficulties on placement; these were professionals who could console, encourage and re-

motivate. Whilst mainstream statutory supervision was characterised by a sharper focus on cognitive behaviourism and planned, offence-focused work, young people still felt they were receiving constructive help. The YOT was, therefore, still very much in the business of Welfare and the 'relationship' was still at the heart of statutory supervision. The difference was, though, that close and 'helpful' relationships were now formed with not only social workers, but also practitioners from other agencies. Unlike the new National Probation Service, Youth Offending Teams had not become law enforcement agencies and YOT workers had not become 'punishment officers' (Josh Paul). Young people did not seem particularly concerned to have representatives from the police as supervising officers, either. Whilst this was a credit to the police officers concerned, the risks associated with this type of professional relationship were lost on the young people interviewed (see Chapter 8 for a fuller discussion of these issues).

Some research has been done on the impact of the introduction of Youth Offending teams on practice (Holdaway *et al*, 2001; Burnett & Appleton, 2004a and 2004b). On balance the findings presented here confirm some of the positive advances but also modify the position taken in the literature in respect of the place of Welfare in the new order. Whilst it confirms the persistence of the Welfare principle in youth justice, it does highlight the way in which the philosophical centre of gravity seems to be shifting away from the Children Act 1989. Nevertheless, the 'relationship' was still central to the youth justice project. It also highlights some of the complex ethical issues involved in young people forming close working relationships with practitioners from different professional backgrounds. Whilst some of these anxieties were present in initial critiques of the new youth justice (Goldson, 2000), the data presented here does shed new light on the subject. Whilst there are clear advantages to multi-agency and multi-disciplinary working, fresh evidence is provided of some of the risks presented by the new order: both in terms of information-sharing between different agencies and the formation of 'alliances of the powerful' (Drakeford & McCarthy, 2000) for potentially more sinister purposes. These findings represent significant modifications of our understanding of recent organisational developments in youth justice.

7.7.3.2: An Attenuated Relationship between Youth Justice and Children's

Services:

One profoundly negative effect of the re-organisation of youth justice services that had perhaps not been anticipated was the attenuated relationship between the YOT and Social Services' Children & Families Teams. Social Services' youth justice workers had previously been completely integrated into the structures and systems of the Department; most importantly in terms of placements and case accountability for those looked after children who were subject to criminal justice orders. This previously 'joined up' arrangement had been disrupted and the boundaries between the two agencies had hardened: more than one practitioner complained about problems in accessing important information. Given that some of the complainants were seconded and paid by Social Services, this is not without irony. The impact of the separation of Social Services' Children & Families Teams from youth justice services has had a profoundly damaging effect on the welfare of young people, particularly in terms of placement planning decisions. Chapter 5 and Appendices 3-5 provide supporting evidence for the claims of Chapter 7. This finding represents an advance on the state of the knowledge reported in Chapters 2 and 3.

7.7.3.3: The Supervisory Relationship

The introduction of a case management model in itself does not necessarily result in young people having a less meaningful working relationship with their supervising officer. Indeed, there is ample evidence that whilst young people were referred to other specialist YOT workers, they valued the consistent presence of a supervising officer who not only oversaw their case in a formal sense but actually appeared to have some personal investment in their wellbeing. At the time of the fieldwork young people seemed to have a good relationship with their supervising YOT workers. Two developments appeared to be threatening this state of affairs: changes in assessment and recording practices that required spending more time in front of the computer screen (and therefore not in face-to-face contact with young people); and the new prominence of *National Standards*. The

new *National Standards* were considered to be overly prescriptive and unrealistic. The ways in which they could be met was by passing young people around to other colleagues rather more than was probably necessary, introducing meaningless ‘probation style’ office reporting or being ‘creative’ about what constituted an ‘acceptable absence’ (a euphemism that included acts of professional deceit). These incursions into professional autonomy and discretion in how to manage caseloads were resented by all practitioners with whom I spoke. There was also genuine concern that breaching some of the young people would have terrible consequences for their welfare. Previously, a young person’s needs were privileged above the demands of keeping appointments. The ‘no breach culture’ that had developed in Porthglo was premised on the belief that breach proceedings were generally inimical to the children’s interests: it risked causing them distress and put them in jeopardy of a harsher sentence (including custody). In practice most practitioners did not seem to breach young people very often – and this was supported by a sympathetic and supportive management that were prepared to sanction a ‘flexible’ interpretation of *National Standards*. Nevertheless, some now did prosecute breaches – and this included cases of children with Care backgrounds. What, then, are the implications of these findings? Firstly, practitioners certainly still enjoy professional discretion (Lipsky, 1980; Evans & Harris, 2004; Gelsthorpe & Padfield, 2003). Secondly, this highlights the critical role of practitioners’ individual agency in the trajectories of young people. Finally, there is a philosophical question. Guided by what evidence and informed by which values should practitioners exercise this individual agency?

The findings presented here modify the general position taken in the literature. Whilst the impact of *National Standards* has certainly been felt keenly, there is still considerable scope for individual agency and professional discretion.

7.7.3.4: Indirect Discrimination against Young People in Residential Units: the Case of ISSP

As has been previously mentioned, one area of practice in which there was seemingly limited scope for exercising professional discretion in relation to breach action was the management of ISSP. This was something that troubled some practitioners, but they felt powerless to do much about it. ISSP not only blurs the boundaries between welfare, training and punishment, but also discriminates against children placed in local authority residential units. It will be recalled from a passage earlier in this chapter that when the eligibility criteria for ISSP changed, it included a re-definition of 'persistence'. By lowering the threshold of the definition of 'persistence' (e.g., committing four offences in a 12 months period), the young person accommodated in a local authority residential unit was placed at high risk of falling into this category. As has been evidenced in Chapter 5 and Appendices 3-5, it is extremely easy for a young person in such a Unit to accrue this number of offences within a comparatively short period – a finding supported by Taylor (2006). This is a good example of a decision being taken in one system (the criminal justice system) without reference to the effects on another system (public care). It also highlights the essentially dynamic relationship between the two systems and develops previous understanding of the interactive processes at work.

7.7.3.5: Practitioner Responses to the Abolition of *Doli Incapax*

As mentioned previously, there was concern expressed by practitioners about the abolition of *doli incapax* and the trend towards responsabilisation. As has been noted, practitioners used various strategies to remind the courts that they were not dealing with adults: these were children with still 'developing competencies' (the Gillick Principle). The danger of this approach – and it was one appreciated by most practitioners - was that it risked falling into the trap of paternalism: of treating children and young people as 'human becomings' rather than 'human beings' (Qvortrup, 1994). On balance, this was considered the least bad option in a political environment that was hostile to youth.

The death of diversion, though not without its critics amongst those who actually practised it in an earlier period), was widely mourned. Even a self-confessed 'Yottie' expressed alarm at the replacement of minimum sufficient intervention by maximum inappropriate intervention. As already mentioned, though, practitioners were increasingly seeking the diversion of young people to other systems; albeit systems with risks and hazards of their own.

The above findings represent an original contribution to knowledge. The impulse to protect vulnerable children from the hazards of the criminal justice system is quite strong in some practitioners. Interestingly, such sentiments were not the exclusive concern of those who might be described as 'Old Youth Justice'. Moreover, the need to divert young people from the criminal justice system was a debate that was being rediscovered by new practitioners.

7.7.3.6: ASSET

A disappointing finding for the Oxford Centre for Criminological Research and the Youth Justice Board is that the ASSET form (Baker, 2004) does not appear to be used an assessment tool. In all cases encountered by this researcher, it would seem, the forms were completed after the 'real' assessment had been finished by the practitioner. This was very much reflected in the broadly representative comments made by Bernice Hughes and reported earlier in this chapter. These findings appear to support some of the insights developed by ethnomethodologists in the fields of 'professional' assessment in general (Garfinkel, 1967; Cicourel, 1976) and 'risk assessment' in particular (Horlick-Jones, 2005a and 2005b). What is evidenced clearly in the data is that, for the practitioner, 'commonsense' tacit knowledge and practice wisdom is generally privileged above those technical-rational assessment frameworks emerging out of collaborations between 'conventional' policy-oriented academics (ostensibly committed to 'evidence-based practice') and state agencies. Such collaborations between the academy and key political elites within the state might be represented in terms of an 'academic-

governmental complex' in pursuit of the establishment a new and hegemonic 'regime of truth' (Foucault, 1977a). Practitioners, meanwhile, negotiate the products of these collaborations – assessment instruments and actuarial risk predictors – in a pragmatic way. Nevertheless, the significance of this pragmatic approach should not be lost as it does actually represent a small but significant challenge to the power of the state. It should also not be interpreted in terms of 'professional deviance'. Indeed, it is rather an a small assertion of independent agency and individual professional discretion in the face of what is – rightly or wrongly – perceived widely as the spread of bureaucratisation. It is, indeed, reminiscent of Scott's observations about 'acts of everyday resistance' (1985 and 1990).

The value of completing ASSET forms for the YOT worker, then, clearly resides in its capacity to attract resources. For researchers such as myself, of course, the ASSET is a valuable resource in itself. The fact that it does not appear to be used as an assessment tool by practitioners therefore represents a fresh – if not entirely unexpected – finding.

7.7.3.7: Restorative Justice

Due to the timing of the fieldwork Restorative Justice, though certainly cited by a middle manager and some practitioners, was not really prominent in discussions with Supervision Team practitioners. This was, one suspects, because it had not bedded down into the culture of the said Team; though it did have a more discernible profile in other parts of the YOT (sadly there is insufficient space to report it here). This researcher encountered varying levels of enthusiasm for the philosophy amongst Supervision Team members, though no-one sought to offer criticisms beyond expressing the belief that it wasn't really being done properly. This was not a criticism of fellow practitioners; rather it was a criticism of the government for merely grafting a good idea on to the traditional English criminal justice system and then applying unrealistically ambitious *National Standards*. The criticisms were, therefore, essentially operational rather than philosophical. This actually makes Restorative Justice the perfect Trojan Horse: a

vehicle for smuggling behind the walls of Welfare the discourses of child responsabilisation and punishment. In its British manifestation Restorative Justice has been criticised for due process and the legal right to representation whilst at the same time promoting dangerously vague notions of homogenous moral communities that exist outside the real complexities, divisions and diversities of late-modern capitalist society (Haines, 2000; Haines & O'Mahony, 2002). Whilst Restorative Justice contains within it some promising ideas about the use of mediation to right wrongs and reintegrate the offender back into society, it is the allure of such ideas that lowers the defences of those committed to principles of Welfare. Promising ideas can be dangerous when the sugar coating is thick enough to conceal the bitterness beneath. This is not an argument against Restorative Justice *per se*. Indeed, an argument in favour of some forms of Restorative Justice has been advanced elsewhere in this thesis. Rather, social workers and others working in the 'caring' professions need to be reminded of, to use Smith's phrase, the history of 'humanitarian ideals' and 'harmful therapies' (Smith, M: 2003). The finding that practitioners failed to perceive the dangers of the Restorative Justice philosophy is an original finding. However, it must be emphasised that Restorative Justice was not properly established in the wider culture of the Team at the time the fieldwork was conducted. The significance of the finding should not therefore be over-stated.

7.7.4: A Brief Summary and Signpost:

This chapter has attempted to compare and contrast the perspectives of service users and professionals in respect of the criminal justice system. Whilst some things have changed since the formation of YOT's, others have remained the same. The themes of continuity and change will be considered further in the final chapter.

Chapter 8: Conclusion – Research Questions Revisited and Implications for Policy and Practice

8.1: Introduction:

This chapter attempts to draw tentative conclusions on the basis of the arguments and data that have already been presented. Additional data will also be introduced in order to support some of the conclusions.

The emphasis of this final chapter is very much on youth justice services. This is because the research has been conducted on a Youth Justice site. The representations of Social Services (and the public care system in particular) in this dissertation have been based on (1) documentary evidence; and (2) the experiences of YOT workers and service users. Whilst it was perfectly legitimate to report and analyse such data, when fieldwork with Children's Services' staff was closed off at the research proposal stage it meant that the research design and strategy was inevitably always going to be asymmetrical. Ideally, as has been stated previously, this researcher would have wished to interview Social Services staff working in Children's Services and the public care system. Sadly, that wasn't possible. Consequently, it is not possible to write authoritatively about Children's Services in relation to what has stayed the same, what is different and what needs to change. Whilst many of the issues and transcarcerative processes identified in Chapters 5 and 6 are no doubt still at play in the public care system (e.g., 'case drift', differential association, multiple placements, etc.), it is not possible to make evaluative comments with quite the same degree of confidence as one might about the youth justice system: the 'case for the defence' has simply not been heard. Having said that, cataloguing the well documented failings of the public care system (Utting, 1997; SEU, 1998a, 1998b, 1999 and 2003; Hayden *et al*, 1999; Broad, 2003 and 2005) was never the focus of this dissertation (although, as has been evidenced in Chapter 5, the decisions made in the Children's Services and public care systems have far-reaching implications for young people's 'careers' in the criminal justice system). Rather, it has been about trying to establish how a changing youth justice system has dealt with a group of highly vulnerable

young people with a background in public care. How, in other words, has their welfare been promoted by the criminal justice system at the turn of the century?

The 1990's was a highly significant decade for youth justice. A formal separation of criminal justice matters and welfare concerns took place with the respective establishment of Youth Courts and Family Proceedings Courts. The passage of the Criminal Justice Act 1991 meant that the decade also witnessed a process of normalisation around the concept of 'punishment in the community'. Whilst many practitioners correctly identified this as an opportunity for decarceration, the statute also allowed the concept of 'punishment' to get out of jail and take up permanent residence in 'tougher' community sentences. The corresponding re-emergence of a very British form of 'populist punitiveness' (Tonry, 2004), however, has resulted in these community sentences forming part of a continuum of punishment rather than direct alternatives to custody. Despite these developments, the principle of welfare has not been banished from the courtroom or the Youth Offending Team office. Indeed, its persistence under inauspicious conditions has been noted elsewhere (Burnett & Appleton, 2004). As has already been argued, of course, welfare can take many different forms: some are more helpful to young people than others. This chapter considers some of the changes that have been taking place in just one Youth Justice/Youth Offending Team and sets out the case for wider reform.

The following section (8.2) of this chapter is, as before, structured around the original research questions. A summary of the main findings is subjected to a brief evaluative review that draws some links with the theoretical and empirical research literature presented (mainly) in the first half of the dissertation. An assessment of what has been learned from this research project is duly subjected to the test of a simple question: do the findings confirm, modify or challenge the key messages from literature reviewed in this thesis. In posing these questions it is hoped that what represents an *original* contribution to knowledge may be highlighted. That said, of course, this author is well aware of the fact that for those interested in discourse analysis what constitutes *originality* – a contested concept - is far from being a straightforward matter. Nevertheless, without

making exaggerated claims, it is hoped that this study does say some things that represent an advance on what has already been reported elsewhere in the literature.

Section 8.3 follows on from the third research question: how have the youth justice reforms of the 1997-2001 Labour government impacted upon practice at ground level. However, based on reflections on the themes of continuity and change in respect of youth justice services (with particular reference to those with Care backgrounds), it moves on to consider future prospects as well as specific proposals with regard to policy and practice. Section 8.4 concludes the chapter by revisiting the original themes that animated the research project: welfare and punishment.

8.2: Research Questions Revisited:

This section aims to do two things. Firstly, it seeks to summarise the main findings of this study. Secondly, it hopes to clarify the study's findings in relation to the theoretical and empirical research literature. As mentioned previously, do the findings confirm, modify or challenge the key messages that have been presented in the review of the literature presented in this thesis? By posing this question and evaluating the findings against these criteria it is hoped that what may be considered an 'original' or 'significant' contribution to knowledge may be highlighted. These 'original' contributions are of both a theoretical and empirical nature. Of course, in most empirical research there are few *eureka* moments. Nevertheless, it is hoped that what follows does yield some interesting data and a few helpful insights into the social processes at work.

8.2.1: What is the nature of the relationship between the public care system and the criminal justice system?

What follows is a summary of key findings in seven areas. Evaluative comments are made with reference to the relevant literature.

8.2.1.1: The *dynamic* relationship between the two systems:

One of the key findings is that there exists a *dynamic* and often symbiotic relationship between the public care and criminal justice systems. Decisions made in one system will affect the trajectories of young people in the other. Thus, it was noted that the policy decision to lower the threshold definition of ‘persistent offender’ effectively put young people in many local authority residential units at risk of falling into this category because of the criminalising social processes and agency practices at work in such settings (see 8.2.1.3). This is an example of a policy decision made in one system without a risk assessment being undertaken of its potentially harmful effects on those inhabiting other systems.

It is not simply at policy formation level that young lives can be so affected. The timing of decisions can be extremely important. The example has been cited of a case where the timing of a case conference would very likely have a discernible effect on the sentence passed in a criminal court. The fact that it could be reported to the court that an unsuccessful placement had been terminated and a more promising one found was, in all probability, a decisive factor in the young person receiving a community sentence. In fact it will be recalled that there are perverse financial incentives at work in such cases. The manager and practitioners cited cases where they were convinced that Social Services dragged its corporate feet in order to increase the likelihood of a custodial sentence; thus saving the local authority the cost of an expensive placement. Such practices were described as ‘budget shunting’. By the same token it should also be emphasised that decisions taken in the criminal justice system can have a profoundly disruptive effect on Social Services’ child care plans. It must be emphasised, therefore, that a dynamic and interactive relationship exists between the two systems.

It has been reported in this thesis that once young people leave public care for a custodial sentence they are regarded by some practitioners and managers as having crossed the *Rubicon*. Examples are given of obstacles placed in the way of young people returning to

both residential units and their families of origin. Reconstructed as 'offenders' rather than children from Care, the return passage can sometimes be difficult.

As has been suggested in previous chapters, the above findings represent an original contribution to knowledge. The dynamic nature of the relationship between the two systems is well evidenced here. Moreover, it is suggested here that those young people from Care who enter custody are considered to have a weaker claim on welfare services because having entered the most remote part of a *foreign* domain (criminal justice) routes of extradition back to Welfare are often blocked.

8.2.1.2: Individual agency, professional discretion/deceit and *critical chain/critical path analysis*:

What emerged very strongly from the retrospective *critical chain* or *critical path* analysis (Lockyer, 1984) undertaken on the texts and documents contained within case files was that there were critical points at which it was possible to influence the subsequent trajectory of the young person. In the social services domain these included a range of decisions: placement allocation; the production of reports, case conference notes and the minutes of other meetings; and whether to construct 'challenging behaviour' in a residential unit as 'criminal'. In the criminal justice domain, meanwhile, the following critical points could be identified: the police interview; the court appearance to determine plea and bail; the production of a pre-sentence report; the sentence; the enforcement of bail; and the accommodation and other resettlement plans on release. Given the apparent trend towards a form of practice increasingly regulated by *National Standards*, it was perhaps surprising to discover the extent to which individual practitioners still exercised individual agency through the use of professional discretion across a wide spectrum of activities – including decisions about enforcement following missed appointments (Pitts, 2001b and 2003). Of course, the delegation of professional judgement to the individual practitioner opens up a debate about the difference between *discretion* and *deceit*. A Shavian response might be that the difference is essentially one of class conspiracy: working class criminals are defined as *deceitful* whilst middle class professionals exercise

judgement and *discretion*. A more sympathetic response might suggest that this freedom to exercise judgement should be guided by a clear value base and informed by robust research evidence. The data analysis chapters report that practice is highly variable. It is not always possible to know what is in the mind or on the desk of the busy practitioner when these critical decisions are made. Nevertheless, what cannot be doubted is that these very different practices naturally produce very different effects and outcomes. In short, trajectories are altered.

The influence of *National Standards* is acknowledged here, but the notion that practice is determined by them is rejected. The findings therefore modify our understanding of the subject in that the scope of individual agency is reported as being diminished but still highly influential in terms of affecting young people's trajectories (Lipsky, 1980; Evans & Harris, 2004; Horlick-Jones, 2005a and 2005b).

8.2.1.3: The Local Authority Residential Unit: a risk assessment:

The literature certainly highlights many of the negative features of the residential unit (Cornish & Clarke, 1975; Bullock *et al*, 1993; Davies *et al*, 1998 and 1997; Haines & Drakeford, 1998; Frost *et al*, 1999; Hayden *et al*, 1999; Jonson-Reid & Barth, 2000; Pitts, 2001a; Barter *et al* 2004; and Taylor, 2006). To a great extent this research project confirms many of the findings of other studies. The analysis of the residential unit undertaken in this project is not one that is, perhaps, typical, though: a risk assessment of the institution delivering 'care'. The theoretical approach adopted by this author is one that has been informed by the work of Haines & Drakeford (1998). Various risk factor paradigms are used to identify, assess and manage populations that are considered to be potentially problematic. What is often considered less is the risk posed by professionals and welfare agencies that are charged with helping vulnerable and potentially challenging populations: the 'humanitarian ideals' being undermined by unintentionally 'harmful therapies' (Smith, M.: 2003). Such a risk analysis does not presuppose that residential care is intrinsically bad for children or, in the case of well managed units, necessarily more criminogenic than foster care placements. Nevertheless, the residential unit did

appear to be a significant and even transformative experience for many young people. The identified risks posed to young people included the following hazards: introduction to a new and potentially ‘corrupting’ social networks (leading to co-offending and other high risk behaviours); bullying and intimidation; the unremitting ‘welfare spotlight’ and unblinking ‘clinical gaze’ of residential workers that can result in the construction of ‘challenging behaviour’ as ‘criminal’ – a process not dissimilar to that of ‘total institutions identified by Goffman (1968); the prosecution of minor misdemeanours committed in the Unit (supported by Taylor, 2006); and, in some cases, ‘warehousing’, the lack of daily structure and unenforced boundaries (the latter leading to confrontations with staff/residents or curfew-breaking). There was also some evidence to suggest that being a resident in a local authority unit might place the young person at greater risk of imprisonment when an offence was committed; community sentences being by-passed in favour of a more direct route to custody.

It is worth mentioning again that for many the social cohesion and collegialism facilitated by the Unit also provided a strong sense of collective identity and a network of intensely supportive friendships of an enduring nature. These networks, indeed, were reported as being important sources of support when young people took their first faltering steps towards independent living. The problem is that these networks tended to offer support, risk and trouble in equal measure: friends becoming co-offenders and eventually co-defendants (see 8.2.1.5).

It will be recalled that the theoretical insights into some of the above-mentioned sociological processes were afforded by such key ideas as labelling (Lemert, 1951; Kitsuse, 1962; Becker, 1963; Erikson, 1966) deviancy amplification (Wilkins, 1964; Young, 1971; Cohen, 1972), ‘differential association’ (Sutherland & Cressey, 1974) and ‘bonding social capital’ (Boeck *et al*, 2004; McNeill, 2006). What is interesting is that many of the young people were able to identify the social processes that are depicted in such theories – albeit in their own vivid terms. The afore-mentioned literature in respect of ‘differential association’ tends to imply the absence or, at the very least, a diminished sense of awareness of the processes involved. At a theoretical level, therefore, what is

suggested here is a modification of the theory. Whilst the essential notions of internal 'social cohesion' and 'cultural transmission' remain intact, the data presented points to a high level of self-awareness and reflexivity. For many, a conscious – indeed, a rational - choice was made to participate in the more negative aspects of unit culture. For some it was a survival strategy, whilst for others it was simply perceived as the most viable mode of existence available in such a context. Whilst other ways of life were possible outside, the options were limited within the unit.

8.2.1.4: Placement Distance:

Placement distance – whether foster care or residential unit – was a factor in the commission of some offences. At the outset it has to be acknowledged that it is extremely difficult to match children to the most appropriate placement. One element of finding an appropriate placement includes distance from the family of origin's home. A placement too far from home can replicate some aspects of the custodial experience: the weakening of ties to family, school and community. When things go wrong on placement or back in the family home, of course, absconsions to the home area are often precipitated. When the young person is a long way from home this can sometimes lead to the commission of transport and survival offences. Conversely, a placement situated in close proximity to the home area can result in children making unauthorised visits to abusive parents or failing to extricate themselves from local networks that support high risk behaviour and offending.

The findings in relation to placement distance might be considered as being a genuinely original finding. Moreover, as previously mentioned, physical distance could perhaps be closed to some extent by the 'virtual' proximity facilitated by the new communications technology.

8.2.1.5: Leaving Care and Youth Transitions:

The findings of this project support other literature (Biehal & Wade, 1999; Biehal *et al*, 2000; Lyon *et al*, 2001; Coles, 2001; Ward *et al*, 2003; Broad, 2003 and 2005; SEU, 2005) that has identified the perilous social transitions awaiting young people with complex needs. Despite the additional support available to Care Leavers under the provisions of the Children (Leaving Care) Act 2000, it is clear that many of these young people are ill-prepared for the harsh realities of an inhospitable terrain. In terms of their own human capital they often lack the requisite intellectual and emotional competences to navigate their way around the challenges and pitfalls of independent living: securing adequate income, finding appropriate employment training and decent accommodation are just a few of the practical issues with which they must deal. How relationship difficulties, health problems and other personal issues are dealt with will usually determine whether their leaving care package unravels at the first setback. The reader will recall that some of the young people had been subjected to severe episodes of physical, sexual and emotional abuse prior to entry into public care. It is difficult to imagine what level or type of support would prepare and protect such young people from the harsher realities of independent living.

Even for the most resilient Care Leaver, it is clear that even a well-resourced Leaving Care Team needs to be supported by wider social policy measures directed at youth. Universal, holistic and opportunity-focused youth policies in the domains of employment, education, training and accommodation are required to support the more intensive mentoring and specialist services needed by these more vulnerable groups (Brander *et al*, 2002; Williamson, 2002 and 2006; Council of Europe, 2003; Mizen, 2005). Without such supports the youth transitions of Care Leavers will continue to be fragile, halting and fractured; and the experience of these young people will continue to be characterised by low income, substance misuse, homelessness and offending. That young Care Leavers should seek out old friends from the old social networks built up in the 'homes' is unsurprising. The depiction of the vulnerable position in which care leavers find themselves when attempting to negotiate these difficult youth transitions echoes the

findings of the above mentioned literature and the concerns of government (SEU, 2005). Nevertheless, what this thesis does highlight is the extent to which mutual support is provided by fellow care leavers as well as new friends acquired through contact with the criminal justice system. The reserves of 'bonding social capital' (Boeck *et al*, 2004; McNeill, 2006) accumulated whilst in public care, though, are drawn upon heavily when independent living is attempted. That this also perpetuates a process of 'differential association' (Sutherland & Cressey, 1974) is also clear in some cases. Whilst these may not be surprising findings, the data presented here does seem to represent a small contribution to knowledge.

8.2.1.6: Transcarceration:

Transcarceration (Foucault, 1977; Cohen, 1985; Lowman *et al*, 1987) is a concept that has been used to assist with the theoretical illumination of some of the processes to which these young people are subject. It links to Cohen's ideas (1985) on the dispersal of discipline. Transcarceration involves the movement of 'offenders' between different institutional sites: in this case the journey between residential unit, supported independent living and the custodial institution. However, the young person will sometimes use a 'return ticket' to the local residential unit on release from custody. Custody is seldom the final destination or terminus: transcarcerative journeys are looping and circular rather than linear. This finding therefore modifies the insights generated by the existing literature. Previous accounts, perhaps inadvertently, tend to represent custody as the terminus (Thorpe *et al*, 1980; Carlen, 1987; Sampson & Laub, 1993; Rutherford, 1996; Lyon *et al*, 2000; Jonson-Reid & Barth, 2000; Pitts, 2001a; Dodd & Hunter, 2002; Hazell *et al*, 2002).

8.2.1.7: Instability and Chaos: a tale of two worlds:

There is clear evidence that placement stability – a concept not defined narrowly in terms of continuous residence at the same postal address for a reasonable period of time – has a positive influence on reducing the rate and seriousness of offending. The multiple

placements experienced by many young people are echoed in the findings of this and other research projects (Hayden *et al*, 1999; Jackson & Thomas, 2000; Jackson, 2002). The poverty and chaos of the service users' world is well documented (Ghate & Hazell, 2002; Hall, 2003; McDonald & Marsh, 2005) but what is less well researched – though much rumoured – is the chaos of the social work professional's world. In this thesis, compelling evidence is presented of 'case drift' and 'planning blight'. This appeared to be worse in those cases of children accommodated under Section 20 of the Children Act 1989. Whilst poor professional judgement and management certainly provide part of the explanation, there is also little doubt that inadequate resources, stress and high staff turnover play a significant part. The minister's letter in the case of Trevor Bushell is eloquent testimony to the crumbling professional façade of Children's Services. That professionals have contributed to the instability of the service users' world – and thereby increased the risk of offending in young people – is placed beyond reasonable doubt by the evidence presented in the data chapters. This represents a significant modification to the 'chaos theory' that tends to underpin the existing literature's representation of the service users' world. Whilst not solely responsible for the parlous state of service users' lives, social work professionals and the public services they represent are certainly depicted as agents of chaos.

It is against this background of instability and chaos that young people appear to value consistent relationships with responsive and responsible adults. These adults, it should be noted, need not necessarily be social work or criminal justice practitioners – although there are some exemplary professionals cited. This finding is echoed in more recent government publications (Carter, 2004; SEU, 2005) as well as the academic literature on desistance (Hill, 1999; Rex, 1999; Batchelor & McNeill, 2005; Burnett & McNeill, 2005; McNeill *et al*, 2005; McNeill, 2006a). It is present in the Carter Report (2004) in relation to the National Offender Management Service and, more convincingly in the Social Exclusion Unit's report on young adults with complex needs (SEU, 2005) in which reference is made to the importance of 'trusted adults'. The value of the 'relationship' – with professional practitioners as well as other significant adult in the community - is a theme that will be revisited later in this chapter.

8.2.2: How have such discourses as ‘welfare’ and ‘punishment’ influenced what happens to young people with Care backgrounds in the criminal justice system?

What follows is a summary of key findings in eight linked areas. As with the preceding section, evaluative comments are made and comparisons drawn with the literature.

8.2.2.1: Service User Discourses:

Given that practitioners provide evidence of the discourses to which they subscribe in documents, the main emphasis of this section is on professionals. It is, therefore, important to reiterate the point that service users also use discourse to analyse and explain their lives. The discourses inhabited by young people will influence the way in which they structure their personal biographies: this involves the interpretation of key events from the past and personal circumstances. Crucially, this will also shape beliefs about the future and thus have an effect upon actions and outcomes. What one might believe is, of course, a critical element in defining future prospects. Some discourses may encourage a sense of fatalism about the future whilst others may encourage a belief in personal autonomy and individual agency. These discourses have already been mentioned in Chapters 5-7, so they will not be repeated at length here. Nevertheless, a few points are worthy of particular emphasis in this chapter.

There is the point that service users and practitioners often share the same discourse. It will be recalled, for example, that there was a shared belief in the potentially corrupting effects of local authority residential care. There was also some shared understanding of the role play, games and selective presentation of evidence in the court setting. However, it is important to also remind the reader that streetwise sophistication often did not extend to an appreciation of the dangers and pitfalls of community sentences, especially those which included elements that were considered ‘helpful’. Thus, the dangers inherent in

programmes with strict breach regimes were not always perceived. Likewise, some failed to note practices that might be considered discriminatory to young people with a background in public care. The perception that the courts were 'soft' on children from Care was a view not shared by all, but was nevertheless expressed by more than one research participant.

There was a very strong sense of shared identity forged by the common inductive socialisation provided by the local authority residential unit. It is interesting to note that the discourse of distinctive community was invoked by many of the young people. Whilst Malcolm Welham said quite clearly that the Unit was "*like a community*", others went further and highlighted *relational* questions. It will be recalled that *relational* questions are a key consideration of discourse analysis (Gramsci, 1971; Derrida, 1976, 1978 and 1981; Potter & Wetherill, 1994; Howarth, 2000; Smith, M, 2003; Hall, 2004). What is interesting about some of the interviews is that the young people construct themselves as being very *different* from mainstream society. It is present in such comments as "*people like us*" (Michelle Lyons) and, quite shockingly, "*there are no normal people in the homes*" (Trevor Bushell). This strong sense of shared identification with 'differentness', 'outsideness' and 'otherness' is very striking. How this affects actions cannot be commented upon with any certainty. Nevertheless, it is difficult to believe that participation in such a discourse does not have some effect upon actions and outcomes. Whilst the analysis conducted here would indicate that the cultural transmission of values supportive of criminal activity accord with differential association theory (Sutherland & Cressey, 1974) the evidence presented also indicates these young people's awareness of mainstream values. The fact that they are capable of their 'differentness' is proof of consciousness and reflexivity. Their 'differentness' could, therefore, be described as context-dependent; as being conditional on their tenure of a residential unit or – on leaving care – being thrown together in their reciprocal efforts to negotiate the difficult transition to 'independent living'. This insight, it could be argued, represents an original contribution to knowledge and - as argued earlier in this chapter - a modification of differential association theory (Sutherland & Cressey, 1974).

The discourse of working class integrity exhibited in the philosophy of ‘doing the time’ if you ‘do the crime’ has been touched upon in respect of Timothy Swinson. In this particular case there was also a deep distrust of welfare professionals. There is little doubt that Timothy Swinson’s failure to engage with such professionals resulted in more custodial sentences than would normally be the case. However, an underlying distrust of social workers – mainly child care social workers it has to be said – was shared by other young people. It is, perhaps, ironic that these young people with troubled histories and criminal records should describe their experience of social work in terms of manipulative behaviour, an accusation so often levelled at the ‘client classes’. That the discourse of the ‘untrustworthy social worker’ and the ‘indifferent residential worker’ was subscribed to by many of the young people is beyond doubt. That this probably affected their encounters with welfare professionals is also likely. It is interesting, though, that YOT workers – and, prior to that, youth justice workers – were generally regarded in a more positive light. Qualities such as ‘honesty’ and ‘being straight’ were highly valued amongst the young people interviewed as, indeed, they probably would be in the general population. It will be seen, therefore, that there are both interesting discursive overlaps and disjunctures between these young people and wider society. There is evidence, therefore, of the occupation of both common ground and ‘alien territory’.

It will be recalled that two of the parents also bought into discourses of the ‘unreliable’ or ‘manipulative social worker’. For all three, though, there was a very palpable discourse of class and power; of ‘us and them’. Firstly, there was the belief that even when social workers were good, professionals generally ‘stuck together’ and – when it came to the ‘crunch’ – refused to “*go against each other*”. This is a belief that echoes Drakeford & McCarthy’s (2000) analysis of the new interdisciplinary and multi-agency nature of youth justice, encapsulated in the phrase ‘alliances of the powerful’. Secondly, there seems to be a belief that the professional classes don’t really understand what it is like to live long-term on a low income: a question of class. This subject will be re-visited later in the chapter.

The analysis of service user discourses, though undoubtedly in need of further research, represents an original contribution of knowledge.

8.2.2.2: Discourses in Documents:

A few general comments should be made about the importance of documents.

Professionally authored documents are the key sites upon which service users' identities, biographies and imagined futures are constructed. The act of construction involves engagement with the different discourses available to the practitioner and will take place in such documents as case records, the Case Conference minutes, referrals to agencies, ASSET forms and pre-sentence reports. The point has been made many times already that all documents need to be considered in terms of the circumstances of their production, consumption and distribution in mind. Thus, documents are written with different audiences in mind and will be read by different interpretive communities (Fish, 1980). For example, the case record may be used as a working tool by the practitioner and be shared with the service user to that end. By the same token, though, that record will also be written for the eyes of the manager, the inspectorate and fellow colleagues who may need to consult the file. Documents are also written with a view to achieving certain outcomes (Silverman, 2003b). This is manifestly true of the pre-sentence report. Evidence will thus be edited and shaped to fit the sentencing proposal. Examples of these practices have already been explored thoroughly in Chapters 5, 7 and Appendices 3-5. Those arguments need not, therefore, be repeated at length here. Nevertheless, it is worth emphasising just a few points.

At the outset it is important to remember that the language used in such documents as pre-sentence reports will, variously and sometimes simultaneously, clarify and camouflage issues for the court. Likewise, different authorial voices may be used at different times in order to achieve certain effects that are likely to pre-dispose sentencers towards certain courses of action. The 'world-weary practitioner' who has seen it all before is a familiar voice that the court recognises. Also, clichés and motifs - such as the 'Rome wasn't built in a day' metaphor - are recycled in courtrooms. Sometimes the

rhetorical strategies are ingeniously inventive and at other times predictably hackneyed (though not necessarily less effective, it should be noted). The discourses of welfare, punishment, accountability, personal responsibility, family pathology and social deprivation are – to varying degrees – invoked. Some reports are philosophically consistent (or at least combine complementary discourses) in their application of discursive practices. Some practitioners, for example, shifted the terms of discussion to an explicitly Welfare discourse, sometimes by invoking statutes of a more a child-friendly persuasion. Others, though, indulged in dangerous discourse-hopping. As has been noted, this can involve the sympathetic portrayal of a troubled family history and the details of current problems before switching to a more condemnatory mode in respect of the young person's offending. The meandering route from 'child excusing' to 'offender blaming' discourse is then sometimes concluded with a 'Pontius Pilate proposal'; the effect of which is usually a custodial sentence. The representation of young people's backgrounds – including their backgrounds in public care - in pre-sentence reports is of critical significance. It is a subject that receives further discussion below (see 8.2.2.3). Something that should be emphasised here, though, is the way in which assessments and phrases written in one report often enjoy a long 'after-life'. Old and often 'out of date' judgements are recycled in lazy 'cut and paste' reports. Such practices keep young people trapped in time; their identities often reduced to congealed social work clichés.

It is worth noting that pre-sentence reports - and, indeed, other practitioner-authored texts – are written within the wider discourses of youth referred to in Chapter 2 and elsewhere (Elkind, 1967; Erikson, 1968; Cohen, 1980; Pearson, 1983, 1987, 1989, 1993, 1994a and 1994b; Brannen *et al*, 1994; Hendrick, 1997; Brown, 1998; Haines & Drakeford, 1998; Coleman & Hendry, 1999; Goldson, 2000a and 2002; Cote, J, 2002; Sharland, 2005) : in terms of challenge, delinquency and risk (to themselves and others). Even when youth is portrayed in sympathetic terms - a 'natural' stage of development during which young people 'explore', 'take risks' and 'test boundaries' - the concerned sentencer may still be inclined to consider those options that offer 'structure' and 'discipline'. That some social workers seem to think that young people can be 'troublesome adolescents' or 'a bit of a

nuisance' has already been reported. That such discourses should emerge in some reports and documents is therefore not entirely surprising.

Absences are as important as what is present in texts (Macherey, 1978). What is excluded from most accounts of offending is the issue of social class and social inequality. The slow but deadly violence of poverty and its effect upon parenting capacity (Ghate & Hazell, 2002; MacDonald & Marsh, 2005) is seldom mentioned, let alone analysed. Given that most of the practitioners interviewed considered social factors significant in terms of explaining at least some of the reasons for both poor parenting and youth crime, its absence is strange. Three possible explanations might be posited.

Firstly, there seems to be a 'taken for grantedness' about service users being drawn from the poorest and most socially excluded sections of society. As this is a 'normal' state of affairs it is almost regarded as unworthy of comment. Secondly, there are understandable anxieties about appearing 'political'. Exposing the realities of long-term subsistence on a low income might be misconstrued and backfire in the courtroom, to the detriment of the service user. A third explanation is that, underlying the leftish inclinations of most practitioners, 'they' may really be different from 'us'. This author cannot argue any of these explanations with complete conviction because this was not pursued in the interviews with sufficient vigour. It was difficult to ask this question of practitioners in relation to specific pre-sentence reports without appearing critical and risk losing their co-operation. In all candour, this particular absence went unnoticed until I undertook a more concentrated analysis of the pre-sentence reports. This is ironic because it is difficult to write about youth justice without at the same time considering social justice (Sharland, 2005). In any event, the effect of this absence is that the discourse of individual and family deficits is privileged above that of social inequality and poverty or, perhaps, as Rush (1992) puts it, the 'narrative of life' instead of the 'narrative of place'. This almost inevitably elides into a discourse of child and parent criminal responsabilisation: the abolition of *doli incapax* and the Parenting Order.

The other 'absence' worthy of note is that of 'punishment'. The word very seldom appears in pre-sentence reports or other practitioner-authored documents – although

'penalty' (as in 'community penalty') is sometimes mentioned. Instead, social work synonyms like 'boundaries', 'structure' and 'taking responsibility' appear in the place of this unspoken principle. 'Punishment' is very much the elephant in the Youth Offending Team staff room. It should also be acknowledged, of course, that there is evidence to suggest that some sentencers do not perceive their decisions as being necessarily punitive. Indeed, even the imposition of custodial sentences is constructed as a welfare measure in some cases (HMIP, 2001).

The insights generated by the above discourse analysis represent a small but original contribution to knowledge. Whilst the discourses have been identified and critiqued by other academics and commentators, this thesis has analysed how they have been operationalised in historically situated practitioner-authored documents. This is new and adds to what we know.

8.2.2.3: Representations of Personal Biography and the Care System:

The discourses used in pre-sentence reports to represent young people's personal histories, troubled family backgrounds and pressing needs are often sympathetic in that the child is represented as the *victim* of adult cruelty or indifference. Representations of public care, which are usually a significant part of that young person's background, will vary. This more equivocal relationship between PSR author and the public care system is perhaps partly because the practitioner is faced with the dilemma of whether to be critical of colleagues and, in some cases, local authority employers. It is not true to say that no professionals, in the phrase used by two parents, "*go against*" each other. Indeed, as has already been reported, some PSR authors have been overtly critical of certain local authority residential unit regimes. The practice of 'warehousing', exposure to risk and the culture of 'cross-contamination' are just three examples.

There are, in summary, a few strategies used in respect of the representation of public care. Of course, all of these must be considered in relation to the PSR author's intentions

in terms of the desired outcome of the court appearance. Some PSR authors don't mention the young person's time in public care or simply gloss it in a phrase or a sentence. This may be because it is considered irrelevant to the case or perhaps injurious to the interests of the young person (by invoking stereotypes). Others give a detailed account of the different placements the child has experienced. In some cases this is simply intended as a criticism of the local authority and offered as a possible explanation for the young person's offending. The risk is, of course, that mentioning a child's problems, including that of placement instability and the associated risks of weak boundaries, *without* a proposed solution or sign of imminent improvement is unlikely to be helpful to the child. The court may respond to this representation of instability and risk by placing the child in the more 'secure' and structured environment of custody. The presentation of problematic public care provision and other personal difficulties without then offering solutions is a strategy that places young people in jeopardy of being 'up-tariffed' through the criminal justice system towards custody.

As has been mentioned previously, despite young people being represented as *victims* of adult cruelty and indifference in their early Care careers, some reports do go on to represent them as *perpetrators* with individual agency. This point moves the discussion forward to the issue of responsabilisation.

The findings presented here represent a small but significant advance on the state of contemporary understanding.

8.2.2.4: The Discourse of in/competence: protection, empowerment, abandonment and responsabilisation

The pre-sentence report is a useful site on which to analyse how the weight of criminal responsabilisation has been distributed. What prominence is given to such factors as age, maturity, moral understanding, parenting and social background? That the pressure of *National Standards* and contemporary political discourse now pushes the PSR author to

investigate with greater vigour such issues as victim awareness, victim impact, remorse and risk of re-offending is discussed later in the chapter. What is important to mention is that whereas the focus of the social inquiry report and pre-sentence report used to be trained very much on the child, other considerations now appear to be more prominent. Whereas the child's relative incompetence as a criminal actor was either taken for granted or could - at the very least - be argued with reference to the doctrine of *doli incapax*, there was now a presumption of competence. One does not want to exaggerate the differences in practice before and after 1998, but the change in the political climate does appear to have had some effect on how practitioners conduct their work. Indeed, evidence of this trend towards responsabilisation can be adduced from Chapters 5 and Appendices 3-5. This trend places pressure on practitioners to find ways in which the case for reduced competence can be made. As has already been noted, by referring to other occupational disciplines recourse is being made to positivist discourses considered more 'credible' than social work: medicine, psychiatry and educational psychology being three such examples. As also mentioned previously, though, referral into other systems and discourses is not a strategy without risk either.

It has been reported that the trend towards a discourse of responsabilisation in the youth justice arena appears to have been mirrored in the Welfare domain. Evidence is presented of the penetration of a responsabilising discourse in children's services and local authority residential units. Arguments were advanced by social work managers and practitioners for the need for young people to 'take responsibility' for their actions. The origins of this discourse of responsabilisation may be traced both to the domains of criminal justice (Rush, 1992, Garland, 1996; Goldson, 2001) and welfare (Deacon, 2002). In the latter case state 'welfare' is tied to the notion of service user 'obligation' (Etzioni, 1995, 1997, 1998 and 2000; Sacks, 1997; Selznick, 1998a and 1998b); in the case of Giddens (1998) this is presented as 'positive welfare'. Despite the organisational fissures that have appeared between Social Services and youth justice services since 1998, the two agencies appear to be increasingly linked by this bridging discourse of responsabilisation. It has been suggested that social work discourses of empowerment may actually have been misapplied in the Welfare domain with the result that they

anticipate the type of responsabilising discourses referred to above. Indeed, this could be seen as paving the way for compliance with a wider neo-liberal agenda of personal responsibility and 'self-discipline' (Foucault, 1977). Some research participants argued that young people in public care were expected to make difficult decisions about complex matters far too prematurely, with one practitioner stating that "*the child in care is expected to be 25 at 12*". These comments echo those of Williamson (2001, 2005b and 2006) about young people's experience of 'empowerment' sometimes feeling like 'abandonment'. The linkage between the two discourses also perhaps facilitates a shift from 'child excusing' to 'offender blaming' to prevent young people re-entering the Welfare domain after being labelled as 'offenders'.

Of course, those who would defend children against responsabilisation run the risk of paternalism. They are open to the accusation of denying the existence of individual agency and, by logical extension, the possibility of change. One area that is worthy of comment is the way in which some young people are reduced to being the victims of pathology or even – in the case of sex offenders – mere offence category (Myers, 2001). The ideology that surrounds the treatment and management of sex offending is too vast and complex a subject for close inspection here. But it should be noted that there does appear to be a strong element of pessimistic determinism present amongst those who practise in the field. This allows the distancing process of 'otherisation' to take place in respect of an already heavily stigmatised group.

The wider debate about the degree to which individual agency should be attributed to young people is at the heart of a clash of professional discourses. Jan Smith observed that those who were used to working with older young people tended to believe that they responded more positively to collaborative models of social work rather than the interventionist modes apparently preferred by child care social workers (Triseliotis, 2001). Whilst the 'contrastive rhetoric' (Hargreaves & Wood, 1984; Hargreaves, 1993) **used** by the manager is inevitably a little simplistic, it does highlight the different discourses with which practitioners must struggle.

Whilst exaggerated claims for the analysis presented here should not be made, the insights cited above can lay some claim to originality. Nevertheless, it is readily conceded that further research and more extensive analysis is required.

8.2.2.5: Discursive Practices and individual practitioners

Discourse is not merely about how people, events and processes are represented; it is also about what people do: actions are constructed within discourses. The crucial point to make is that such discourses as Welfare and Punishment are interpreted and operationalised by practitioners at ground level. Thus service users' experience of Welfare, Punishment, Justice and other discourses are mediated through relationships with practitioners. The quality of that relationship is, therefore, central to their understanding and evaluation of these declared philosophies and the systems within which they exist. It will be recalled from the previous data analysis chapters that good relationships with practitioners were highly prized. This is a subject to which I will return later in the chapter.

For the most part young people and their parents accepted that social services and youth justice services almost inevitably involved an element of social control. What was important, though, was that this was administered in a fair and straightforward manner by a person they trusted and respected; someone who 'stuck with' them. Ultimately, though, the interventions and actions of the practitioner had to be 'helpful' (an often used synonym for Welfare) rather than harmful. Such practices as breach were, therefore, potentially critical as to whether the experience of youth justice and social services was perceived as helpful or not. It will have been noted that different practitioners adopted different practices in this area. These practices were thus located within different discourses. Some, though not actually using the term, appeared to believe in something akin to the 'therapeutic breach'. Others, meanwhile, used the language of 'boundaries' and 'structure'; arguably synonyms for 'punishment'. What should inform and animate breach practice is something that could be debated at length. Whatever the rationale

offered by the practitioners, though, the political downward pressure to enforce is undeniable. In the case of Porthglo it was clear that management backed practitioners who were reluctant to breach. Nevertheless, other practitioners did breach and their actions were also upheld. The basis on which practitioners should exercise their professional discretion is something that will be returned to later in the chapter.

The above findings could be represented as a small but original contribution to knowledge.

8.2.2.6: Discursive practices and institutional sites

Just as the actions of individual practitioners are made with reference to discourse, so too are institutions formed, reformed and demolished within the same discursive formations. The establishment of the Youth Offending Team might well be described as the physical embodiment of a new 'regime of truth' (Foucault, 1977): a set of beliefs and practices based on the need to 'challenge' offending behaviour with 'joined up' services and in so doing eliminate the allegedly lax 'excuses' culture of a previously exclusive social work operation (Home Office, 1997a). In terms of the hierarchy of youth justice discourses the status of Welfare was relegated from its position of paramountcy, but certainly not exiled from the discursive framework within which practitioners were expected to operate. Rather, the discourse of Welfare appeared to be 'caged in' by an ever tightening framework of punitive sanctions for those who failed to respond positively to the 'help' on offer. Welfare was, in effect, a prisoner of Punishment. As some traditions in social work have historically been hard-wired into morally judgemental and punitive discourses (Mullaly, 1997; Jones, 2002), it is fair to say that the profession has not always been an entirely unwilling prisoner. More recently, the Trojan Horse of Restorative Justice appears to have been wheeled in behind the walls with zeal by some social workers. ISSP, meanwhile, represents perfectly the paradoxical position of Welfare as the captive of 'Discipline': along with education and training it is incarcerated by a strict set of *National Standards*. It could be argued, from a Foucauldian position, that young people and their social work certificated jailors are locked into a programme of muscular

welfare. Unlike other areas of general social work practice there is little scope for discretion here.

Once again, the insights generated by the above analysis could be represented as an original contribution to knowledge. However, as indicated previously, it is conceded freely that there is a need for more extensive empirical research on which to base further theoretical analysis.

8.2.2.7: Discourses and Discursive Practices: Critical Reflections

In line with Potter and Wetherell's (1994: 54) advice, five types of analytic consideration have been applied: using variation as a lever; reading the detail; looking for rhetorical organisation; looking for accountability; and cross referring to other discourse studies. In the latter case this has not really been done properly because other studies adopting this approach in a YOT were unavailable at the time of the analysis. Nevertheless, ideas and inspiration were drawn from other ethnographic studies - most notably Burnett & Appleton's (2004a and 2004b) study of a Youth Offending Team and Pithouse's account of a child care team (1998).

It will be recalled that in order to conduct discourse analysis on the relationship between knowledge, power, social agents (those, like YOT workers who have the power to define the identities of others) and the subjects of knowledge, six questions need to be asked (Smith, M, 2003: 290-291). Firstly, how is the subject (the young offender from Care) constructed within the wider discourse? The answer would certainly include professionally-authored records and reports. In pre-sentence reports, increasingly, the young person from Care is being constructed as an 'offender first' and a 'child with needs' second.

Secondly, how does the social agent of knowledge operationalise the discourse in practice? Again, the answer would be in records and reports, but also through the application of such practices as the enforcement or non-enforcement of government-

drafted *National Standards*. It will have been noted that, with the exception of ISSP, practice was variable. Nevertheless, there did seem to be a greater willingness to contemplate breach proceedings than had been the case prior to the establishment of YOT's. Practitioners were therefore seemingly influenced by the new legislation and shift in political culture that had accompanied the 1998 statute.

Thirdly, how does the act of operationalising the discourse actually affect the social agent of knowledge? For those committed to the 'old youth justice' there is no doubt that some were depressed by the changes that had taken place. At the time of the fieldwork some were fighting a rearguard action against the changes. Acts of daily resistance and subversion were commonplace (Scott, 1985 and 1990). This took place mainly around the practice of enforcement. Others seemed to re-define their terms and modes of engagement in order to adapt to the new 'regime of truth' (Foucault, 1977). This could perhaps be represented as 'bad faith' (Sartre, 1977) in some cases where soft-sounding euphemisms ('boundaries', etc.) were used instead of the harsher language of discipline. It should be stressed, though, that there were recently qualified YOT workers in broad sympathy with the reforms (though I met no-one who gave unconditional support).

Fourthly, where do their interventions locate them within the wider discourse? As has been noted, the interventions differed enormously; thus reflecting a spread of positions across the dominant discourse (as well as some who occupied alternative or competing discourses).

Fifthly, what is the effect of this whole process on the subject? There is little doubt that the young person from Care in the youth justice system is more closely regulated under a regime based on *National Standards*. The routinisation of practice may also ultimately have the effect of commodifying the young person (although there was not a great deal of evidence to suggest that this was happening in Porthglo). However, the fact the custody rates have increased sharply for both Care Leavers and the wider youth population as a whole would certainly suggest that the world has become an even more dangerous place for this vulnerable group.

Finally, what are the opportunities for resistance and re-negotiation on the part of both subject and social agent of knowledge? In the case of the young person the answer would have to be that it would depend upon the practitioner supervising this case, which of course answers the second part the question. Clearly, there is considerable evidence to suggest that some practitioners are resisting and re-negotiating their position on a daily basis. The scope to exercise individual discretion may have been diminishing, but it is still possible in most areas of practice. Consequently, some young people did have the opportunity to resist and renegotiate.

Having identified in some detail the different discourses and discursive practices at work, it is proper to reflect upon what actual effect they actually had on the trajectories of young people. There is no straightforward way to answer to this question because it depended upon the specificities and contingencies of each case. The point has been made on a number of occasions that the pre-sentence report is a situated document: it is *situated* in both *spatial* and *temporal* terms. A discourse that achieves an outcome at one point in time may not work in quite the same way at another. However it is also true to say that different rhetorical strategies and different discourses have sometimes been used in pre-sentence reports in order to achieve the same end. It is perfectly possible to argue for a community sentence by 'talking tough' or 'talking soft'. What does seem to result in custody, though, is the discourse-hopping genre that has been referred to on several occasions. These documents typically peter out in *Pontius Pilate* proposals. The clear lesson is that those practitioners with a keener awareness of the social systems and discourses within which they are operating tend to be those more 'artful' operators who obtain the results in court they seek.

As mentioned previously, this author does not wish to make exaggerated claims. Nevertheless, the insights generated by the above analysis could be represented cautiously as making an original contribution to knowledge. Having said that, there is clearly a need to conduct further empirical work and theoretical analysis in this whole area.

8.2.3: How have the youth justice reforms of the 1997-2001 Labour government impacted on practice at ground level?

The fieldwork was conducted at an important historical ‘moment’ in the history of youth justice: the point at which the old Social Services Youth Justice Team was transformed into a new Youth Offending Team. As the vantage point of this researcher was privileged, the subject is given more given extensive treatment in Section 8.3. That section contains reflections on what has changed, what has stayed the same and – in my unashamedly personal view - what *should* change. It is because of this more extensive treatment in Section 8.3 that this particular section is comparatively brief. However, this section is important because it distils the main findings in respect of the third research question: how have the youth justice reforms of the 1997-2001 Labour government impacted upon practice at ground level?

8.2.3.1: ‘Joined-up’ and ‘Broken-up’ Services:

Probably the most striking feature of the YOT is that it brought together for the first time within one institution practitioners from varied professional backgrounds: social services, probation, education, health, the police and others. Whilst all of these occupational groups have, at various times in the past, co-operated with one another, this is the first time in the history of youth justice that multi-agency working has been institutionalised and bound by a common set of *Standards*. The vibrant interaction between the various practitioners has been recorded in Chapter 7. What, though, has been the main impact of this experiment?

The answer is that there have been examples of success *and* failure. Young people, though not perhaps always appreciating the full significance of the radical changes, undoubtedly benefited from some of the services. In the case of Porthglo there were certainly very positive reviews of employment training and health. Whilst education was a slight disappointment, there was an improvement on the past in that area, too. The area

in which the service was clearly worse was in respect of the relationship between social services and youth justice services. This attenuated relationship not only resulted in early examples of role confusion, but it had an adverse impact upon young people in public care. The loss of case accountability by youth justice workers for children in care resulted in a poorer service with regard to local authority placements. This certainly caused distress to young people in some cases. Information-sharing between children's services and youth justice services was also less good; although – as has been noted elsewhere – there were sometimes sound ethical reasons for social services to be cautious about what was passed on to the multi-agency YOT's. Nevertheless, it is ironic that seconded practitioners from social services should also have experienced difficulties in accessing information held by their own Departments. Whilst some of these problems may be represented as probably being the result of 'local difficulties', it is reasonable to suppose that some of the issues described in this dissertation were replicated in other geographical locations.

It is important to reiterate the point once again that the fieldwork was conducted in just one site at an important 'moment' in youth justice history. The generalisability of the data collected here has to be treated with caution. Moreover, proper consideration could not be given to the subsequent developments in multi-agency and multi-disciplinary working within this domain. Nevertheless, it is worth noting that much of the literature on multi-agency and multi-disciplinary working tends to be of a positive and optimistic nature. It is, in other words, thought to be a self-evidently 'good thing' (CCETSW, 1989; Audit Commission, 1996; Amery, 2000; Carpenter *et al*, 2003; Horwath & Shardlow, 2003; Barrett *et al*, 2005; Quinney, 2006). What is argued here is that whilst effective work across specialisms can deliver better services to welfare recipients, the dangers also need to be acknowledged. 'Alliances of the powerful' (Drakeford & McCarthy, 2000), for example, can be formed against the service user. Also, in the case of young people subject to the supervision of Youth Offending Teams, there is the danger that the dominant construction of the individual concerned will be 'offender' rather than 'pupil' or 'patient'. These are very real concerns that should be taken into account when evaluating the strengths and limitations of multi-agency, multi-disciplinary working.

The findings presented here modify the understanding that was based on the literature review. The positive benefits of 'joined up' services are confirmed (Home Office, 1997; Holdaway *et al*, 2001), but the unintended effect of weakening the link between youth justice and social services represents a revised assessment of the state of play in youth offending teams. Likewise, this project highlights the risks and limitations of inter-agency, multi-disciplinary working. This is not necessarily a dramatically new finding as such, but it does highlight the need to reappraise the dominant social work literature in this field.

8.2.3.2: New Colleagues: Social Workers and Criminal Justice Practitioners:

The fact that youth justice services were once delivered solely by social workers and are now staffed by non-social work trained staff is significant. Whereas trained social workers might be expected to privilege the Welfare principle enshrined in the Children Act 1989 above other statutes, it cannot be assumed that this is the case in respect of other professions. It is argued in this chapter that the centre of gravity in youth justice discourse has shifted towards such considerations as risk, public protection and the victim's rights. Whilst the Welfare principle has certainly not been eclipsed, the dominance of social work professional discourse has been challenged by those colleagues with different philosophical priorities. The trend away from social work to criminal justice practice was certainly nowhere near as pronounced as that in the probation service (Boateng, 2000). Unlike probation, YOT's could not be described as law enforcement agencies and practitioners could not be characterised as 'punishment officers'. Nevertheless, there was a discernible shift taking place towards a sharper focus on offending behaviour and this could be attributed in part to new colleagues – especially probation officers in the case of Porthglo. Full-scale probationisation had not taken place, but things were certainly different. This finding represents a modification of the overall position taken by the literature (Holdaway *et al*, 2001).

8.2.3.3: Responsibilisation:

This point will not be laboured here as it has already been discussed extensively and is explored again later in the chapter (in relation to pre-sentence reports). Nevertheless, it should be reiterated that a redistribution in the weight of criminal responsibility has been effected. One of the direct effects of the Crime & Disorder Act 1998 - with the abolition of *doli incapax* and the 're-balanced' philosophical priorities of pre-sentence reports prescribed by *National Standards* (Youth Justice Board, 2001) - is that children and parents are more heavily responsabilised for offending. This does not, however, prevent practitioners from creative practices and the sophisticated manipulation of discourses to achieve outcomes that are closer to the 'old youth justice'. It will also be recalled that some practitioners sought to diminish the culpability of some particularly vulnerable young people by recourse to other professionals in other domains and systems: most notably medicine, psychiatry and educational psychology.

These findings confirm what the literature predicted of the 'new youth justice' (Goldson, 2000; Pitts, 2000, 2001b and 2003). However, the position is modified by evidence of strategies used by practitioners to 'reintroduce' the essential principle of *doli incapax* by other means.

8.2.3.4: Social Regulation and Individual Practitioner Agency: the Case of *National Standards*

It has been reported that the new salience of *National Standards* (Youth Justice Board, 2001) in youth justice has been experienced by practitioners as intrusive, burdensome and an assault on professional discretion. Having said that, though, there is plenty of evidence of practitioners exercising considerable discretion in whether to enforce *National Standards* in respect of missed appointments: some breached and others didn't. What determined the decision appeared to be based on individually held values and beliefs about what constituted ethical and effective practice. The decisions made were supported by management in Porthglo. The persistence of individual practitioner agency

in unpromising circumstances is a key finding: the death of professional discretion apparently having been much exaggerated (Lipsky, 1980; Gelsthorpe & Padfield, 2003; Evans & Harris, 2004). This does raise the question as to the basis on which such individual professional discretion. The need to base critical decisions on clear ethical values and robust research evidence seems apparent here.

The awareness of *National Standards* amongst practitioners was acute and seemed to haunt daily practice. It was a subject that emerged frequently in the interviews. Unlike previously, where both the literature (Drakeford, 1993) and practitioners reported that *Standards* were generally regarded as advisory guidance, the practitioner now had to construct her/his decisions in ways that would not embarrass the individual professional, compromise the agency or place the young person in jeopardy of custody. As YOT's were evaluated in relation to this regulatory framework the *Standards* could no longer be ignored. Deciding not to breach someone now required sleight-of-hand creativity, subversion and deceit. The justification for deceit was the quiet assertion of 'professional judgement' against social regulation. That *National Standards* were experienced as a mechanism for regulating practitioners as well as young offenders seems clear from the data: the presence of the distant Panopticon government minister being felt in every attempt to micro-manage daily practice (Jordan, 2001). Although there was still considerable scope for individual practitioner discretion, this free space was being encroached upon by tightly managed programmes such as ISSP. For some this was perceived as the sign of things to come: conditional Welfare compromised and connected to Punishment by strictly enforced *National Standards*.

Whilst the findings here confirmed much of what the literature anticipated (Goldson, 2000; Pitts, 2003), the scope for individual agency and professional discretion – though somewhat diminished – was still sufficiently significant in most cases to exert influence on young people's trajectories.

8.2.3.5: Changes, Innovations and Continuities in Practice:

The period of fieldwork witnessed many changes and innovations, but there were also continuities. This is a theme that is, indeed, explored in more depth in Section 8.3. For the time being it is worth mentioning just a few points. In terms of innovative practice, there was clear evidence of a rise in the use of cognitive behaviourism and offence-focused work. By the same token, though, there was also plenty of evidence to suggest that constructive practical ‘help’ was on offer. At the heart of this help-giving service was the valued ‘relationship’ between practitioners. This finding is echoed in the literature (Hill, 1999; Rex, 1999; Carter, 2004; Batchelor & McNeill, 2005; Burnett & McNeill, 2005 and 2006; McNeill *et al*, 2005; SEU, 2005). Although the YOT model and the pressure of *National Standards* encouraged a case management system – and there were instances of this working well – the presence of a consistent and supportive adult seemed to be key to the success of this form of service delivery. What were not appreciated by most service users, though, was the risks that were attendant upon forging close relationships with some of the professionals working in the YOT, most notably police officers. This is a subject to which reference will be made in Section 8.3. Whilst the above findings generally echo those of the existing literature, the failure of service users to appreciate fully the risks of *some* ‘helpful’ relationships with *some* professionals is an important finding. It also underlines the importance of practitioners conducting a thorough risk assessment of the agencies and systems they represent. What risks might they pose to those they seek to help?

The wave of computerisation and the introduction of new recording practices caused practitioners to spend more time in front of their visual display units than in face-to-face interaction with service users. This development, again, pushed practitioners towards a case management model, delegating direct work to those with lighter recording responsibilities. One time-consuming activity that was not undertaken ‘properly’ was the timely completion of ASSET forms. This was an activity in which everyone seemed to engage *after* the assessment had been completed: it was almost invariably a *post hoc*

chore. It was, though, recognised as a necessary activity in order to attract resources to the Team. This represents an original finding.

Restorative Justice had not bedded down completely in the Supervision Team.

Reparation and restitution was, by and large, a routine activity. Most practitioners were critical of the application of Restorative Justice in practice. It was perceived as being 'bolted-on' to an old and traditional adversarial criminal justice system. This finding echoes that of other researchers in the field (Newburn *et al*, 2001a and 2001b).

Interestingly, practitioners did not appear to have philosophical objections to Restorative Justice; nor did they seem to perceive the dangers that have been outlined elsewhere in this thesis. This would seem to echo the observations of some other academic commentators (Haines, 2000; Haines & O'Mahony, 2006).

The decline of diversionary practices was mourned by everyone, including those who were supportive of the principle of early intervention. As has already been stated, the principle of minimum sufficient intervention has arguably been replaced by that of 'maximum inappropriate intervention'. The result has been an increase in the juvenile and youth custodial population. Yet another example of well meaning interventionism causing more harm than good. That diversionary measures were now severely limited was a cause of concern to most of the YOT workers interviewed and represents an addition to the state of understanding as set out in the literature review..

8.3.: Youth Justice and Public Care: Continuity, change and future prospects:

This section is organised around three simple questions concerning young people with Care backgrounds in the youth justice system: what has stayed the same (8.3.1)?; what is different (8.3.2)?; and what needs to change (8.3.3)? Exhaustive answers cannot be provided to these questions here, of course. Nevertheless, an attempt is made to address core issues.

8.3.1: What has stayed the same?

This section considers some of the features thematic and practice continuities that have survived the radical youth justice reforms.

8.3.1.1: Introduction:

Despite the many organisational changes that had taken place within youth justice services during the period of fieldwork, there were also continuities. The enduring nature of practice was anticipated by some social workers in a focus group session. Before the 1998 Crime and Disorder Act had taken full effect they commented, somewhat wearily:

Kevin Carter: *“We’ll be dealing with the same client caseload as far as I can see – look at the ’91 Act. It didn’t make a huge amount of difference – we were still working with the same clients.”*

Danny Burns: *“Yeah. Same kids, same problems.”*

Kevin Carter: *“Same families, same housing estates.”*

Those comments were echoed a few years later by a recently qualified social work YOT worker who observed, quite simply:

“New legislation doesn’t change the world. How you manage Orders changes, but the direct work with kids doesn’t. Children don’t change that much.”
(Bernice Hughes)

In the last analysis, YOT workers were still generally working with the same young people, parents, neighbourhoods and problems as previously. Two areas of practice that should be highlighted, though, are the centrality of ‘the relationship’ between practitioner and service user; and the perennial dilemmas of representation in that most pivotal of documents, the pre-sentence report.

8.3.1.2: The Relationship:

Without exception or prompting, practitioners in interview mentioned the importance of ‘the relationship’ in their work with service users. Forming and maintaining a good relationship with service users was perceived as being the pre-requisite for effective work. Without the relationship, it was implied by all, nothing could happen. The characteristics of a ‘good’ relationship with a service user were typically said to comprise such qualities as ‘candour’, ‘honesty’, ‘openness’ and ‘trust’. In other words, the young person would be expected to ‘confide’ personal issues and admit to ‘problems’ that might put her/him at risk of harm or lead to offending behaviour. Substance misuse was one such area often cited. YOT workers liked to think that their service users would feel able to be open about ‘being back on drugs’, for example. By the same token, whilst not wanting to know the exact details, they would also hope that young people could be honest about whether they were still offending. Whilst relationships with young people should ideally be warm, there was also a strong sense that these were ‘professional’ relationships in which ‘boundaries’ needed to be observed. What was actually understood and meant by such terms as ‘professional’ and ‘boundaries’ varied between practitioners. In some cases, moreover, there was a discernible discrepancy between rhetoric and practice. This was particularly noticeable in those ‘boundaries’ inscribed in National Standards.

David Henderson (a Social Services seconded social worker) was a great believer in the importance of building a solid, trusting relationship with young people and then, “...*you work holistically with the young person, not the offence.*” It is an occupational hazard that practitioners attach greater significance to their relationships with service users than the service users themselves. However, what became clear in the interviews with young people and parents was that good relationships with practitioners were valued. When asked what made a good social worker, almost all of the replies included variations on a theme: “*someone who listens*” (Michelle Lyons), “*someone who understands*” (Daniela Harrison), “*someone who’s straight*” (Brian Giles) and “*someone who does what they*

say” (Paul Gullimore). The following passages are representative of the young people and parents interviewed:

“A good social worker? Someone who listens. Someone who don’t tell you what to do, someone who advises you. Someone on your wavelength. Someone you can connect with.”

Nicole Madhur

“Someone that listens. Someone that, like, understands the situation. Someone that’s there when you needs them to be there, like. Not on the sick or on holiday or something.”

Anthony Turner

Reliability, accessibility and ‘stickability’ were perceived as being extremely important qualities. This sometimes meant being on the receiving end of robust admonitions, but this was perceived as a sign of the practitioner caring. Michael Ross, for example, valued the consistent presence and support of his YOT worker - even when this included regular “bollockings” because, ultimately, *“he’s stuck with me; he’s been with me all the way.”* Of course, these qualities applied to other professional people, too: including non social work-trained YOT staff, doctors, teachers and – in two cases – ministers of religion. As has been indicated previously, the young people were generally positive about YOT staff. One criticism that did surface in some cases concerned duty cover when, for whatever reason, a supervising officer was away from the office. Anthony Turner claimed, for example, that he only saw his first YOT worker *“about three times in two years because she was always on the Sick”*:

“I used to phone her up all the time... and she used to phone me up and say, like: ‘If you ever need to speak about anything, here’s my number.’ And I’d phone and they’d say: ‘Oh, she’s on the Sick’ or ‘on holiday.’ Like, so, ‘You’re no good to me, like.’ I didn’t have anyone to speak to.”

He reported that her lengthy absences were not properly covered. As a result he felt much neglected during one period in custody. This was less a criticism of individual workers and more a complaint against the way youth justice services had been organised.

Mrs Walker was very positive about the working relationship the YOT worker had developed with her son. She thought the fact he had known Anthony for so many years made a positive difference in respect of the quality of the relationship that had developed.

“It takes a long time for Lawrence to build up trust in someone and it don’t happen overnight. And, I mean, David has been Lawrence’s supervising officer for quite some time. In all fairness, Lawrence has got quite a lot of faith in David and it’s nice to know that Lawrence can feel like that, because he’s not like that with a lot of people.... Though David is very strict and he’s good at his job – I’ve got to be fair, he’s good at his job – and if he’s got something to say he will say it and he’ll make sure people will listen (laughs), but to be fair, I can’t fault him for that because that’s what my boys need, you know.... But Lawrence knows if he needs to talk, he know he hasn’t got to feel awkward, you know. He knows he can just talk to him – which is a good thing.”

Asked how Lawrence would assess his YOT worker, he replied:

“100%. Brilliantly. I’d give him a hundred out of a hundred.... Put it this way, he hasn’t just helped me, he’s helped my mum in a few things – which I’ve got a lot of respect for.”

Whilst in no way blaming the YOT worker for being ill, Mrs. Walker believed that the absence of the supervising officer contributed to the instability of an already unstable situation when Anthony was initially released from custody.

“I think he probably went off the rails because there wasn’t anyone there to take David’s place - though I don’t think that would have helped. He needed to talk to someone who really knew him, really.”

Indeed, when the YOT worker returned from Sick Leave, the situation did stabilise. The YOT worker concerned was, perhaps, unusual in that he had been a member of the Porthglo team over many years and had therefore known Anthony over a critical period of his life. This had enabled him to develop and sustain trusting relationships with young people over a significant period of time. Other young people interviewed on his caseload seemed to very much value this consistent presence in their lives. Nevertheless, even the most consistently present practitioner cannot always be ‘on call’ all of the time. The

breach of ISSP that occurred in Anthony's case could, perhaps, have been avoided had a more effective duty or case-sharing system been in place within the Team. Given the fact that professionals do become ill, take holidays and move on to other posts, it would seem important to create a practice culture in which young people are able to develop meaningful working relationships with more than one practitioner. Striking a balance between the exclusive professional relationship and a bureaucratic case management model would appear to be an important priority.

The high turnover of staff is, however, a problem that service users mentioned (particularly in respect of Children's Services). When practitioners managed to establish good relationships with children and then 'moved on', it often proved deeply upsetting. The manner in which professional departures were sometimes managed was also criticised:

"There've been so many social workers involved where, um, as soon as you begin to feel you can speak, they're off the scene and they have a changeover...where that messes everything up. Lawrence began to feel that the trust was there and then they were gone and then, you know, he doesn't find any trust then...and then the next minute the next person comes along and it's the same thing: they're gone. It takes their trust away. But that's the way they work. You know, they're on for so long and then they leave. Um, it was very hard for Lawrence to trust anyone because his life, the life he's had – because really he did have a bad time, you know. He did find it hard, at one stage, to trust, to trust any males because of what he'd seen and the fact that his father was violent and there was a lot of violence around him... to feel that way.... There was one social worker - he was with him for about 14 months - and then he left and Lawrence did like him, um...his name was – I'll never forget him – Paul, and he was a very good social worker and Lawrence had a lot of trust in him and got on with him and then he left without even saying goodbye to Lawrence, which really upset him and that took him back again – because at that time the social worker used to spend a lot of time with him, you know, taking him swimming, make a lot of time for him, but then when you get close to somebody like that and they just go, how are you supposed to feel, like?

(Mrs. Walker)

The way in which staff changes, case transfers and agency reorganisations are communicated to young people and families is clearly something that should always be considered carefully.

In summary, then, the empathetic, pro-social and authentic ‘relationship’ – so often represented as the bedrock of good practice in probation, youth and social work (Bell, 2002; Williamson, 2001; Barry, 2000; Hill, 1999;1999; Trotter,1996,1999; Young, 1999; Williams, 1995) – is underlined in this study. Both practitioners and young service users would seem to value a working relationship that is characterised by warmth, concern and genuineness.

8.3.1.3: Pre-Sentence Reports: The Dilemmas of Representation:

The pre-sentence report has always been a document in which the author has faced critical choices about how to represent the young person to the court. Whilst National Standards have long prescribed the format and provided guidance on how PSR’s should be prepared, authors have also retained a great deal of freedom and discretion: the information included and excluded; offence analysis and exposition; and, above all, the portrayal of the young person have always been matters of individual judgement. This, indeed, will have been apparent from the pre-sentence reports referred to in Chapter 5 and the case summaries in the appendices. The competing principles of welfare and criminal justice have always had to be managed by PSR authors. In the PSR’s that predated YOT’s, many were underpinned by clear and coherent organising principles: there were those that adopted a welfare discourse, whilst others used an explicitly ‘justice’ approach. Nevertheless, there was a third category that appeared to hop from one discourse to another. Thus, for example, a young person’s offences might be initially explained in terms of psychological damage and unmet welfare needs; but then the author subsequently asserted the need for the young person to take full responsibility for his/her actions. This is not to say that that different principles and discourses cannot be harmonised within a PSR. However, in some PSR’s the discourses clashed and the overall effect was one of dissonance.

Prior to the Crime and Disorder Act 1998, as has been noted in Chapter 3, *National Standards* did privilege the welfare principle above other considerations. This principle meant that PSR authors could, if inclined, write from an explicitly welfare perspective. In the days of the old Social Services Youth Justice Team, indeed, it was perfectly reasonable for a social worker to write such reports because as social workers their role was to represent the welfare principle and the best interests of the child. Post-1998, the position is less clear.

One issue of representation in PSR's that should be raised concerns the way that offence motivation is portrayed. A welfare perspective tends to privilege explanations of offending that relate to social deprivation, social exclusion, family issues, abuse, neglect, neighbourhood factors, intellectual ability, emotional competence and psychological ill-health. One danger is that the young person is reduced to the status of victimhood or pathology. Whatever the impact of factors external to the young person, and these could be considerable in some cases, the sense of any degree of independent agency is thus much reduced. Despite the rhetoric of empowerment, the PSR typically censors the young person's voice to accord with what the author believes the court wishes to hear. As an officer of the court, of course, the PSR author will probably have a much better idea about what is palatable in the courtroom: carefully worded expressions of remorse, for example, are preferred to a shrug of the shoulders. As the expert in the genre, therefore, it is reasonable that the PSR author should exercise ultimate editorial control of the PSR product. Nevertheless, there is a risk that some of the things that young people say about offending are overlooked. This was, indeed, a trap into which this researcher initially fell when conducting analysis of the interview data. It was only through applying *In Vivo* and some of the techniques of discourse analysis described in Chapter 4 that an important theme from the interview data was not overlooked. Most of the young people certainly identified welfare issues of one sort or another as a factor in their offending behaviour. Instrumentalism also played a part: money was needed for food, alcohol or drugs; and cars were stolen to get from A to B. Nevertheless, they also explained that some of the offences were committed "*out of boredom*" and for

excitement or, as was more commonly expressed, “*the buzz*”. For some the theft of a car was about ‘taking control’, pleasure and excitement. Even when goods were stolen with a view to subsequent sale, some derived a thrill from the acts of shoplifting and burglary. The successful accomplishment of a crime, of getting something for nothing, was accompanied by an adrenalin rush or ‘high’. Here, for example, is an extract from an interview with Trevor Bushell:

JE: “*So why do you do it (offend)?*”

TB: “*All different reasons. Out of frustration – like breaking things. Some it’s financial. Some because I’ve been bored. Some for, well, it’s a buzz.*”

JE: “*Which ones are for the buzz?*”

TB: “*Burglaries, stolen cars and shoplifting.*”

JE: “*So burglaries are not just for the goods, then?*”

TB: “*Some are, but some are just for the buzz.*”

The ‘pleasures of youthful transgression’ (Hayward, 2002) and ‘edgework’ (Lyng, 1990) are, of course, well recognised by cultural criminologists (Katz, 1988; Presdee, 2000). They are probably also recognised by most practitioners who work with young people. This is, indeed, part of the rationale for the ‘outward bound’ movement in youth work exemplified by such agencies as Fairbridge and is a key element of much mainstream youth policy (Council of Europe, 2003): young people need new experiences, exciting challenges and stimulating opportunities. However, the PSR author faced with a young person who says s/he stole a car for fun faces a dilemma. To report that explanation in a direct and decontextualised way is to place that young person in jeopardy of a custodial sentence. Consequently, there are silences and suppressions of argument in this whole area. If the subject is discussed at all, it is approached obliquely, perhaps - quite legitimately - with reference to the poor amenities for young people in the neighbourhood. There are also cultural constraints in respect of proposing any activity that might be constructed as a ‘reward’ for offending behaviour. Whatever necessary games practitioners play with the court in the interests of keeping young people out of

custody, it is important not to forget that even young people with high needs and unresolved welfare problems also want to have fun. That offending is one expression of this impulse is a problem which needs to be addressed directly without placing young people at risk of custody.

The dilemmas of how to represent young people to the court have always been present. YOT workers, like their predecessors in the old youth justice teams, will know something of the reality of service users' lives. Which aspects of those lives are selected for representation in the PSR's will play a significant part in the final outcomes of court appearances.

8.3.1.4: What is different?

The legislative changes and the enhanced role of *National Standards* have obviously had an effect on practice. However, as noted in the previous section, new legislation doesn't necessarily change the world. One of the particularly interesting aspects of the reforms has been the way in which practitioners from different backgrounds have been required to share the same physical space and re-negotiate their relationships in the interests of the common goal of providing 'joined up' services for young people. Although this process has not been without conflict and differences of opinion, it has actually taken place without major episodes of blood-letting. Examples of improved services have already been cited, particularly in such areas as health, substance use and employment training. Ironically, as has already been noted, it has been in the area of Social Services that the main problems have arisen: the attenuated relationship between the YOT and Children's Services has been a cause of ongoing problems, especially in cases where young people are being 'looked after'. The fact that staff who have been seconded from Social Services experience difficulties in establishing clear lines of communication with the 'mother agency' could itself be the subject of a discrete line of research. There have, of course, also been other disputes between professionals. The friction in the relationship between probation staff and social services staff was, I would contend, cultural rather than substantive (see Chapter 7). There were also probably some cases of minor

personality clashes. It has not been mentioned, however, that probation staff were critical of the police encroaching on tasks that had hitherto been the preserve of social workers and probation officers: most notably PSR-writing and supervision. Whilst one of the police officers felt personally affronted by the perceived attitude of certain probation officers, in interview at least, the probation staff directed their criticisms at the role being assumed by the police rather than making personal criticism of individuals. The defence of role boundaries was partly a question of appropriate training. Equally important, though, was the confusion this might potentially cause to service users. As Teresa Liverton put it:

“I was horrified that police officers here were writing pre-sentence reports and supervising clients. I’ve made complaints about that, but nothing much seems to have been done about that. I don’t agree with that at all. I don’t agree with it because I just don’t think that, um, anyone unqualified can just write a pre-sentence report and also I just think it just feels like something out of Colombia or somewhere - that the arresting agency is then part of the sentencing process and then supervising process. Maybe talking to young people about offending...you’re a police officer, you have a duty to arrest them. I just wonder how easily children can discuss their problems and troubles. I’ve spoken to some parents, too, who are a bit, like, stressed about it as well: police coming round the house and things....”

The question of role demarcation was also at issue in such sensitive areas as confidentiality. An interview with a nurse, for example, made it very clear that ‘patient confidentiality’ was of paramount importance. The nurse, Briony Jones, said that there were very few circumstances in which she would disclose confidential information to a colleague within or outside the YOT. By contrast, a police officer in interview regarded all information as ‘intelligence’ that should, if she so judged, be made available to her colleagues in the local police stations. This point was clarified in interview with Melanie Gale:

JE: *“You know this word ‘intelligence’ ...when you talk about ‘sharing intelligence’, is that within the YOT but also...?”*

MG: *“To the Area Police.”*

JE: "To the police as well?"

MG: "Yes, because that's part of the YOT."

Whether all of the young people on her caseload or, for that matter, YOT colleagues from other agencies appreciated that information disclosed in interview could be passed on to the area police force was not clear. The need to establish clear protocols in respect of such areas of practice certainly needed to be addressed. Melanie Gale believed sincerely that she was fulfilling the objectives of the Crime and Disorder Act 1998 in respect of the issue of intelligence. It was her belief that this aspect of the Act was not being implemented properly by some of her colleagues in the YOT. There were other aspects of the Act, too, that she believed were not being implemented. Work with victims was mentioned, for example. Interestingly, this viewpoint was supported by some other members of staff, most notably Bernice Hughes.

Despite differences in emphasis and certain tensions between staff, what emerged clearly from my period of observation was that most people actually 'got on' with one another. Whilst there were some minor feuds and largely unspoken disagreements, practitioners were generally keen to find an amicable *modus vivendi*. Perhaps this is not a particularly surprising finding. It is more difficult and uncomfortable to sustain philosophical, inter-occupational and personal hostilities when working in close proximity to those with whom one is in dispute. Moreover, the scope for 'otherising' colleagues from other professions is lessened when they tread the same carpet every day, belong to the same coffee fund and behave just as foolishly as everyone else at the Christmas 'Do'. The pressure to 'get on' with colleagues in such circumstances is both subtle and powerful. The problem, as has already been illustrated above, is that the seductive sociability of the office threatens to blunt the edge of genuine and legitimate differences of opinion; conceals what should be open; and, rather than fostering a critical culture, permits the formation of 'alliances of the powerful' (Drakeford and McCarthy, 2000) against the young. As Mrs. Ross said of even the better professionals she had encountered over the years: "*They never go against each other.*"

The middle manager of the Supervision Team in Porthglo YOT believed that one of the biggest changes that had occurred involved a shift in the framework applied to young people by practitioners.

“Yes, we are interested in welfare - people here are very much into welfare and want to do good work with young people – but I think the framework is shifting. There’s a widening framework. There’s a shift towards protection of the public and victim input. We’re not just a young person’s service in the way we were, really. We’ve got much more of a community base. So it’s a widening framework we’ve got to work to.”

This widening framework, however, risks diminishing the child. Whereas the interests of the child were once paramount, the Children Act 1989 no longer occupies the centre of gravity. Indeed, those practitioners without a social work background risk having a less secure grasp on the essential meaning of the welfare principle, as embodied in domestic legislation and international conventions. Even in those cases where practitioners were confident about applying the welfare principle in their work, there were still pressures to consult the other compass points of reference in this widened framework. If one considers the preparation of a PSR, for example, the PSR author must not only consider the welfare principle, but also pay heed to the principal aim of the Crime and Disorder Act 1998, which is to prevent offending. S/he must also assess the seriousness of the offence in accordance with principles of justice; consider risk and the protection of the public; and construct an intervention plan that takes account of the young person’s needs. Against the background of this widened canvass, the dilemmas of how young people are represented and how crime is explained are even more acute than was the case previously.

8.3.5: What needs to change?

What follows is a brief manifesto in which principles and long-term aims are reaffirmed and short-term shifts in practice are proposed. Although this part of the dissertation does relate to the empirical research that has been undertaken, ultimately manifestos are based on the assertion of values rather than so-called ‘evidence-based’ conclusions. At the

outset it should be declared that this author believes that custody and punitive community-based regimes are inimical to the interests of children who offend. As has already been suggested, such measures are also highly ineffective in reducing the risks of reoffending.

It is probably helpful to make a distinction between those aspirational measures that require new legislation or high order changes in policy and those that might be effected at agency and practitioner level. Higher order reforms will be dealt with first. In line with the UN Convention on the Rights of the Child and practice in such countries as Luxembourg and Belgium, the long-term aim should be to raise the age of criminal responsibility to the age of majority. This would take children out of the criminal justice system altogether. This is not to say that offending behaviour by young people is not addressed, but it does mean that they are removed from a system that criminalises them. In the UK such a move does not seem to be imminent. In the medium term perhaps a case could be made for removing those young people from the criminal justice system who are either in public care or designated as 'children in need' under Section 17 of the Children Act 1989. Curtis (2005: 58) has argued persuasively for extending the use of the Welfare Checklist (Children Act 1989 Guidance) and transferring appropriate cases to the Family Proceedings Court. Children 'looked after' and those with a background in public care should fall into this category automatically.

Some practitioners regretted the passing of the philosophy of diversion. Even those, like Bernice Hughes, who were signed up to a more interventionist agenda believed that there were many children who were best dealt with in this way:

"The new system does come with a lot of warnings about intervening too much – and you do! Sometimes I think: 'What the hell am I doing? This kid doesn't need all this. Let's step back.' They need to do another Act and bring in something about non-intervention again. They need to get that back – about non-intervention in the early stages, um, because even Referral Orders are quite interventionish. They need not to lose that diversion because it was a good idea. They need to bring that back in."

The reintroduction of flexible, discretionary and multiple cautioning would help to keep many young people outside of the criminal justice system. The present system of Reprimands and Final Warnings is too rigid and does not allow sufficient scope for discretion. This, indeed, is acknowledged by the National Audit Office (2004).

Alongside this, relaxing the legal constraints on the use of Conditional Discharges would restore to the sentencing framework a highly effective and cost-efficient disposal. Such comparatively minor changes to legislation could have a huge effect on the number of young people placing a foot on the first step of the escalator to custody.

Of the changes that might be made at local agency and practitioner level, there are a few that should be particularly commended. Firstly – and there were clear signs that this was already happening – local YOT's need to ensure that they find creative ways in which *National Standards* can be implemented on the ground. All of the practitioners with whom I met complained about the requirement to meet with young people on their caseload twice a week in the first three months of an Order. At the time the fieldwork was being conducted, practitioners and managers were looking creatively at what actually constituted a 'contact'. Thus, for example, attendance at the Pupil Referral Unit or with a specially delegated person whom the young person is likely to meet anyway were just two ways in which *National Standards* were being managed. YOT management was, moreover, very generous in its interpretation of what constituted 'acceptable' reasons for non-attendance of appointments. This discretion was used sensitively in the case of young people with complex backgrounds and difficult circumstances. Those children with a background in public care were viewed particularly sympathetically. Teresa Liverton thought that this more thoughtful and sensitive interpretation of *National Standards* should be extended to the Probation Service when dealing with Care Leavers and other vulnerable young adults aged between 18 and 21 years. This was certainly not the case:

"It's very difficult for Care Leavers because they are, like, completely chaotic and very often their accommodation isn't sorted and their, like, here, there and everywhere. Because in Probation now, if you reach 18 - that's why I hung on to Paul (Gullimore) - you enter this super strict world and I'm just not sure if he'd

be able to cope with that and also with the fact he doesn't trust people.... I think that for Care Leavers in Probation it's very difficult. I mean, I was talking to another lad the other day and he said they just kept saying that none of that (his Care background) was relevant to his current offence - but it is, isn't it? You know, if I come from such a situation of instability and insecurity and you've got nobody you can call upon for support at all, you're going to need a much higher level of support than going on a cognitive behavioural programme. They need more ongoing support, encouragement and things, the old 'advise, assist and befriend'. That main focus of Probation has gone from Probation now. I think Care Leavers are in need of much more of that than those who have got stable families. The culture of the organisation is not conducive to vulnerable young people, especially 18-21 year olds – I would say the breach rates must be sky high."

Defying the edicts laid out in *National Standards* should not be constructed as 'professional deviance'. Rather, the possession of individual practitioner agency and the assertion of professional discretion should be the cause for modest celebration. It should be a cause for celebration because the bureaucratic proceduralism represented by following *National Standards* as a mere algorithm is inappropriate when practitioners are dealing with young people who have complex needs and - in some cases – also present complex social problems for wider society. However, the celebrations should be modest because exercising professional discretion places a heavy weight of personal responsibility on individual practitioners and the organisations that manage them. On what basis, therefore, should practitioners, managers and agencies make such decisions? How should they justify and account for their decisions? It is the position of this author that practitioners should be guided by both a clear and declared value base and a clear, declared and critical understanding of the research evidence. It is equally important, however, that practitioners are accountable to service users. It is thus imperative that service users are consulted properly, have a clear understanding of what is happening to them and know their rights.

A second issue that could be tackled at local agency level is the continuing scandal of young people being charged with comparatively trivial offences committed within local authority residential units. Whilst it is vitally important to protect and support residential staff, this is not achieved by criminalising the children for whom they are responsible.

Towards the end of the period during which fieldwork was conducted, annual figures showed that 27 % of the looked after population (aged 10-17 years old) had offended whilst in Care compared with 2.8% of the general population for this age group. Of the children 'looked after' who had offended for the first or second time (who duly received Reprimands and Final Warnings), just under half of the offences were for Criminal Damage and around 90% of these were committed within Residential Units. Meanwhile, of the pre-sentence reports written on children 'looked after', all were placed in residential units at the time of the offences being committed. Almost half of these offences - typically, minor assaults, Criminal Damage and Public Order - were committed on the premises of the residential units. That this is not a problem confined to Porthglo is confirmed by other research (Taylor, 2006). Those cases that are referred to the police should be reviewed critically (NACRO 2003b), whilst consideration should also be given to applying restorative justice principles and mediation practices *outside* of the criminal justice system.

Thirdly, the importance of receiving independent advice and advocacy services for children and their parents needs to be emphasised. Service users need to understand in detail the implications of, for example, the difference between Sections 20 and 31 of the Children Act 1989. This should include explanations about the different levels of support available under each section and the degree of autonomy allowed in practice. Chapter 5 and the other case summaries also illustrated cases where young people and parents could have been better advised and supported in relation to various educational options. That advocacy services exist is not disputed. The fact that independent advice and advocacy were not accessed in most case is a cause for concern.

Fourthly, the importance of honest, enduring and consistent relationships with practitioners has already been highlighted. The challenge, however, is to provide a degree of stability in an occupational environment that is characterised by continuous change. Even in cases where practitioners stay in post over comparatively long periods of time, as in the case of Lawrence Walker, professionals become ill and take holidays. Whilst establishing a good core relationship with a supervising practitioner is clearly

vital, it is equally important that a young person feels at ease with other members of the Team. As indicated previously, a balance needs to be struck between exclusive practitioner-service user relationships and the worst excesses of bureaucratic case management. However, the importance of building supportive 'relationships' with young people underlines the need to establish strong ties in the community. The Bonnemaïson experience is an instructive one for those committed to investing in long-term youth work strategies to reduce youth crime in poor neighbourhoods (Walden-Jones, 1993; King, 1988, 1989; Pitts, 1995, 1997, 2003). The positive role that mentoring can play in helping young people move out of positions of social exclusion has also been evidenced (Newburn & Shiner, 2005; Porteous, 2005). However, the same problem of instability that characterises professional relationships can also afflict mentoring: put simply, mentors move on, too. Often mentoring is an initial step in gaining experience before entering training for full-time youth work or social work. In the circumstances, the importance of service users making meaningful, pro-social, 'mainstream' connections in the local community would appear to be a high priority. Although no single relationship can be relied upon forever, by establishing such networks in their localities young people are probably more likely to achieve some degree of stability.

A fifth proposal is taken directly from Trevor Bushell. For Trevor, it was important to provide opportunities for young people to get a legitimate 'buzz'. He argued:

"Open a few more youth centres and clubs: somewhere for them to go and hang around, 'coz like in Treallan (a deprived part of Porthglo) there's nothing to do. You get all these gangs of kids hanging around places. You need to stick something there for 'em, give them something to do. That's what I think. They should work a lot more with the younger kids so that they don't grow up to be like me."

Like most sound ideas, this may not be particularly original. It has the advantage, though, of being based on the authentically 'lived experience' of someone who spent a lot of time 'hanging around' with little to do.

The sixth proposal is that clarity around occupational role boundaries needs to be established and clear codes of practice established in relation to the way in which confidential information is shared. The danger of multi-agency teams and multi-disciplinary working is that information given to a professional for one purpose can be used for quite different purposes by either the same practitioner or colleagues. Thus, for example, 'confidential information' disclosed by a service user for welfare purposes can be used as 'intelligence' in the criminal justice domain. This is not necessarily an argument for a return to the 'systems integrity maintenance of the 1980's (Haines & Drakeford, 1998), but there is a strong case for establishing clear protocols and ensuring that service users are made aware of these 'rules of engagement' to which practitioners should conform.

The final proposal concerns the previously mentioned theme of the 'widening framework' and 'diminishing child'. Under current juridical arrangements the court has a legitimate concern for such wider considerations as victim impact and public protection. For the YOT practitioner, however, there seems to be an urgent need to reclaim the role of welfare. In some of the post-1998 PSR's analysed as part of the fieldwork, this author was struck by the philosophical confusion at the heart of some of these documents. Whilst most authors appeared committed to the welfare of young people, they also seemed to be pulled in different directions: by the demands to comment authoritatively on public protection, risk of reoffending and victim impact. Given the way in which the significance of the child has been diminished in this quasi-actuarial criminal justice equation, it is important that - at the very least - the principle of welfare being paramount is re-instated in the mind of the practitioner as the guiding lodestar. Practitioners' reassertion of the child's welfare being paramount could represent a critical counterweight to the trend to responsiblise the child and condemn the parent. Whilst presentence reports may still have to be prepared in line with *National Standards*, the centre of gravity should shift in favour of the least powerful person in the courtroom. At its most basic, it means ticking a checklist that includes reminding the court that the 'defendant' is a child with a first name; it means, in the post *doli incapax* era, commenting on the maturity and the limitations of the young person; it means locating

the young person in context, pointing out the disadvantages experienced whilst at the same time finding something positive to say about her/him; it means highlighting areas of life where duties to the child have not been discharged and where there have been shortfalls in services (and this may imply criticism of colleagues); and, crucially, it means being clear about the risks that the criminal justice system poses to the child. These are hardly revolutionary proposals. Rather, they represent good practice.

Practitioners cannot do everything. They cannot change the youth justice system alone and they cannot do everything they might wish for the welfare of each young person. Social work practice is very often about priorities; it is about selecting maybe just one or two things in a service users' life in the hope that this will set off a positive chain reaction. Bernice Hughes invoked a youth work metaphor to help explain her work with young people.

“An old youth worker once said to me that a young person is like a rocket pointing at the moon and if you can move that rocket by one degree then you can avoid total destruction.... A case will have lots of things in it. You can't do everything, but if you can just move that rocket by one degree you can change the course of a life.”

And altering trajectories is, after all, a central concern of this dissertation.

8.4: Welfare versus Punishment or Welfare AND Punishment?:

Punishment may not be the dominant judicial principle in relation to young people in England and Wales, but the cultural context within which the current youth justice system operates is essentially punitive (Muncie, 2004b). Tonry (2004) has spoken of this punitive culture, of which Wales is a part, as “*English exceptionalism*” (Tonry, 2004: 51-70) when compared with most other Western European countries. Part of the explanation may reside in the UK's Janus-faced relationship with continental Europe: peering through the fog of the Channel at our closest foreign language-speaking neighbours and, at the same time, gazing across the Atlantic to English-speaking North America. Tonry places the UK's acquiescence to New Labour's authoritarian crime control policies in context:

“First, English culture is now more risk-averse than other Western cultures. People feel aggrieved and threatened by crime and are especially susceptible to law-and-order appeals. This may be a perverse and unintended side-effect of two decades’ governmental focus on crime prevention initiatives. Second, English culture accords little respect to offenders as human beings entitled to equal respect and concern, and human rights values therefore play less of a restraining influence than elsewhere on the treatment of offenders and prisoners. Third, English cultural values are more punitive toward offenders than are those of many other Western countries.”
(Tonry, 2004: 53)

Police officers and some probation officers may believe that the punishment of children via criminal sanctions serves some higher purpose and, ultimately, may even help the young person. Interestingly, none of the practitioners I interviewed, including police officers and probation officers, used the terminology of punishment. Social workers, moreover, tended to declare themselves against criminal punishment. They subscribed - variously - to a smorgasbord of help, treatment, support and empowerment. Nevertheless, punishment was spoken of in more coded terms by the use of such keywords as ‘boundaries’, ‘structure’, ‘discipline’, ‘containment’, ‘protection’ and ‘risk management’. Although one social worker spoke more clearly in terms of the need for custody in some cases, this was not typical.

For the most part, social workers and YOT practitioners tended to construct ‘punishment’ as something that other people did. Having said that, the case summaries are replete with examples of minor acts of collaboration with the forces of punishment: sins of omission, inaction, sleight-of-hand responsabilising techniques and Pontius Pilate PSR’s. Punishment is a part of practitioner culture, but it is not always spoken about openly. It is the unspoken judicial principle of social work practice.

Having said all of that, of course, many practitioners do promote the values of child welfare in the courtroom. Numerous examples of such practice have been cited in this dissertation. As will now be apparent, though, welfare - like punishment - can take many forms. Thus, we should not be reassured by Burnett & Appleton’s (2004: 50)

messages from research concerning the resilience of social work and the “*resurgence in welfarism*” in the new YOT’s. Social workers are not necessarily trustworthy custodians of the welfare principle. This author takes the position that welfare intervention should be linked to a children’s rights agenda. Failure so to do risks infantilising young people and ignoring their strengths, resourcefulness and capacity to act independently. The transition from childhood to young adulthood is complex. The developing competences of young people will vary enormously. But, as Scraton and Haydon (2002: 324-325) comment:

“Dealing with such complexity does not require the moral certainty, inflexibility and universalism of a renewed justice model, but the adaptability of a rights-based welfare approach. To move away from a ‘justice’ or just deserts approach, however modified or rationalised, to a more radical welfare approach does not necessarily mean a return to hidden, arbitrary and discretionary punitive welfare interventions. Proportionality, protection, review, transparency and accountability can be built into professional practice, as can safeguards against net widening. Of course, widespread revelations of institutionalised physical, emotional and sexual abuse of children in residential care demonstrate how adults responsible for the care and protection of children can abuse their power. Such revelations, however, reinforce arguments for reforming welfare interventionism rather than further extending the criminal justice system....”

“The real potential of a positive rights-based welfare approach is its challenge to constructions of children as innocent, vulnerable and weak through promoting their right to information, expression of views and their participation in decision-making.”

The case for a rights-based approach to welfare - one that is underpinned by principles of due process and access to key information - is widely accepted and, in the case of children in public care, very powerful (Waterhouse, 2000). The case for extending this approach to those who offend may run against the grain of ‘English exceptionalism’, but it is surely an irrefutable argument when those children are simultaneously part of both the public care and criminal justice systems?

It has been the consistent argument of this thesis that the principles of ‘punishment’ and ‘welfare’ are not – as has been argued elsewhere in the literature (Haines & Drakeford, 1998) – in a relationship of binary opposition. One does not have to subscribe to a

Foucauldian thesis on the ‘dispersal of discipline’ (Foucault, 1977; Cohen, 1985) in order to acknowledge the slippage between these key concepts. Rather, ‘welfare’ and ‘punishment’ represent slippery, and often self-serving, ideas that are difficult to distinguish from one another in terms of both intent and effect. Moreover, the concepts camouflage a continuum of practices that can be experienced by recipients in very different ways. Just as child incarceration can be promoted as serving the interests of welfare, so too can a community programme be commended on the basis of its punitive ethos. It is therefore less a case of ‘punishment’ *versus* ‘welfare’ as one of ‘punishment *and* ‘welfare’. As has been noted, different young people will experience interventions in sometimes quite different ways. However, this thesis has hopefully identified – in empirical terms - some practices that are ultimately harmful to young people as well as those that promise to be more helpful.

For the time being, the aim of practitioners in both the welfare and criminal justice systems must be to limit the damage of their interventions and support, in practical ways, the aspirations of young people like Nicole Madhur who, when asked about her future, replied:

“After the baby I want to go to college and get a good job: be a medical person or doctor or something good. I want to be a first class person, do you know what I mean? Not, like, a third class person. A first class person.”

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Appendix 1: Legislative Framework:

Child Curfew Schemes were designed with the avowed intention of addressing the ‘problem’ of young children being allowed in public places without adult supervision late at night. Although it was presented in some quarters as a ‘child protection’ measure, it was also made clear that unsupervised children ran a high risk of becoming involved in crime. Thus, Section 14 of the Act states that,

“A local authority may make a scheme...if...the authority considers it necessary to do so for the purpose of maintaining order.”
(Crime and Disorder Act 1998: Section 14)

In consultation with the police, the local authority could put a Scheme in place for up to 90 days in a specified and clearly defined locality with specified hours between 9.00 p.m. to 6.00 am. Although initially targeted at those children aged under 10 years, it should be noted that the Criminal Justice and Police Act 2001 extended such Curfew Schemes to those under the age of 16 years (Sections 48-49). In the event of a juvenile breaching the Curfew Scheme the police are required to return her/him home (unless there is concern for the child’s safety). Under Section 15 (2) the police must inform the local authority Social Services Department who must then visit the family of the unsupervised child within 48 hours (Section 15.4). The purpose of the visit by Social Services is to assess the need for further intervention and/or support. Section 47 of the Children Act 1989 was duly amended to facilitate an investigation by the Social Services Department where a child,

“(iii) has contravened a ban imposed by a curfew notice and...the inquiries shall be commenced as soon as practicable and, in any event, within 48 hours.”
(Children Act 1989: Section 47)

This is an interesting development in that the investigation is not based on specific concerns about any ‘risk of harm’, but simply on non-compliance with a blanket order. This amendment therefore represents a significant shift in the relationship between the state and the private domain of family life. It has been pointed out that, in line with the

experience of some other countries, such Curfew Schemes are likely to impact more directly upon poor neighbourhoods and certain minority communities (Butler & Drakeford, 1998; Drakeford & Butler, 1998).

The **Child Safety Order** (Crime and Disorder Act 1998: sections 11-13) effectively conflates welfare and essentially criminal justice considerations in respect of those below the age of criminal responsibility. The Orders are made in the Family Proceedings Court on the application of the local authority. Whilst the Welfare Principle (Children Act 1989: section 1) is the paramount consideration, it is worth noting that, unlike other child welfare proceedings, a 'children's guardian' cannot be appointed. Moreover, there is no provision for independent legal representation for the child.

If the purpose of the new Order was too strengthen child protection practice, it is difficult to understand in which ways pre-existing provisions were failing. An Emergency Protection Order (Children Act 1989: section 44) or Interim Supervision Order (section 35) would appear to cover most of the situations in which swift protective action was assessed as being needed. It is therefore reasonable to conclude that the intention of the Order was to widen the criminal justice net to include those who had yet to attain the age of criminal responsibility. Indeed, it is difficult to place any other interpretation on this intention when the relevant section is subjected to even the most cursory analysis. An Order can be made on a child below the age of 10 years when one or more of the following conditions apply,

- “ (a) the child has committed an act which, if he had been aged 10 or over, would have constituted an offence;*
 - (b) a child safety order is necessary for the purpose of preventing the commission of an Act as mentioned in paragraph (a) above;*
 - (c) the child has contravened a ban imposed by a curfew order notice; and*
 - (d) the child has acted in a way that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself.”*
- (Crime and Disorder Act 1998: section 11 (3))

Child Safety Orders can be made for a maximum of three months and are supervised by a

'responsible officer' assigned from either a Social Services Department or Youth Offending Team. It should be remembered, of course, that if the Order is allocated to a member of a Youth Offending Team, it is possible that the child will be supervised by someone who does not necessarily possess any social work training (a police or probation officer, for example). The Court can attach additional requirements to the Order. Such requirements might include restrictions of liberty in terms of forbidden public places (like particular streets or parks), forbidden times out of the home (*de facto* curfews) and forbidden personal associations (including peers). A requirement to participate in a particular activity might also be attached (e.g., attendance at sessions with a psychologist). Failure to comply with any aspect of the Child Safety Order can result in the Order being varied or, ultimately, discharged in favour of a Care Order (Children Act 1989: section 33). Although a 'Child's Guardian' would be appointed at this stage in order to assess the child's best interests, it should be noted that this represents a new - and many would say, disturbing - 'criminal' route into public care. Crucially, the threshold criteria contained in Section 31 of the Children Act 1989 does not need to be met; namely,

- “(2) A court may only make a care order or supervision order if it is satisfied -*
- (a) that the child concerned is suffering, or is likely to suffer, significant harm; and*
 - (b) that the harm, or likelihood of harm, is attributable to-*
- (i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give him; or*
 - (ii) the child's being beyond parental control.”*
- (Children Act 1989: section 31)

The potential for the Child Safety Order becoming a mechanism for criminalising very young children has been made perfectly clear (Piper, 1999). The possible use of the public care system as an almost 'criminal' sanction should also not be discounted.

The **Parenting Order** strengthens both the legal and aetiological links between juvenile offending and parental responsibility. The Order can be made in the Family Proceedings

Court as well as the criminal courts provided that one of the following conditions are met:

“...where in any court proceedings –

- (a) a child safety order is made in respect of a child;*
- (b) an anti-social behaviour order or sex offender order is made in respect of a child or young person;*
- (c) a child or young person is convicted of an offence; or*
- (d) a person is convicted of an offence under section 443 or section 444 of the Education Act 1996.”*

(Crime and Disorder Act 1998: section 8(1))

Some of the detail of the Anti-Social Behaviour Order will be considered in due course. The above-mentioned sections of the Education Act 1996, meanwhile, refer respectively to non-compliance with a School Attendance Order and a more general parental failure to ensure the regular school attendance of a child.

A Parenting Order can be made for a maximum of twelve months. The Order is supervised by a specified ‘responsible officer’. ‘Responsible officers’ can include probation officers, social workers employed by the local authority Social Services Department, a member of a local Youth Offending Team or a “...*a person nominated by a person appointed as chief education officer under section 532 of the Education Act 1986*”. However, the Home Office Guidance states that the said officer,

“...will generally be a member of the local youth offending team. It is the duty of the youth offending team to co-ordinate the provision of persons to act as responsible officers under a parenting order (section 38(4)(f)) and how this is to be delivered should be set out in the local youth justice plan (section 40(1)).”
(Home Office Guidance on the Crime and Disorder Act 1998 Website: 3.2).

A Parenting Order can comprise two elements. The heart of the Order involves parents attending a maximum of twelve ‘counselling’ or ‘guidance’ sessions. These do not take place more frequently than once a week. The Home Office guidance (Home Office Guidance on Crime and Disorder Act 1998: website) explains the purpose of the sessions as a place where parents will,

“...receive help and support in dealing with their child. This element will normally form the core of the parenting order.... They will be able to learn, for example, how to set and enforce consistent standards of behaviour, and how to respond more effectively to challenging adolescent demands”.

(Home Office Guidance on the Crime and Disorder Act: website, 3.1).

In addition to the requirement to attend such ‘counselling’ or ‘guidance’ sessions as are scheduled by the ‘responsible officer’, the Order may contain additional requirements that can last for a period not exceeding a year. The Guidance explains that this second element of the Parenting Order can involve,

“...requirements on the parent or guardian to exercise control over their child’s behaviour. These could include seeing that the child gets to school every day, or ensuring that he or she is home by a certain time at night.”

(Home Office Guidance on the Crime and Disorder Act website: 3.2).

Like many of the other measures contained in the Crime and Disorder Act 1998, the Parenting Order is presented in some quarters as an essentially helpful intervention. The fact that the Order can involve personnel from outside the criminal justice system could be read, at one level, as evidence of a welfare mission. Alternatively, the appearance of the Parenting Order in the Welfare domain could be interpreted as the arrival of a Trojan horse. Could the co-option of Social Services personnel represent an insidious process of colonisation by the criminal justice system? The Guidance would certainly suggest that some degree of annexation is taking place.

“The operation of the parenting order, in the family proceedings court or in a magistrates’ court acting under civil jurisdiction, may fall outside the formal youth justice system, that is the system of criminal justice for offenders aged 10-17. However, the parenting order is intended, by reinforcing or securing proper parental responsibility, to prevent offending, which section 37 of the 1998 Act establishes as the principal aim of the youth justice system. That section also requires all those working within the youth justice system, in addition to any other duties to which they are subject, to have regard to that aim. It therefore helps set the overall framework within which work with young offenders, and their parents, be undertaken.”

(Home Office Guidance on the Crime and Disorder Act 1998: website, 3.4)

This passage of the Guidance seamlessly co-opts into the youth justice system those outsourced personnel who actually deliver the Parenting Orders. The annexation of the Welfare domain is confirmed in the sanctions that are available to the Court for those parents who fail to attend to comply with the requirements of their Parenting Orders. They, like their children, are duly criminalised by way of a financial penalty (a maximum of £1,000) or Community Rehabilitation Order.

The essential hybridity of the **Anti-Social Behaviour Order** is exemplified by the fact that the breach of this *civil* Order is a *criminal* offence. Although the Order can be made in respect of adults as well as children as young as 10 years, the general background discourse against which this new measure was framed was that of young people's challenging and disorderly behaviour. According to the introductory Guide to the Crime and Disorder Act 1998,

"...it is intended that the order will be targeted at criminal or sub-criminal behaviour, not minor disputes between neighbours, or matters which can be dealt with effectively under existing legislation."
(Home Office, 1998 in Brammer, 2003, 275)

The Order is thus a central part of the government's net-widening strategy. It involves the *de facto* expansion of the criminal code to include minor misdemeanours, incivilities and public nuisances. An Anti-Social Behaviour Order can be made for a period of not less than two years and its effect is wide-ranging:

"(6) The prohibitions that may be imposed by an anti-social behaviour order are those necessary for the purpose of protecting them from further anti-social acts by the defendant –
(a) persons in the local government area; and
(b) persons in any adjoining local government area in the application without consulting the council for that area and each chief officer of police any part of whose police area lies within that area."
(Crime and Disorder Act 1998: section 1(6))

The grounds for an Anti-Social Behaviour Order are set out within the statute in the

following terms:

“(1) An application for an order under this section may be made by a relevant authority if it appears to the authority that the following conditions are fulfilled with respect to any person aged 10 or over, namely –

- (a) that the person has acted, since the commencement date, in an anti-social manner, that is to say, in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself; and*
- (b) that such an order is necessary to protect persons in the local government area in which the harassment, alarm or distress was caused or was likely to be caused from further anti-social acts by him; and in this section ‘relevant authority’ means the council for the local government area or any chief officer of police any part of whose police area lies within that area.”*

(Crime and Disorder Act 1998: section 1 (1))

Crucially, of course, the evidence for the making of the Order does not depend upon satisfying the criminal threshold of proving a case ‘beyond reasonable doubt’. Rather, a civil case needs to be made on ‘a balance of probabilities’. This important point was emphasised in the case of *Clingham v. Kensington and Chelsea London Borough Council* (2001) which upheld the principle that ‘hearsay evidence’ was admissible. Thus, police officers could present such ‘evidence’ on the basis that witnesses were unwilling to be identified. A ‘case conference’ approach is the recommended preliminary process before applying to the court for an Anti-Social Behaviour Order,

“It is important that a multi-agency approach is adopted and that all agencies who may have some knowledge of the individual being considered for an order are drawn into the discussion at an early stage. Where appropriate a case conference approach should be adopted. For example, the probation service, social services department, health services and voluntary organisations may already be involved with the individual, or with other members of his or her family. Registered Social Landlords may need to be drawn into discussions on certain cases. Part of the local strategies could include a checklist of agencies that might be notified or consulted if an order is being considered.”

(Home Office Guidance on the Anti-Social Behaviour Order: Website, 3.6)

The widening of the ‘disciplinary net’ to include not only statutory but voluntary sector agencies is noteworthy. Latterly, ‘Acceptable Behaviour Contracts’ have been introduced by the police and local authority housing departments. This involves the ‘offender’ signing a ‘contract’ in which s/he agrees not to engage in further ‘anti-social behaviour.

The breach of these 'contracts' can be used subsequently as 'evidence' in applications for Anti-Social Behaviour Orders.

It is, however, the criminal sanctions that can be attracted by a breach of these civil Orders that is possibly of the greatest concern,

*“(10) If without reasonable excuse a person does anything which he is prohibited from doing by an anti-social behaviour order, he shall be liable –
(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
(b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.”*

(Crime and Disorder Act: section 1(10))

Having considered those new measures established under the Act that are designed to *prevent* offending, attention will now be directed to the range of disposals available in cases where a juvenile has committed an offence. Before presenting a brief summary of these disposals, it should be noted that the principle of *proportionality* established under the Criminal Justice Act 1991 has been reaffirmed in the consolidating statute, the Powers of Criminal Courts (Sentencing) Act 2000. Nevertheless, it is important to recognise that the principle of proportionality has, to some extent, been modified by the concept of the 'persistent offender'. An inter-departmental circular defined persistence in the following terms:

“...a persistent young offender is a young person aged 10–17 who has been sentenced by a criminal court in the UK on three or more separate occasions for one or more recordable Offences, and within three years of the last sentencing occasion is subsequently arrested or has an information laid against them for a further recordable offence.”

(Inter-Departmental Circular, 1997 in Brammer, 2003: 278)

Crucially, however, the Court of Appeal ruled that the concept of 'persistence' could not be established by government circular (an important finding in respect of other government-initiated practices and Standards). Nevertheless, in the case of *R – v – C (Young Person: Persistent Offender)* (2000), it was ruled that, for the purposes of making a Detention and Training Order, *persistence* was determined by the *facts* of each case.

Thus, in this particular case, it was held that the young person “*had burgled and had then done it again*” (quoted in Brammer, 2003: 278). The young person was, therefore, defined as a ‘persistent young offender’.

Another important modification to the principle of proportionality is present in the as yet unrepealed traditional welfare responsibilities of the court, as laid out in Section 44 of the Children and Young Persons Act 1933 and Children Act 1989 (Monaghan, 2000: 146). Whatever the offence, Youth Offending Team workers and social workers are still empowered to argue that the welfare of the child is paramount.

Pre-Sentence Report authors can be influential in presenting the mitigating and aggravating factors in respect of both the offence and the juvenile offender.

It should be noted, though, that increasing weight is given to the Youth Offending Team worker’s assessment of the risk of reoffending. Such risk assessments form an important section within the Pre-Sentence Report and inevitably shift judicial attention away from the offence that has been committed and towards the potential for future criminal infractions. On the basis of the foregoing discussion it will be seen that the principle of proportionality, as envisaged in the Criminal Justice Act 1991, has been subsequently diluted significantly by such substantive competing concerns as persistence, welfare and risk of future offending. However, National Standards and management diktat may have limited the scope for individual professional discretion by Youth Offending Team personnel, but they have certainly not eliminated it completely. It is against this background that the following synopses of the available Disposals should be considered.

Although any offence considered serious can result in formal prosecution, most first and second offences committed by juveniles will be dealt with outside of the court setting by way of **Reprimands** and **Final Warnings**. The Crime and Disorder Act 1998 (Sections 65-66) replaced the old multi-disciplinary cautioning system with a new and essentially police-managed one (Home Office, 2000). **Reprimands** are generally administered by police officers to first-time ‘offenders’ in the presence of an ‘appropriate adult’ and/or parent/guardian. Second, or more serious offences, generally attract **Final Warnings**.

Once again this Disposal will be administered by a police officer in the presence of an 'Appropriate Adult' and/or parent/guardian. It is also recommended that a Youth Offending Team worker is present on this occasion (Home Office, 2000: (XII) 50). What is different about the Final Warning, however, is that it may lead to early intervention by the Youth Offending Team. The Police are required to make a referral to the local Youth Offending Team within one working day (Home Office, 2000: (XIV) 57). The responsibilities of the Youth Offending Team are set out in the following terms,

"The youth offending team has a statutory duty to assess any young offender who has been referred following a warning and, unless they consider it inappropriate to do so, to arrange for the offender to participate in a rehabilitation (change) programme. On receipt of the referral notice from the police, the youth offending team manager, or a person nominated by him or her, should allocate a member of staff to deal with the assessment of each young person. Where possible, this should be the same team member who carried out any prior assessment."
(Home Office, 2000: (XIV) 58).

Non-compliance with a Rehabilitation (Change) Programme does not, in itself, constitute an offence. However, the consequences for failing to co-operate can have consequences for the juvenile and parents that go beyond the more immediate professional exhortations, admonishments and written warnings (Home Office, 2000: (XXI) 91-92), as the following passage indicates:

"The young offender will be expected to attend and take a satisfactory part in the rehabilitation activity. Failure to complete a rehabilitation programme delivered as part of a warning is not in itself an offence. However, successful programmes need sufficient incentive for young offenders and their parents to co-operate. For some young offenders the intrinsic benefits of the scheme will be enough; for others the legislation provides that failure to comply with the rehabilitation (change) programme may be cited in court in the event of the young person being prosecuted for a subsequent offence."
(Home Office, 2000: (XIX) 88).

Whereas previously a juvenile's pre-court history would not be known by the Court (or certainly not taken into consideration as a sentencing factor), a child's response to this new form of early intervention will now be detailed in the pre-sentence report.

Previously, cautions were perceived as an *alternative* to prosecution and the formal

criminal justice system. Now, however, pre-court *diversion* has not simply been replaced by pre-court *intervention*. In actual fact it effectively blurs the distinction between the two domains. This form of pre-court supervision is not an *alternative* to the formal criminal justice system. It actually represents an early point in an unbroken *continuum* of state intervention in young lives. Thus, the young person who fails to co-operate with pre-court supervision risks receiving a more punitive and intrusive disposal on a first court appearance than the juvenile who was compliant at this stage. It should also be noted that the Court's options are restricted when a first Court appearance is made within two years of a Final Warning being made. For these juvenile defendants no Conditional Discharge is available. Given the effectiveness of this particular disposal in terms of reconviction rates (Audit Commission, 1996) - some two thirds of young people completing the period of their Conditional Discharge successfully - it is ironic that the hands of sentencers have been thus tied.

At this juncture the main community-based disposals available to the court will be considered: namely, the Referral Order; Community Rehabilitation Order; Community Punishment Order; Community Punishment and Rehabilitation Order; Supervision Order; Action Plan Order; Drug Treatment and Testing Order; Attendance Centre Order; and Curfew Order.

The **Referral Order** was introduced by the Youth Justice and Criminal Evidence Act 1999 and has been consolidated by Sections 16 –20 of the Powers of Criminal Courts (Sentencing) Act 2000. The Order, available to those aged 10-17 years, is “...*the disposition of first choice for a first time offender pleading guilty*” (Brayne & Broadbent, 2002: 444). Referral Orders can be made for a period of between 3 to 12 months, depending upon the gravity of the offence. Within 15 days of the first Court Hearing a Youth Offender Panel is convened within which the detailed programme of work to be undertaken on the Order is negotiated. The composition of the Panel comprises, at the very least, the young person who has offended, “*an appropriate person*” (Powers of Criminal Courts Sentencing Act 2000, Section 20. (1) (a)) - which in the case of young people aged under 16 years will usually mean a parent or someone exercising parental

responsibility (in some cases, such as ‘children looked after’, this will be a representative of the local authority) – and,

“(a) one member appointed by the youth offending team from among its members; and

(b) two members so appointed who are not members of the team.”

(Powers of Criminal Courts (Sentencing) Act 2000, Section 21(3))

Additionally, the following people can also attend the Panel meeting:

“(3) One person aged 18 or over chosen by the offender, with the agreement of the panel shall be entitled to accompany the offender to any meeting of the panel (and it need not be the same person who accompanies him to every meeting).

(4) the Panel may allow to attend any such meeting –

(a) any person who appears to the panel to be a victim of, or otherwise affected by, the offence, or any of the offences, in respect of which the offender was referred to the panel;

(b) any person who appears to the panel to be someone capable of having a good influence on the offender.

(5) Where the panel allows any such person as is mentioned in subsection (4)(a) above (‘the victim’) to attend a meeting of the panel, the panel may allow the victim to be accompanied to the meeting by one person chosen by the victim with the agreement of the panel.”

(Powers of Criminal Courts (Sentencing) Act 2000, Section 22)

When the Panel reaches agreement, a ‘Contract’ is drafted which outlines the programme to be undertaken. In circumstances where a Contract of Work cannot be agreed the matter is referred back to the Court for adjudication (and, potentially, an alternative sentence). In those cases where there is agreement, the Contract is duly signed by the young person. The programme of work that may be undertaken is outlined as follows:

“(2) The terms of the programme may, in particular, include provision for any of the following –

(a) the offender to make financial or other reparation to any person who appears to the panel to be a victim of, or otherwise affected by, the offence, or any other offences, for which the offender was referred to the panel;

(b) the offender to attend mediation sessions with any such victim or other

- person;*
- (c) *the offender to carry out unpaid work or service in or for the community;*
 - (d) *the offender to be at home at times specified in or determined under the programme;*
 - (e) *attendance by the offender at a school or other educational establishment or at a place of work;*
 - (f) *the offender to participate in specified activities (such as those designed to address offending behaviour, those offering education or training or those assisting with the rehabilitation of persons dependent on, or having a propensity to misuse, alcohol or drugs);*
 - (g) *the offender to present himself to specified places or persons (or both);*
 - (h) *enabling the offender's compliance with the programme to be supervised and recorded."*

Powers of Criminal Courts (Sentencing) Act, 2000, section 23)

The Panel reconvenes periodically to review the young person's progress. If a young person has not complied with the programme of work, then the matter can be referred back to the court for adjudication and, possibly, re-sentencing. However, in those cases where the Referral Order is completed successfully the conviction is regarded as 'spent'. This, it is reasoned, is a major incentive for the young person to complete any programme of work agreed by the Panel.

The **Reparation Order** (sections 73-75 of the Powers of Criminal Courts (Sentencing) Act 2000) is one of the Orders that contain within it a clear element of restorative justice. It involves directly supervised reparation to the victim(s) of the crime (subject to the agreement of those affected by the offence) or, where this is not possible or appropriate, to the 'community at large' (Section 73.(1) (a) of the Powers of Criminal Courts (Sentencing) Act 2000). The maximum number of times to which a juvenile can be sentenced is in an aggregate total of twenty-four hours. The Order has to be completed within a period of three months. A Reparation Order will routinely involve a letter of apology written to the victim by the juvenile, repairing physical damage caused and undertaking voluntary work.

The **Action Plan Order** (sections 69-72 of the Powers of Criminal Courts (Sentencing) Act 2000) combines restorative justice elements like reparation with more 'traditional'

principles of punishment (in terms of restrictions on liberty) and rehabilitation (welfare issues being addressed via 'social work' supervision). Like the Reparation Order, it is an intensive intervention of no more than three months' duration. The progress of the Order can also be reviewed by the Court. This is to ensure that the Plan is being implemented properly. The young person is required to follow the directions of the 'responsible officer'. Requirements commonly found in Action Plan Orders include,

- “(a) to participate in activities specified in the requirements or directions at a time or times so specified;*
 - (b) to present himself to a person or persons specified in the requirements or directions at a place or places and at a time or times so specified;*
 - (c) subject to subsection (2) below (that is, an offence punishable by imprisonment), to attend at an attendance centre specified in the requirements or directions at a place or places and at a time or times so specified;*
 - (d) to stay away from a place or places specified in the requirements or directions;*
 - (e) to comply with any arrangements for his education specified in the requirements or direction;*
 - (f) to make reparation specified in the requirements or directions to a person or persons so specified or to the community at large; and*
 - (g) to attend any hearing fixed by the court under section 71 below.”*
- (The Power of Criminal Courts (Sentencing) Act 2000: Section 70. (1))

Any breach of the Action Plan Order's requirements (or, indeed, that of a Reparation Order) may result in a fine not exceeding £1,000; the imposition of a Curfew order; or the making of an Attendance Centre Order. Moreover, depending upon the status of the Court in which the Order was made, the Order can be revoked and a sentence passed that is commensurate with the original offence.

Although **Curfew Orders** (Sections 37-40 and Schedule 3 of the Power of Criminal Courts (Sentencing) Act 2000) can only be made with the consent of the 'offender', it is important to recognise that they represent a major restriction of liberty on juveniles. An Order will require a young person to stay in a specified place for any period between two and twelve hours in a twenty-four hour period. The specified place will commonly be the young person's home or other place of abode. Orders of up to twelve months can be made on children aged 12 – 15 years and six months for those aged between 16 and 17 years. The Order is supervised by a designated 'responsible officer'. It should be noted

that the Curfew Order may be 'enhanced' by the use of electronic monitoring or 'tagging' (PCC(S)A 2000, Section 38).

Attendance Centre Orders (Power of Criminal Courts (Sentencing Act) Act 2000, Sections 60-62) can be made on children between the ages of 10 and 17 years for periods of between 12 and 36 hours. The Centres are generally open on Saturdays and thus, effectively, impinge upon young people's normal leisure time. Whilst the Attendance Centre regime should not be likened to the 'short, sharp shock' of the 'boot camps', it should be noted that they are nevertheless administered by the police: activities are thus organised within an ethos of brisk discipline. Attendance Centre Orders thus link offending behaviour very clearly with restriction on liberty and punishment.

A **Drug Treatment and Testing Order** (Powers of Criminal Courts (Sentencing) Act 2000) are available to those aged 16 years or over for a period of between 6 months and 3 years. The Order can only be made with the consent of the 'offender' and in cases where it can be demonstrated that the young person concerned is 'dependent' upon drugs ('dependency', of course, is a slippery concept and is ultimately determined by professional judgement) and that this dependency is susceptible to treatment. Orders can be 'strengthened' by a required residential component. Throughout the duration of the Order young people will be routinely tested in order to establish whether they have any prohibited drugs in their systems.

A **Community Rehabilitation Order** (Powers of Criminal Courts (Sentencing) Act, 2000: sections 41-45) was, until the passage of the Criminal Justice and Courts Services Act 2000, formerly known as a Probation Order. It is available only to those aged 16 years and above and can be made for a period of between 6 months and 3 years. The twin aims of the Order are rehabilitation of the 'offender' and public protection. As with Supervision Orders, additional requirements can be attached to the Community Rehabilitation Orders. Examples of such conditions would include residence requirements; specified activities (attendance at a cognitive behavioural group, for example); co-operation with psychiatric treatment; and attendance at alcohol or drug

education groups.

Community Punishment Orders (Powers of Criminal Courts (Sentencing) Act 2000) were previously known as Community Service Orders. The Orders - that can be made on those aged 16 years and above – involve the commission of unpaid work that benefits the wider community. Orders can be made for a minimum of 40 hours and a maximum of 240 hours. It is interesting to note that the original concept of *community service* was based on the principle of reparation. Given the Labour government's professed commitment to restorative justice it is, therefore, rather ironic that this order should have been re-branded as *community punishment*.

The old Combination Orders have also been re-named as **Community Punishment and Rehabilitation Orders**. The *community punishment* part of the Order comprises 40 to 100 hours whilst the *rehabilitation* element can last between 1 and 3 years.

Supervision Orders can, of course, be made under the Children Act 1989 (Part IV). It is worth bearing in mind the aims of these Civil Orders before considering those of supervision orders made within the criminal justice context. Supervision Orders made within the framework of the Children Act 1989 are underpinned by child welfare principles. The aims of the Order are set out in Section 35:

“(1) Whilst a supervision order is in force it shall be the duty of the supervisor –
(a) to advise, assist and befriend the supervised child;
(b) to take such steps as are reasonably necessary to give effect to the order; ...”
Children Act 1989 (Section 35 (1)).

Supervision Orders can be made on those aged less than 17 years where the welfare threshold is satisfied.

“(2) A court may only make a care order or supervision order if it is satisfied –
(a) that the child concerned is suffering, or is likely to suffer,

- significant harm; and*
- (b) *that the harm, or likelihood of harm, is attributable to –*
- (i) the care given to the child, or likely to be given to him if the order were made, not being what it would be reasonable to expect a parent to give him; or*
- (iii) the child's being beyond parental control."*
- (Children Act 1989: Section 31 (2))

The key terms used within this section are defined more closely in other sections, as well as case law. Thus,

“‘Harm’ means ill-treatment or the impairment of health or development; ‘Development’ means physical, intellectual, emotional, social or behavioural development; ‘Health’ means physical or mental health; and ‘ill treatment’ includes sexual abuse and forms of ill-treatment which are not physical.”

(Children Act 1989: Section 31(9)).

The legal definition of ‘significant harm’ is provided in subsection 10:

“Where the question of whether harm suffered by a child is significant turns on the child’s health or development, his health or development shall be compared with that which could reasonably be expected of a similar child.”

(Children Act 1989, Section 31(10))

As previously mentioned, these definitions have been further refined by case law (*Re O (A Minor)(Care Order: Education: procedure) [1992] 2 FLR 7; Northamptonshire County Council v S [1993] Fam 136; C v. Solihull Metropolitan Borough Council [1993] 1FLR 290; Re D (A minor) (Care or Supervision Order) [1993] 2 FLR 423; Humberside County Council v. B. [1993] 1 FLR 257; Newham London Borough Council v. AG [1993] 1 FLR 281; Re H (A Minor) (Section 37 Direction) [1993] 2 FLR 541; M v. Birmingham City council [1994] 2 FLR 141; Re M [1994] 3 WLR 558; Re H and R (Child Sexual abuse: Standard of Proof) [1996] 1 All ER 1; Re W (2000) CA (unreported); Lancashire County Council v. B [2000] 1 FLR 583, HL; Re G (Children) (Care proceedings: Threshold Criteria) [2001] 1 WLR 2100; and Re O (A child) (Supervision order) (2001), *The Times*, 20 February. For the purposes of this Appendix, however, the above-quoted*

sections and subsections of the Children Act 1989 hopefully evidence the nature of the welfare philosophy that animates the *civil* Supervision order.

Whilst the ***criminal Supervision Order*** (Powers of the Criminal Courts (Sentencing) Act 2000: Sections 63-68) undoubtedly still bears the traces of welfare, the aim of challenging or, perhaps more accurately, containing *criminal* behaviour is - as one would expect - much more deeply inscribed in the Order. The child welfare-focused supervision order of the Children and Young Persons Act 1969 is duly amended by the Powers of Criminal Courts (Sentencing) Act 2000 to become a tougher, more controlling and clearly bounded version of supervision. Thus, whilst the traditional welfare function of 'advise, assist and befriend' remains intact, the requirements to which a juvenile aged between 10 and 17 years (for up to three years) can be legally subject are potentially both highly prescriptive and restrictive of child behaviour. Some of the additional requirements to which children can be made subject are contained in Schedule 6 of the 2000 Act.

A juvenile can be required to reside with a named individual (PCC (S) A 2000: schedule 6, section 1) and comply with the directions of the supervisor:

"...a supervision order may require the offender to comply with any directions given from time to time by the supervisor and requiring him to do all or any of the following things -

- (a) to live at a place or places specified in the direction for a period or periods so specified;*
- (b) to present himself to a person or persons specified in the directions at a place or places and on a day or days so specified;*
- (c) to participate in activities specified in the direction on a day or days so specified."*

(Powers of Criminal Courts (Sentencing) Act 2000: schedule 6, 2(1)).

It is worth considering here in some detail the nature and extent of the activities to which juveniles can be subject by statutory requirement. In addition to the kind of specified activities that traditionally formed the basis of much statutory supervision (Intermediate Treatment Groups, for example) it can also include reparation and night restrictions.

Thus,

- “(2)...a supervision order ...may require the offender - ...*
- (d) to make reparation specified in the order to a person or persons so specified or to the community at large;*
 - (e) to remain for specified periods between 6 p.m. and 6 a.m. –*
 - (i) at a place specified in the order; or*
 - (ii) at one of several places so specified;*
 - (f) to refrain from participating in activities specified in the order –*
 - (i) on a specified day or days during the period for which the supervision order is in force; or*
 - (ii) during the whole of that or a specified period or a specified portion of it;*

and in this paragraph ‘make reparation’ means make reparation for the offence otherwise than by the payment of compensation.”
- (Powers of Criminal Courts (Sentencing) Act 2000: schedule 6, sections 3 (2), (d) – (f)).*

Residence requirements can also include a condition to reside in local authority accommodation. The circumstances in which such a requirement can be attached to a Supervision Order are set out below,

“5. (1)...a supervision order may impose a requirement (‘a local authority requirement’ that the offender shall live for a specified period in local authority accommodation as defined by section 163 of the Act).

- (2) the conditions are that -*
- (a) a supervision order has previously been made in respect of the offender;*
 - (b) that order imposed -*
 - (i) a requirement under paragraph 1,2, 3 or 7 of this schedule; or*
 - (ii) a local authority residence requirement;*
 - (c) the offender fails to comply with that requirement, or is convicted of an offence committed while that order was in force; and*
 - (d) the court is satisfied that -*
 - (i) the failure to comply with the requirement, or the behaviour which constituted the offence, was due to a significant extent to the circumstances in which the offender was living; and*
 - (ii) the imposition of a local authority residence requirement will assist in his rehabilitation; except that sub-paragraph (i) of paragraph (d) above does not apply where the condition in paragraph (b) (ii) above is satisfied.”*

(Powers of Criminal Courts (Sentencing) Act 2000; schedule 6. sections 5(1) – (2))

The above requirement to reside in local authority accommodation can be imposed for a period of up to six months. In many respects this condition resembles the old Criminal

Care Order.

A requirement to submit to treatment for a 'mental condition' is available to the courts in those cases where the evidence presented by a registered medical practitioner approved for the purposes of the Mental Health Act 1983 (Section 12) indicates that the mental health of the young person,

*" ... (a) is such as requires and may be susceptible to treatment; but
(b) is not such as to warrant the making of a hospital order or
guardianship order within the meaning of that Act."*

(Powers of Criminal Courts (Sentencing) Act 2000; schedule 6, 6. (1)).

In circumstances where this paragraph applies, the court may require a young person to submit to one of the following forms of treatment:

*" (2) (a) treatment as a resident patient in a hospital or mental nursing home within the meaning of the Mental Health Act 1983, but not a hospital at which high security psychiatric services within the meaning of the Act are provided;
(b) treatment as a non-resident patient at an institution or place specified in the order;
(c) treatment by or under the direction of a chartered psychologist specified in the order.
(d) treatment by or under the direction of a chartered psychologist specified in the order."*

(Powers of Criminal Courts (Sentencing) Act 2000, 6. (2))

There are also powers to reinforce educational arrangements for children. Thus,

"...a supervision order to which this paragraph applies may require the offender, if he is of that age and the order remains in force, with such arrangements for his education as may from time to time be made by his parent, being arrangements for the time being approved by the local education authority."

(Powers of Criminal Courts (Sentencing) Act 2000, 7. (2))

Although **Sex Offender Orders** (Crime and Disorder Act 1998, sections 2-3) are aimed primarily at convicted adult sex offenders, they can be made in respect of any child who has attained the age of criminal responsibility (i.e., 10 years old). 'Sex offenders', as

defined by the Sex Offenders Act 1997, can be made subject of Sex Offender Orders for a minimum of five years. The purpose of the Order is essentially preventative in intention and, as a result, surveillance and risk management are key characteristics of its application in practice. Treatment is not part of its rationale. Registered sex offenders are thus required to have their names and addresses entered on a Sex Offenders' register and can be made subject to a range of preventive measures (such as being prevented from entering certain areas). Failure to comply with the Order is a criminal offence. There are, of course, many issues that arise from categorising children as 'sex offenders' (Myers, 2001; Masson & Hackett, 2005; and Stone, 2005).

Apart from those very grave offences covered by Sections 90-93 of the Powers of Criminal Courts (Sentencing) Act 2000, all previous custodial sentences have been replaced by the generic **Detention and Training Order**. The Order was established under Section 73 of the Crime and Disorder Act 1998 and is also covered by the Powers of Criminal Courts (Sentencing) Act 2000 (Sections 100 –107). The Order can be made on a young person aged 12-17 years (and, where the Home secretary gives approval, for those aged 10 and 11 years) for a maximum of twenty-four months. The aim is that fifty per cent of the sentence will be served under supervision in the community, although it should be mentioned that the period of detention served is actually indeterminate and depends upon the individual young person's progress and the 'risk assessments' undertaken by professional staff. Sentences can be served at a variety of 'secure' regimes: Secure Training Centres, Young Offender Institutions, Youth Treatment Centres and Local Authority (or other approved) secure accommodation.

Section 79 of the Powers of Criminal Courts Sentencing Act 2000 sets the threshold criteria for a custodial sentence.

- “(2) Subject to subsection (3) below, the court shall not pass a custodial sentence on the offender unless it is of the opinion –*
- (a) that the offence, or the combination of the offence and one or more offences associated with it, was so serious that only such a sentence can be justified for the offence; or*
 - (b) where the offence is a violent or sexual offence, that only such a sentence*

would be adequate to protect the public from serious harm from him.

- (3) Nothing in subsection (2) above shall prevent the court from passing a custodial sentence on the offender if he fails to express his willingness to comply with –
- (a) a requirement which is proposed by the court to be included in a community rehabilitation order or supervision order and which requires an expression of such willingness; or
 - (b) a requirement which is proposed by the court to be included in a drug treatment and testing order or an order under section 52(4) above (order to provide samples).

- (4) Where a court passes a custodial sentence, it shall –
- (a) in a case not falling within subsection (3) above, state in open court that it is of the opinion that either or both of paragraphs (a) and (b) of subsection (2) above apply and why it is of that opinion; and
 - (b) in any case, explain to the offender in open court and in ordinary language why it is passing a custodial sentence on him.”
- (Powers of Criminal Courts (Sentencing) Act 2000)

The precise circumstances in which the Detention and Training Order can be made are set out in the following terms:

“100. (1) Subject to sections 90, 91 and 93 [sentencing for grave offences] above and subsection (2) below, where –

- (a) a child or young person (that is to say, any person aged under 18) is convicted of an offence which is punishable with imprisonment in the case of a person aged 21 or over, and
- (b) the court is of the opinion that either or both of paragraphs (a) and (b) of section 79(2) above apply or the case falls within section 79(3),

the sentence that the court is to pass is a detention and training order.

- (2) A court shall not make a detention and training order –
 - (a) in the case of an offender under the age of 15 at the time of the conviction, unless it is of the opinion that he is a persistent offender;
 - (b) in the case of an offender under the age of 12 at that time, unless –
- (i) it is of the opinion that only a custodial sentence would be adequate to protect the public from further offending by him; and
- (3) A detention and training order is an order that the offender in respect of whom it is made shall be subject, for the term specified in the order, to a period of detention and training followed by a period of supervision.

- (4) *On making a detention and training order in a case where subsection (2) above applies, it shall be the duty of the court (in addition to the duty imposed by section 79(4) above) to state in open court that it is of the opinion mentioned in paragraph (a) or, as the case may be, paragraphs (a) and (b)(i) of that subsection.*"
(Powers of the Criminal Courts (Sentencing) Act 2000)

The definition of 'persistence', cited in 2 (a), is – of course - one that has exercised the minds of lawyers and policy makers for some time.

The part of the order supervised in the community can involve conditions additional to the standard reporting requirements. A young person subject to the supervisory component of the Order will not only be considered in breach if s/he reoffends, but also if s/he fails to adhere to the set requirements. Section 104 states,

"(1) where a detention and training order is in force in respect of an offender and it appears on information to a justice of the peace acting for a relevant petty sessions area that the offender has failed to comply with requirements under section 103(6)(b) above, the justice –

- (a) may issue a summons requiring the offender to appear at the place and time specified in the summons before a youth court acting for the area; or*
- (b) if the information is in writing and on oath, any issue for the offender's arrest requiring him to be brought before such a court.*

(2)...

(3) If it is proved to the satisfaction of the youth court before which an offender appears or is brought under this section that he has failed to comply with requirements under section 103(6)(b) above, that court may –

- (a) order the offender to be detained, in such secure accommodation as the Secretary of State may determine, for such period, not exceeding the shorter of three months or the remainder of the term of the detention and training order, as the court may specify; or*
- (b) impose on the offender a fine not exceeding level 3 on the standard scale."*

The Powers of Criminal Courts (Sentencing) Act 2000)

Appendix 2: Personal Cultural Biography and Intellectual Influences

This Personal Cultural Biography (McCracken, 1988) is not comprehensive in the sense of exploring every aspect of my personal history. It is, rather, a selective account of those intellectual and personal cultural influences that have very likely influenced the way in which I have approached this research project and – in particular – the data analysis. Reference has been made to the main body of the dissertation in order to illustrate the ways in which ideas have shaped the analysis.

Whilst I would not characterise myself as a theoretician, I do not consider myself intellectually allergic to abstract ideas. Making sense of the world is an activity in which every sentient being is engaged. The main challenge for me, though, has been to provide an account of my practice that is both theoretically lucid and candid. It would be comparatively easy to present a theoretically neat and tidy *post hoc* rationalisation of my research practice. All methodological accounts of research practice are, to some extent, convenient fictions that have been partially cleansed of the messy realities of doing the job. This is tacitly understood by all those actively engaged in the conduct and ‘writing up’ of research. The *post hoc* operation of ‘tidying up’ the mess is usually organised around appropriately selected theoretical principles. I experience some difficulties in constructing such a narrative because I cannot, in all candour, subscribe to any theoretical position with complete conviction. This intellectual agnosticism is borne of an ever deepening personal uncertainty and confusion about how, in a formal theoretical sense, the world can be ‘known’. Paradoxically, this loss of faith has coincided with a growth in certainty about what policy changes should be effected in the field of youth justice and other areas of social policy. This leaves me in the curious post-Marxist position of being incapable of defining the world, but knowing how I want to change it anyway. As far as my actual research practice is concerned, I effectively adopted an operational eclecticism. The data analysis, for example, moved - somewhat sceptically - between different theoretical approaches. As someone who is deeply suspicious of eclecticism this was profoundly ironic. Like McCracken (1988: 13-16), I am perhaps more comfortable with the term ‘ecumenical’. The potential for the cross-fertilisation of ideas and approaches is

duly highlighted:

“...taking up full citizenship in the social sciences is only the first of the qualitative researcher’s new responsibilities. It is also necessary to bring the several ‘tribes’ of the qualitative tradition into a state of useful cooperation. The goal of cooperation is complicated by the great diversity of approach that exists here. The development of each of these subgroups in the qualitative community has been fitful, divergent, and uncoordinated.”
(McCracken, 1988: 13-14).

It is part of this manifesto to eschew theoretical sectarianism in favour of an open-minded cosmopolitanism:

“The ‘fits and starts’ development and heterogeneous character of the qualitative community has discouraged the creation of a robust research agenda and well-worked theoretical models. Moreover, it has allowed each subgroup to neglect the work being done in other fields. The key issue here, then, is that future research must be co-ordinated and ecumenical. It is no longer enough to pursue research on an ad hoc basis, and it is no longer possible to ignore research activities and accomplishments in other fields. Too little work has been done on this question for any of us to afford the luxury of disciplinary isolationism.”
(McCracken, 1988: 15)

In the circumstances, it therefore seems appropriate to summarise my own intellectual journey. It is to be hoped that this brief account will assist the reader in understanding - if not necessarily agreeing - with the theoretical influences, the approach taken to epistemological questions and the practical business of ‘doing’ research.

Drawing sharp distinctions between theory and practice or - to take another example - facts and values, is impossible. The main intellectual influences on the way I approach epistemological questions are threefold: as a politically engaged private citizen; as an arts graduate who has been trained in literary criticism; and, finally, as a social work practitioner. These will be considered in turn. Subsequent studies in sociology, criminology and social policy have obviously helped to develop my thinking, but the above mentioned influences have shaped my reading in a more foundational sense.

Unsurprisingly, my understanding of politics emerged directly from the experience of being brought up in a lower middle class, Welsh, Labour-voting family living in England. Whilst being comfortably positioned in socio-economic terms, my parents experienced the depredations of working class life in the 1930's and my father fought in World War II. Male members of the extended family, employed as coal miners and railway workers, were active in the trade union movement. My maternal grandfather, moreover, had been a member of the Communist Party. My parents, however, were mainstream, centre left social democrats as well as being great admirers of the modernising leadership of Harold Wilson. Nevertheless, they conveyed a very clear message about the way the world was divided between the 'haves' and 'have nots': material conditions mattered. Money bought life chances and the lack of it condemned most to stunted lives. The role of the modern welfare state was to provide universal healthcare, security in adversity and, through the vehicle of high quality education, liberate the talents of the brightest for the benefit of all. Providing good services for ordinary people could transform lives and take them well beyond their origins. This was a lived experience for me and many like me. I belonged to a generation that enjoyed free milk and orange juice; attended comprehensive school; and later benefited from the expansion in higher education. From the outset, therefore, a strong sense of the importance of materiality was established.

When I read *The Communist Manifesto* (Marx: 1985) in my early teens, I didn't understand everything, worried about the cursory dismissal of national/cultural identities, and – most certainly - shrunk from the revolutionary call to arms. Nevertheless, whilst Marx spoke from a very different time to the one I inhabited, the class analysis of the ownership of the means of production had the force of sudden recognition. Despite the Old Testament quality of some of the text, there were some passages that glowed with the energy of contemporaneity. It somehow crystallised my own vague notions of social inequality. By privileging economic explanations of social life, my crude understanding of Marxism also complemented the sub-text of all those family narratives that had been conveyed to me over the years: the stories of depression, strikes, struggle and war. Even though I'd never really been anywhere else, Marxism was a kind of intellectual homecoming. Although I have been guilty of many intellectual infidelities in the

intervening years, this particular prodigal son still returns to his Marxist roots when dalliances with postmodernists prove disappointing. Whether this intellectual reflex is indicative of feeble-mindedness is for others to judge. In this research, though, I return repeatedly to the weight, solidity and obduracy of material conditions in young people's lives. Their individual biographies and family stories cannot be understood without reference to their economic and social position. Of course, other factors are also considered, but the Marxist legacy is highly visible. Other issues are certainly referenced, though: power relations between adults and children are explored, as are gender relations. Nevertheless, an essentially Marxist paradigm quite possibly infuses my reading of these issues.

These early Marxist influences have subsequently been refined and overlaid by the work of other Marxist theorists, cultural commentators and historians. Major influences have included Gramsci (1971), Hall (1983; 1988; 1996; and 1997), Hobsbawm (1989) and Williams (1979, 1958/1987, 1981 and 1983). Gramsci's analysis fitted more closely with developed civil societies in the West. Whilst such concepts as 'hegemony' and 'historic blocs' were still organised principally around dominant social class formations, Gramsci admitted as legitimate the independent agency of forces located outside them. This went far beyond the kind of short-term tactical alliances of Leninism (Lenin: 1964) and opened up the possibility of a popular democratic project. At the end of the twentieth century, for example, it allowed free access to insights from feminism, environmentalism, and other intellectual currents previously subordinated to the 'class struggle'. As far as this Appendix is concerned, however, the real relevance of the Gramscian analysis was its rejection of the deterministic economism of classical Marxism. The 'base/superstructure' relationship was duly reformulated to take account of the power and significance of culture as a quasi-autonomous force in civil society. Gramsci acknowledged the psychological power of internalised beliefs derived from wider culture and recognised their capacity to animate social movements. Far from being ephemeral, they were as important as 'material forces' and could "...assume the fanatical power of granite compactness..." (Gramsci, 1971: 377). The power of popular beliefs to define the 'commonsense' of an era was, of course, analysed with great acuity by Hall (1983) in

relation to Thatcherism. Whereas classical Marxism was inclined to approach such cases with a diagnosis of 'false consciousness' followed by an ideologically appropriate prescription, Hall and others acknowledged the legitimacy of at least some of the truth claims and aspirations that gave dominant ideologies their purchase on the popular imagination (individual freedom, choice, etc.). The acknowledgement of complexity and the contestation of values undermined the authority of classical Marxism but, at the same time, liberated many of its useful concepts for more reflexive use. Post-communist Left political theorists like Laclau and Mouffe (1985 and 1987), whilst affirming the power of material conditions also place considerable emphasis on the role of subjectivity and individual agency in transforming social structures. Mouffe's political philosophy of 'radical democracy' (Mouffe 1989 and 1992) is an example of a serious attempt to construct a form of politics that advances equality and liberty within the context of a developed, pluralistic society. Mouffe's ideas were, indeed, seized upon by some sections of the floundering communist parties of the West.

At this juncture, however, it makes sense to explain the influence of literature and literary criticism on my approach to social scientific research. As an important component of the research strategy has involved the reading and analysis of documents and texts, it seems necessary to acknowledge the influence of a literary education. Whilst some social scientists were preoccupied with the 'linguistic turn' in their discipline, at around that time I was probably struggling to follow the social scientific 's-bends' in literary criticism with the help of cartographers like Williams (1958/1987, 1981, 1983) and Eagleton (1976, 1978, 1983/1988, 1991). Both of these writers opened up my understanding of the relationships between literature, ideology, culture, politics and society. Their writings went well beyond some of the more reductive readings of the 'social realist' variety (Lukacs, 1977). In the last analysis, the influence of a liberal education in the humanities in the second half of the twentieth century has undoubtedly affected the way in which I read texts as an apprentice social scientist.

The influence of Williams, in particular, has been profound and lasting. However, I did not discover him until I was an undergraduate. Although I didn't realise it at the time,

because the powerful ideas and intellectual traditions were being mediated by teachers and lecturers, my early literary education at school and further education college fell under the twin influences of IA Richards (1929) and FR Leavis (1952,1972). On reflection it is quite surprising that whilst much of my education in history and geography was quite radical, the art of literary criticism was quarantined from the corrupting miasma of social context. Whilst I later reacted against the conservatism of the Leavisite canon, the influence of Richards was more than merely benign. It instilled a sense of clarity, discipline and focus when engaging with texts. The starting and finishing point of 'practical criticism' was always, quite simply, the text. As a student one was required to engage solely with the text where not only was the social context stripped out, but the authorship of the poem was withheld. The rationale was that the distracting clutter of biography, history and society needed to be cleared out in order to see the poem in focus. Being forced to engage with a de-authored, de-contextualised text invoked, simultaneously, a giddy insecurity and a sense of thrilling liberation. This emphasis on the primacy of the text did not allow one the lazy option of 'reading the historical context' into a written text, as if there were a mimetic relationship between literature and society. Of course, the problem with practising 'practical criticism' in the tradition of IA Richards is that it is ultimately impossible to evaluate a piece of writing on its own terms because both the writer and the reader are socially and historically situated. Eagleton makes this point in relation to Richards' original experiment with undergraduates. These students were given anonymised poems to analyse and evaluate. The judgements that followed were famously shown to be whimsical, subjective and, in many cases, 'wrong'. But as Eagleton notes, the most significant finding was lost on Richards.

"To my mind...much the most interesting aspect of this project, and one apparently quite invisible to Richards himself, is just how tight a consensus of unconscious valuations underlies these particular differences of opinion. Reading Richards' undergraduates' accounts of literary works, one is struck by the habits of perception and interpretation which they spontaneously share - what they expect literature to be, what assumptions they bring to a poem and what fulfilments they anticipate they will derive from it. None of this is really surprising: for all the participants in this experiment were, presumably, young, white, upper- or upper-middle-class, privately educated English people of the 1920's, and how they responded to a poem depended on a good deal more than

*purely 'literary' factors. Their critical responses were deeply entwined with their broader prejudices and beliefs. This is not a matter of **blame**: there is no critical response which is not so entwined, and thus no such thing as a 'pure' literary critical judgement of interpretation. If anybody is to blame it is I.A. Richards himself, who as a young, white, upper-middle-class male Cambridge don shared, and was thus unable to recognise fully that local, 'subjective' differences of evaluation work within a particular, socially structured way of perceiving the world."*

(Eagleton, 1983: 25)

Barrell (1988) has also drawn attention to the way in which 'universalistic' judgements about literary value are actually situated within the specifically local - often very parochial - social cultural practices of a social elite. Thus, the 'properly balanced text' is valued above harsher, shriller and more partisan voices.

"A properly balanced text...should be, it emerges, a place rather like a court of law or a dinner-table, where voices should never be raised above a certain register and where no utterance should be diffident or repetitious."

(Barrell, 1988: 135-136)

This notion that each reader - by virtue and vice of personal and social background - brings her/his own understandings, prejudices and blind-spots to a text has been developed. The notion that the reader, to varying degrees, is the co-writer of texts has been taken up by a number of critics and theorists. Barthes (1977), indeed, spoke in terms of the 'birth of the reader' and corresponding 'death of the author'. He rejected the notion that a text revealed "...a single 'theological' meaning (the 'message' of the Author-God)" (230). Fish (1980) meanwhile acknowledges that "*communication is a much more chancy affair than we are accustomed to think it*" (1980: 61) and advances the concept of 'interpretive communities'. He argues that a text's stability of meaning is established between different readers because they belong to the same interpretive community. However, membership of such communities is far from being fixed. One can move between different communities and acquire their respective interpretive strategies. This 'cosmopolitan' practice of moving between interpretive communities can open up fresh insights and identify 'absences' and 'silences' enfolded within the text. Macherey (1978) urged exploration of the shadows in the margins of the text. What is

left unsaid is sometimes as significant as what is expressed and represented. This insight is not, of course, confined to the rarefied air of the seminar room. The pre-sentence report author and the magistrate will recognise the veracity of this statement. The notion, though, that one can belong to more than one community at the same time is a liberating idea. The application of a variety of interpretive strategies on the same text has long been established practice in literary criticism. In truth, I have applied this almost 'playful' approach to texts used in my research (pre-sentence reports, case records, etc.). Such promiscuity does not always feel quite so comfortable in the social sciences, though. In the social sciences when one is asked to identify one's 'theoretical orientation' there is an echo of Salem. The uneasy feeling that a witch-finder general is seeking out doctrinal inconsistencies and inadvertent heresies is never very far away. The case for ecumenicism in the face of such theoretical inquisition can sometimes be difficult to defend without appearing intellectually shallow or insufficiently serious about one's puritan mission. The reflexivity and forensic skills that characterise good literary criticism can, though, illuminate texts in ways that revere and celebrate their complexity and multi-dimensionality. As a researcher, I have always felt comfortable working with texts. However, whether I read these as a fully inducted social scientist or as a literary critic is another question. I cannot claim to be a Williams or an Eagleton, but some of the more basic skills acquired from reading such writers have hopefully been transferred to the field of this modest social scientific endeavour. Perhaps the process of immersing oneself in a text, stepping back in order to establish some critical distance, trying to find connections between ostensibly different elements, following educated 'hunches' and recognising that there can never be any closure of meaning is not, after all, so very far removed from Glaser & Strauss' Grounded Theory (1968).

The notion that the reader brings meanings to the text needs to be considered alongside the idea that authors of texts - whilst being aware of conventions, target audiences and rhetorical devices - do not necessarily have the final word on the subject. It is enlightening to interview an author about the writerly strategies s/he deployed in the composition of a particular poem or pre-sentence report, but her/his explanation can only ever be considered as partial. As Calvino (1986) puts it:

“We can never forget that what books communicate often remains unknown to the author himself, that books often say something different from what they set out to say, that in any book there is a part that is the author’s and a part that is a collective and anonymous work.”
(pp. 101-102).

The same can be said about other texts that do not claim the high status of art. The pre-sentence report is, in my view, a highly developed genre in social work writing that is worthy of close analysis.

It will probably be clear by now that my point of entry into discourse theory and analysis has been via a literary route. Nevertheless, as will be noted in Chapters 2 and 3, Foucault (1977) has also had a profound influence on my ideas concerning punishment and non-custodial disciplinary regimes. It seems appropriate, therefore, to devote some space here to outlining my own position on discourse theory.

Whilst acknowledging the power of discourse over the way in which individual social actors understand and interact with the world through their engagement with pre-established social practices, there is a danger of presenting these ‘poor players who strut and fret their hour upon the stage’ as puppets or prisoners of the discourse. By the same token there may be an implicit denial of any reality outside of the discourse (in fairness this is probably a misreading of most discourse theorists). My position would be approximate to that of Laclau and Mouffe on both these points. Firstly, society is always in a state of flux and change. By definition there can never therefore be ‘closure’ in society. Social actors are not, in my view, condemned to reprise pre-scribed social practices or preordained roles in a never-ending Beckettian play. To paraphrase Marx, the conditions in which the drama takes place may not be freely chosen, but the actions taken by individuals most certainly can be selected because no society is a completely closed system. There are ‘openings’ in every discourse and script that allow degrees of authorship to individuals and social groups.

As far as the second point is concerned, Laclau and Mouffe (1985) acknowledge the 'reality' that exists outside of the discourse. However, the way in which that 'reality' is perceived and negotiated will bear some relationship to existing discourses. Perception may conform to the terms of reference as set out in a dominant discourse; react against, subvert or contest that dominant discourse; or, indeed, refine, 'reform' or hybridise the dominant discourse by introducing new elements. Perception cannot, however, exist independently of discourse. There has to be some kind of relationship in place. To some extent this argument is an extension of Epictetus' observation that it is not only events that shape people's lives, but people's perceptions of those events (Epictetus, 1994: 47). The following passage illustrates the relationship between 'events', perception and discourse.

*"The fact that every object is constituted as an object of discourse has **nothing to do** with whether there is a world external to thought, or with the realism/idealism opposition. An earthquake or the falling of a brick is an event that certainly exists, in the sense that it occurs here and now, independently of my will. But whether their specificity as objects is constructed in terms of 'natural phenomena' or 'expressions of the wrath of God', depends upon the structuring of a discursive field. What is denied is not that such objects exist externally to thought, but the rather different assertion that they could constitute themselves as objects outside any discursive condition of emergence."*
(Laclau & Mouffe, 1985: 108)

Howarth describes this 'radical materialism' as, "...a social constructionist alternative to **both idealism and realism**" (Howarth, 2000: 112). Applying such a radical materialist approach to the subject of this dissertation, it means that the Care Order and custodial sentence register as empirical facts, but their meanings (which, of course, will have structured the experience of these events) to the young people concerned are explored. This is not to say that the young people's construction of such events should be read as the final word. As a former practitioner and researcher, I take the view that custodial sentences are almost always damaging to young people for the reasons already outlined in Chapters 2 and 3. Thus, even when a young person says that custody was a 'holiday camp', I might point to countervailing arguments and cite evidence that contradict the young person's view. For example, in this case the 'holiday camp' may have weakened

ties with family, home and community whilst simultaneously strengthening bonds with other young people engaged in criminal activity. This approach, of course, brings me into close proximity with 'critical discourse analysis': a fusion of 'critical linguistics' (Halliday: 1978) and cultural studies (Hall: 1983). The desire to link representations of 'events' to 'deeper' systems of knowledge and power represents a rejection of relativism and an attempt to reconnect with a material 'reality'.

The third and probably most powerful influence on my research is my experience as a social work practitioner. I do not propose to devote a huge amount of space to the significance of my experience in community development, probation, youth justice and family court welfare. The main insights derived from this experience can be made briefly. Firstly, I derived some understanding - albeit vicarious in nature - of the sheer weight of social disadvantage that bears down on those living long-term on low incomes. Some, quite understandably, succumb one way or another to depression, despair or desperate measures. For the most part, though, individuals, families and communities are sufficiently resourceful and spirited to develop strategies for dealing with the corrosive effects of social inequality. That these material structures oppress people with a slow and deadly violence is, though, a non-negotiable conviction. Secondly, in the statutory sector at least, there is an intensifying downward pressure from government on practitioners to conform to diktats, meet targets and practise social work in prescribed ways. These prescriptions, increasingly, involve exerting more control over service users. Thirdly, despite the afore mentioned comments, individual practitioners still enjoy residual professional discretion in many important areas. This discretion includes the power to conduct assessments and record the interactions that take place between themselves and service users. The power to construct the young offender (along with her/his family and community) in a pre-sentence report is, by any standards, quite awesome. It can allow a young person to walk free from court or condemn him/her to custody. The authorial strategies used in pre-sentence reports are explored in some of the data analysis chapters. At this stage it is simply worth noting that, in my experience as a practitioner, I knew that most of my colleagues were consciously deploying a range of discourses and rhetorical devices in order to achieve very specific objectives (usually

non-custodial sentences). What was included and what was excluded from the reports varied between practitioners, but very few really believed they were conducting 'objective' assessments in their capacity as independent officers of the court.

So, how has my previous experience of being a practitioner affected the way in which I've conducted this particular research project? Firstly, my previous experience brings to the project a certain amount of tacit knowledge. For example, I know about pre-sentence reports because I've written hundreds. On embarking on this research, then, I did not find myself a stranger in a strange land. I could, indeed, construct a narrative around a familiar motif like that of the 'return of the native'. However, as Schutz (1944; 1945) has made clear, every homecoming involves the recognition of change. Home changes during absences, and the stranger is changed by the experience of exile. As mentioned elsewhere, New Labour's reform of the youth justice system meant that I was not returning to exactly the same terrain I had so recently left. Some things were still familiar, but some things had been transformed completely. On reflection, perhaps the co-habitation of familiarity and strangeness in the research site helped to produce insight and a sense of critical detachment. Ultimately, of course, this is something that others are better placed to judge.

At this point, then, it may be helpful to clarify and summarise my theoretical orientation and position on the key epistemological questions that have already been touched upon in the foregoing discussion. A key assumption is that knowledge is situated in specific social settings. Consequently, knowledge construction is inevitably shaped by the location of its production (Smith, 2003: vii). This does not mean that empirical research on material 'realities' is impossible. However, many positivist assumptions are challenged and, at the very least, modified by this perspective. Even the working methods of those practising in the natural sciences, those positivist paragons of the dispassionate pursuit of objective truth, cannot be immune from the social and historical contexts within which their research is located. Whilst the discourse of the natural sciences has traditionally privileged the idea of 'discovery' above that of 'knowledge construction', sociologists, philosophers and historians of scientific thought question the

veracity of this particular narrative of progress (Barnes, 1977; Bloor, 1976; Collins, 1985, 1994, 2001, 2003 and 2004; Kaplan, 1964; Kuhn, 1970 and 1977). This is not a question of dishonesty on the part of natural scientists (though this cannot be discounted in some cases); rather it is related to the occupational hazard of reflexivity-averse practice. Conventionalists argue that natural scientists, like other occupational groups, operate within organised communities that are based upon common languages, cultures, social practices and assumptions. The notion that scientific practice produces a clear reflection of the world 'out there' is replaced by a quite different account. The 'social constructionist' version of scientific inquiry is much more conditional and contingent upon the assumptions, biases and preoccupations of those conducting their research. This is perhaps easier to perceive in the ways in which social scientists 'construct' social problems (Waller, 1936; Fuller & Myers, 1941; Berger & Luckman, 1967; Blumer, 1962 and 1971; Holstein & Miller, 1993; Miller & Holstein, 1993), but processes of social construction are also present in natural scientific studies. It is argued that scientists, like other 'knowledge producers', mediate the objects of study via the conventions and social practices of their interpretive communities. Moreover, orthodox *post hoc* accounts of often quite important advances in natural science commonly edit out the role of educated hunches, intuition, creativity, leaps of faith and fortuitous accidents (Feyerabend 1975; Smith, 2003: 208). The dominant intellectual frameworks, or *paradigms*, of traditional scientific communities do not only excise serendipity from the reconstructed logic of the laboratory report, but also simultaneously close down other ways of 'knowing' ourselves and the world. Practice wisdoms shared and transmitted between practitioners, for example, exist in all occupational communities and yet these practices are not necessarily based on empirically validated evidence. The efficacy of such 'recipe knowledge', nevertheless, enables people to 'bake the cake' and eat it (Schutz, 1943: 137). The relevance of 'cookery book' knowledge to social work practice is clear and present in the data analysis chapters of this dissertation.

If one accepts even some of these arguments in relation to the natural sciences, then the possibility of emulating such positivist practices in the social sciences is thrown into doubt. This does not mean that high standards of rigour cannot be applied to social

scientific activity, but the methodologies used are necessarily going to be different. Hume's (1984) assertion that uncertainty about our own knowledge of the world is an integral part of the human condition is particularly true of the social sciences. Some social scientists, for example, fall into the trap of confusing statistical correlations with causal relationships (Caldwell, 1994). The predictive power of risk factor paradigms has already been acknowledged in Chapter 3, but it will be recalled that this author argued strongly that the relationship between different risk factors is far from being self-evident. The essential difference between most of the natural sciences and the social sciences, of course, is that human beings are active participants in the phenomena being studied. Collapsing the object/subject divide duly blurs the distinctions between observation, interpretation, analysis and theory. Inductive approaches are based on the premise that all observers will interpret sense-data in exactly the same way. Conversely, those arguing from broadly idealist positions – that is, from Kant (1987) to neo-Kantian successors such as Dilthey (1976), Windelbrand (Smith, 2003: 141-2), Rickert, (1986); Simmel, (1964, 1968, 1978), Weber (1949), Winch (1958) and Wittgenstein (1967) – take the view that sense data are mediated via pre-existing (though still developing) concepts and 'ideal types' (Weber, 1949). Raw experience is thus organised and understood through these intellectual and, by logical extension, emotional constructs. The role of imagination in manipulating concepts is also acknowledged by Kant and his heirs (Wright Mills, 1959).

The part played by individuals in the ascription of meaning to actions and events is central to hermeneutic approaches to knowledge construction. The influential neo-Kantian philosophy associated with Windelbrand (Smith, 141-2) and, more particularly, Rickert (1986) drew the important distinction between the material world of 'phenomena' and the subjective world of 'noumena'. This, indeed, corresponds with the distinction made between *geisteswissenschaften* (the human, or social sciences) and *naturwissenschaften* (the natural sciences). The behaviour of individuals in social settings cannot, therefore, be understood unless one has some insight into the beliefs, intentions and meanings attached to the actions of the said social actors. Everyday decisions made by individuals are thus made on the basis of a mixture of motivations: 'rational' analysis of the evidence available, emotion (however that might be structured

and constituted), beliefs/values and habit (Weber, 1949). For Weber, therefore, the understanding (*verstehen*) of human action is central to the sociological project of making sense of social phenomena. The problem, of course, is reconciling one's understanding of the individual, microsociological concerns with the wider social processes and overarching material social context. This is the challenge of the 'hermeneutic circle' in which the individual parts can only be understood with reference to the whole and, of course, *vice versa*. The capacity to focus on the detail of the close-up as well as the panorama of the wide-angle lens is a prerequisite for all good social scientific research work and analysis.

The philosophy of pragmatism (James, 1978) has informed the development of much qualitative research in sociology, including the Chicago School (Shaw, 1934; Mead, 1934; Hughes & Hughes, 1981) and symbolic interactionism (Blumer, 1962, 1969, 1971). James' (1978) distinction between 'knowledge about', gained through formal education, and 'knowledge of' (derived from trial and error, 'lived experience' and the performance of everyday tasks) is an important one. This essential distinction is present in contemporary definitions of 'formal', 'non-formal' and 'informal' education (Brander *et al*, 2002: 21). Pragmatism, though, is usefully defined by Smith (Smith, 2003: 349) in the following terms:

"This approach is often mistakenly associated with the idea of 'muddling through', but it actually expresses a concern that any explanation or understanding of the social world should start with the features of a definite situation rather than from basic theoretical principles. This means that it starts within existing conditions – along the lines of the meaning of 'praxis' – although it also draws from Kant's account of practical knowledge. In pragmatism, human activities are a meshing together of unreflective and tacit habitual knowledge and creative energy directed towards goals, although these goals are solutions demanded by the problems evident in a given situation. This philosophy of situated action was influential on interactionist approaches and some areas of phenomenology."

This leads me to the point at which it seems most appropriate to acknowledge a developing interest in ethnomethodology (Garfinkel, 1967; Benson & Hughes, 1983; Heritage, 1984; Boden, 1994 and 2000; and Horlick-Jones, 2005, Forthcoming).

Ethnomethodology (which, on a literal level, simply means ‘the way people do things’) draws upon the established research methods of ethnography with a view to studying the ways in which people create, negotiate and maintain meaning and a sense of order in their lives. Horlick-Jones (Forthcoming: 6), describes it as:

“...a form of sociology concerned with the modes of practical reasoning deployed by people in everyday situations by which they interactionally produce ‘social facts’.”

A key insight of ethnomethodology is,

“...the recognition that central to the dynamics of social life lies the situated use of language to account for actions, and to arrive at shared understandings which ‘repair’ the inherent ambiguity of everyday situations.”
(Horlick-Jones, Forthcoming: 7)

Extending this to the field of risk, the author’s main concern in the article, he thus argues:

“...actors feel a need to account for risk-related actions in ways that not only make sense, but also present them in a ‘good’, or morally acceptable light.”
(Horlick-Jones, Forthcoming: 7)

This approach therefore attempts to not only explain the process of sense-making, but also explore the ways on which the strategic presentation of self in narratives plays a crucial part in establishing meaning (Riessman, 2004). What is particularly interesting is the way in which commonsense, tacit knowledge is used by people in their everyday lives - especially in circumstances where practitioners encounter rational-technical frameworks. Cicourel’s (1976) exemplary study of localised criminal justice cultures in the processing of young offenders has naturally been a source of great interest to me.

The impulse to discern patterns in social actions is very powerful. Some of Garfinkel’s ideas are helpful here. The use and adaptation of readily available concepts, stereotypes and narratives is described as the ‘documentary method’. Likewise the central ethnomethodological concepts of indexicality (the meanings of words being socially

situated) and reflexivity are useful. In the case of indexicality there are the shifting meanings of key words and phrases ('challenging behaviour', for example) when used in different contexts (the pre-sentence report, the case record, the letter of referral, etc.). Reflexivity, in the ethnomethodological sense, places emphasis on the way that reflexive accounts of the world are born of conversational and dialogic processes (that are very often internalised). The very process of discussing or presenting an account of something involves the creative construction of order and meaning. In a social work office setting Pithouse described this behaviour amongst practitioners as 'case talk' (Pithouse, 1998). The example of the pre-sentence report is also apposite: how the process of messy and sometimes seemingly random events (a fight, a burglary, etc.) is rendered into a more digestible narrative. The reflexive act of ordering an 'out there' reality thus creates a 'meaningful' and less chaotic reality. Despite this more recent interest in ethnomethodology, it is important to acknowledge that I am still in the process of working out my position. Whether this approach can actually be reconciled with the more established interest in discourse analysis remains unclear.

The more pervasive influence on my research work, though, has been post-structuralist discourse theory (Foucault, 1977, 1980, 1991a and 1991b; Coward, 1984; Henriques *et al*, 1984; Hollway, 1989; Hayden, 1996; and Coward M, 2004). Wetherell, Taylor and Yates (2001a and 2001b) have argued that there are three main areas in which discourse analysis engages: interaction; minds, selves and sense-making; and culture and social relations. This piece of research is focused primarily on sense-making (by those involved in the welfare and criminal justice systems) and wider social and cultural relations. The influence of Foucault has, of course, already been acknowledged and touched upon in the above discussion and will be returned to later. However, there, are a few general clarificatory points about discourse analysis that should perhaps be made beforehand.

Developed from Saussure's (1916/1959) seminal ideas about language being signifiatory rather than merely representational, Derrida (1976, 1978 and 1981) was one of those who drew attention to the highly associative nature of language. Individual words carried the *traces* of other words and, in many (most?) cases, could only be

described and defined with reference to other words. The self-referentiality and intertextuality (Kristeva, 1980) of language demanded the application of deconstructive methods of analysis. Thus, the rhetorical practices of speakers and written documents (especially in texts written in the *authoritative voice* that purport to be representative of objective truths: official documents, authorised accounts of events and professional judgements) can be analysed in close detail. As has already been mentioned, Derrida and others (Barthes, 1977) also gave due acknowledgement to the authority of the reader: the act of interpretation being as important as the act of speaking or writing. One of the central techniques of the *deconstruction method* developed by Derrida (1976, 1978 and 1981) involves the identification of binary oppositions and the marking of boundaries of distinction. Mapping the relations of *equivalence* (sameness) and *difference* (otherness) can be very instructive. For example, one could mention the oppositions of ‘child/youth’, ‘criminal/law-abiding citizen’, ‘care/control’ and – of course – the distinction between ‘welfare’ and ‘punishment’. Within such binary oppositions there will be a dominant category, reflecting perhaps the state of power relations at a given point in history. Thus, for example, the ‘welfare principle’ will be salient in one period and ‘punishment’ in another. The shifting boundary lines of such distinctions also solidify around such reified social identities as ‘child in need’ and ‘young offender.’ Always implicit in such oppositions is the notion of ‘insiders’ and ‘outsiders’, or those ‘favoured’ and those ‘less favoured’ -if not, indeed, ‘demonised’.

It is not being suggested here that the type of distinctions mentioned above are merely discursive constructs. They are discursive constructs, of course, but they also attempt to refer to ‘real phenomena’ outside of language and discourse. A punch in the face is, after all, a punch in the face. How one interprets and explains that ‘punch in the face’ is nevertheless another matter. Begnini’s film, *It’s a Beautiful Life*, provides a quite brilliant example of the way in which even oppressive and inescapably real events are open to varying interpretations. A Jewish father – for the benefit of his young son - reconstructs the empirical reality of life in a Nazi-run death camp into an elaborate ‘game’ between guards and inmates. This survival strategy designed by the father becomes palpably ‘real’ for the young boy.

Two important points emerge from the foregoing discussion about discourse and language. Firstly, language can never represent these phenomena in the 'real world' in a perfectly mimetic way. Efforts at naturalistic representation are always going to be, at best, approximations of that 'reality'. Secondly, no perception or description can ever be value-neutral. The act of 'describing' something involves making a distinction between one thing and another; it involves placing phenomena in categories. Where one draws the boundary of distinction between one category and another is a critical question.

In the case of juvenile justice practitioners, for example, where one draws the line can make the difference between the next six months being spent in custody or out in the community. Juvenile justice practitioners are in the daily business of making distinctions between categories: in terms of assessing the seriousness of an 'offence' (a legally constructed and 'received' category), the attribution of the degree of culpability (based on constructions of 'maturity', 'intelligence', 'cognitive skills', 'coercion', 'impulsivity, influence, emotional lability, etc.) and the assignation of risk scores. There certainly are technical-rational frameworks within which the practitioner is encouraged to operate, just as there are pre-existing categories into which s/he will be tempted to simplify and make sense of the complexity of a young person's actions. Practitioners will inevitably reflect to some degree the prevailing social and institutional context within which they are working. For the most part, though, they are not passively reproducing pre-existing distinctions and categories. They are instead interacting with the instruments of categorisation that are in place in their agencies, existing discourses of criminality/welfare and the social and political context of youth justice practice. This means that existing categories and instruments of categorisation are modified and subverted in practice. Sometimes these are conscious acts of resistance and rebellion against hegemony. One historian has explored the 'weapons of the weak' (Scott, 1985) and the 'arts of resistance' (Scott, 1990) deployed by subjugated groups in unpromising circumstances. Some comparatively recent sociological studies have explored more mundane forms of resistance within organisational contexts (Courpasson, 2000; and Knights & McCabe, 2000). These 'everyday forms of resistance' (Scott, 1985) are

worthy of close inspection in the case of social work and youth justice practitioners. The resources used to counteract dominant ideologies and constructions can be diverse and eclectic: they can include - singly or in combination- lived personal experience, 'practice wisdom', 'professional' ideologies, alternative values and other knowledges. In one case, for example, a practitioner I interviewed cited the biggest influences on her practice as the direct experience of working class motherhood and the 'discovery' of feminism as a mature student (Chapter 7). In this case, it was claimed, these formative extra-curricula 'knowledges' proved to be more profound than subsequent professional training and socialisation. The opportunities in the workplace for complete 'category violation' (rejection of pre-existing categories and/or institutionally sponsored instruments of categorisation) and the creation of completely new indigenous categories may be limited, but a degree of 'category hybridisation' (combining elements of different categories in imaginative ways) certainly appeared to occur in some cases. Thus, whilst practitioners inhabited pre-existing discourses, they also exhibited an ingenuity and creativity in the way in which they exercised their agency.

At this point it is essential to re-acknowledge the seminal influence of Foucault (1977) on my whole approach to this research project. Having said that, it is also important to pay tribute to the guidance of Hall (1981, 1992 and 1997; Hall *et al*, 1978; and Hall & Jacques, 1983) in these matters. Emerging from a Marxist background not entirely dissimilar to my own, he assisted me greatly in making this passage from the gloomy valleys of crude determinism to the (arguably) sunnier uplands of post-structuralism. During my time as a postgraduate student in the Social Work Department at Birmingham University, Hall's influence was pervasive throughout the Social Sciences faculty as it was, indeed, in the pages of that important house journal of the Left, *Marxism Today*. *Marxism Today*, whilst being financed by the Communist Party, was heretical of all Marxist orthodoxies and translated the seminar room discussions about Gramsci and Foucault to a wider constituency of activists.

Foucault (1977, 1980, 1991a and 1991b) took the discussion about discourse beyond the realm of language and semiotics to include social practices, thus resolving the traditional

distinction between what one says and what one does (Hall, 1997: 44-6). By discourse, Foucault therefore extended the meaning of the word whereby it is a,

*“...group of statements which provide a language for talking about – a way of representing – the knowledge about a particular topic at a particular historical moment.... Discourse is about the production of knowledge through language. But...since all social practices entail **meaning**, and meanings shape and influence what we do – our conduct – all practices have a discursive aspect.”*
(Hall, 1992: 291)

Discourse, therefore, was not merely confined to speech and texts, but also rules of conduct, social practices and social institutions. Discourses thus produce and regulate meanings and representations across the full range of human activities.

“Discourse, Foucault argues, constructs the topic. It defines and produces the objects of our knowledge. It governs the way that a topic can be meaningfully talked about and reasoned about. It influences how ideas are put into practice and used to regulate the conduct of others. Just as discourse ‘rules in’ certain ways of talking about a topic defining an acceptable and intelligible way to talk, write, or conduct oneself, so also, by definition, it ‘rules out’, limits and restricts other ways of talking, of conducting ourselves in relation to the topic or constructing knowledge about it”
(Hall, 1997: 45)

The institutional context within which these activities are performed is also extremely important. The notion that institutions are located within and between discourses is an extremely helpful concept. The socially and historically situated nature of an institution allows a measure of consensus and stability to emerge in terms of agreeing ‘meanings’ and defining the relevant subjects. Thus, the pre-1998 Youth Justice Team of a Social Services Department, though by no means homogenous or devoid of conflict, nevertheless was constituted within the dominant discourses established by child welfare legislation and a common curriculum of social work training. There was, therefore, widespread agreement about how the subject was defined (‘a child in trouble’). What, of course, is particularly interesting about this particular research project is that those established ‘meanings’ were disrupted by the implications of the Crime and Disorder Act 1998. Consequently, the dominant official discourse shifted and, in the newly constituted

Youth Offending Teams, meanings had to be re-negotiated: the competing definitions of the 'subject' ('child in trouble' or 'young offender') were duly re-negotiated so that a workable *modus operandi* could be established. How people reacted to the destabilisation of their familiar terms of reference are represented in the main body of this dissertation. The effect of this initial sharp rupture in the established discourse - and the corresponding re-positioning of the actors in the process of re-negotiating a new culture - is a theme revisited frequently. The extent to which the institutional site under consideration reflected the dominant *episteme* and the emerging post-1998 discursive formation is duly debated. At this point, though, it is necessary to pause in order to re-inspect the concepts of culture and power.

The key point to make is that discourse analysis should not merely be concerned with classifying various meanings and representations that exist within different discourses. Constructing such elaborate taxonomies is an interesting and worthwhile activity, but it should lead social researchers towards identifying some tentative relationships between power and knowledge. At its best, discourse analysis is less about cataloguing the *content* of a particular discourse and is more to do with *relational* questions: it is, in essence, concerned with analysing the ways in which power relations – including the construction of *subject* positions - are articulated through language, texts and social practices. It is important here to be absolutely clear about certain assumptions being made regarding the nature of culture. Culture is not the sum total of specific social practices of a particular place at a particular time. Even during periods of comparative stability it is never static and always open to change. It is most accurately depicted as a space within which meanings, representations and practices are contested on a continuous and dialogic basis. By logical extension, therefore, social identities are fluid, dynamic, interactive and –above all – relational. It will also have been implicit in much of what has been written so far that the Gramscian (Gramsci, 1971) concept of *hegemony* is central to any notion of culture. It is assumed in such terms as 'the *dominant* discourse'. An important aspect of this research project has been an attempt to identify both the dominant discourses in youth justice and the countervailing 'forms of everyday resistance' (Scott, 1985 and 1990). Some modest efforts have, therefore been made to

move beyond a purely idiographic approach to a tentatively nomothetic account. Whilst no claims are made to grand theory, the analysis does draw some conclusions about the state of wider power relations in youth justice. The issues explored are not, therefore, peculiarly local matters. Moreover, there is an attempt to relate the analysis to the material conditions that play a part in structuring (rather than determining) the discourses. The danger of falling into the trap of textual reductionism – in which everything is absorbed into the discourse – is thus hopefully avoided. By the same token, the old Marxist hazard of treating culture as being the manifestation of deeper structural processes is also rejected. Giddens' concepts of agency and structuration possibly offer a theoretically viable middle path (Giddens, 1971, 1979, 1981, 1984, 1985 and 1990) between the pitfalls of naïve versions of reification and voluntarism (Bhaskar, 1986 and 1991), as well as offering the possibility of a political third way for radical politics (Giddens, 1998).

In Foucault's work, then, power and knowledge are intimately entwined with one another. The notion of objective, verifiable truths outside of the discourse is challenged.

"Truth isn't outside power... Truth is a thing of this world; it is produced only by virtue of multiple forms of constraint. And it induces regular effects of power. Each society has its regime of truth, its 'general politics of truth'; that is, the types of discourse which it accepts and makes function as true, the mechanisms and instances which enable one to distinguish true and false statements, the means by which each is sanctioned...the status of those who are charged with saying what counts as true."
(Foucault, 1980: 131)

Hall illustrates the way in which a discursive formation can sustain a *regime of truth* in respect of crime.

"...what we think we 'know' in a particular period about, say, crime has a bearing on how we regulate, control and punish criminals. Knowledge does not operate in a void. It is put to work, through certain technologies and strategies of application, in specific situations, historical contexts and institutional regimes. To study punishment, you must study how the combination of discourse and power – power/knowledge – has produced a certain conception of crime and the criminal, has had certain real effects both for the criminal and the punisher, and

how these have been set into practice in certain historically specific prison regimes.”
(Hall, 2004: 348)

One of the obvious criticisms levelled against Foucault is that of relativism. This is acknowledged by Hall.

“The major critique levelled against his work is that he tends to absorb too much into ‘discourse’, and this has the effect of encouraging his followers to neglect the influence of the material, economic and structural factors in the operation of power/knowledge. Some critics also find his rejection of any criterion of ‘truth’ in the human sciences in favour of the idea of a ‘regime of truth’ and the will-to-power (the will to make things true) vulnerable to the charge of relativism.”
(Hall, 2004: 349)

In fairness to Foucault, as opposed to some of his disciples, the material world outside of discourse is never denied. What is suggested, however, is the way in which that material world is discussed cannot take place outside of discourse. It should also be acknowledged that Foucault attempted to locate particular discourses within the context of their specific social, economic and material historical circumstances. Thus, just as cultures are dynamic and ever-changing, so too are discourses. Foucault’s later, *genealogical*, perspective is helpful in this respect. It traces the histories of discourses and helps to show the different ways in which old ideas can be rejuvenated or reconstituted in combination with other ideas. Crucially, though, his genealogical method shows how history is reinvented in accordance with contemporary concerns.

The insights of some Critical Discourse Analysts is helpful on the relationship between discourse and the material social conditions within which discourses are conducted and performed. Fairclough and Wodak (2004: 357), for example, describe discourse as a form of social practice:

“Describing discourse as social practice implies a dialectical relationship between a particular discursive event and the situation(s), institution(s) and social structure(s) which frame it. A dialectical relationship is a two-way relationship: the discursive event is shaped by situations, institutions and social structures, but it also shapes them. To put the same point in a different way,

*discourse is socially **constitutive** as well as socially shaped: it constitutes situations, objects of knowledge, and the social identities of and relationships between people and groups of people. It is constitutive both in the sense that it helps to sustain and reproduce the social status quo, and in the sense that it contributes to transforming it."*

As someone who worked for many years as a social worker, the work of Foucault (1977) exercises a strangely masochistic attraction. Foucault somehow manages to speak directly to the condition of the caring professions: that heady cocktail of specialist professional knowledge, high ideals, shortfalls in practice and the almost apologetic use of power over the poor, vulnerable and dangerous (Donzelot, 1979). Smith (2003: 289) captures the essence of Foucault's relevance to social work practice when he talks about 'humanitarian ideals' and 'harmful therapies'. When the compassionate but critical gaze of the welfare professional is trained on the 'client' caught in the welfare spotlight, the outcome is often unhappy for all concerned. Social work, especially in areas such as youth justice, personifies the way in which the production of specialist knowledges is intimately related to the mundane and routine exercise of power (the reporting schedule is based on classifications of risk and *National Standards*, for example). Even the more reflexive art/science of assessment, moreover, must so often be accomplished within the frameworks of prescribed systems of classification. When individuals are classified, their highlighted personal characteristics (as opposed to those other characteristics that are ignored or downgraded) are adduced as evidence to confirm the validity of the original diagnosis, assessment or classification. The subject of this representation – constructed as s/he is within a particular (welfare, justice, etc.) discourse - is thus presented in such a way as to mirror the original category within the classification system. Once classified, the said subject receives the 'appropriate' treatment, service or intervention and the carapace of a distinct 'social identity' forms around the individual concerned: the 'Grammar School girl', the '11- plus failure', the 'persistent offender' and the 'hyperactive child'. This process of labelling and categorisation demonstrably shapes life careers by opening up or closing down opportunities (Lemert, 1951; Becker, 1973). It is also reasonable to suppose that these definitional processes – usually managed and operated by professionals - also affect the self-image of those being assigned.

According to Foucault, institutions emerge to meet the demands of 'new knowledge'. Thus, if youth crime is found to be the result of multiply-excluded young offenders, then what is required is a 'joined-up' service to intervene in their lives: the Youth Offending Team. The case can, of course, be argued the other way too. The existence of social institutions and/or professionally-staffed programmes can reconfigure 'knowledge' and the 'subjects' of that knowledge in such a way as to justify 'convenient' treatments, therapies and interventions. It could be argued that the introduction of ISSP, Restorative Justice and other Youth Justice measures ahead of the 'evidence-based research' is a case in point (Wilcox, 2003; Armstrong, 2004). The relationship between knowledge, power and the subjects of knowledge is pivotal to an understanding of discourse analysis. The role of practitioners in the human services in articulating this relationship is well expressed by Smith (2003: 290-1):

"...knowledge creates new 'subjects' and identifies what is normal and abnormal in relationship to them. The social agents of knowledge (scientists, doctors, teachers, social workers, police officers, social security officers – that is anyone with the institutional power to define the identity of anyone else) are involved in activities which reinforce the powerlessness of members of a social order. They do this just by assessing people, using distinctions such as rational/irrational and normal/abnormal. These social agents are also moral agents, for they judge behaviour against cultural values and, in turn, these values only make sense within the discourses concerned."

The main body of the dissertation has attempted to explore some of the 'distinctions' to which practitioners have subjected their service users. My own background as a social worker has, though, meant that – even when being critical - I have done this with a high degree of empathy for the practitioner. At an emotional level I have always felt myself to be something of an interloper in the academic environment. As a junior teaching member on a course that is somewhat peripheral to the main activities of the university's School of Social Sciences, the identity of 'academic' has not attached itself securely to me. I have never quite come to terms with the luxury of spending a Friday afternoon reading a book about discourse analysis instead of dealing with the multiple crises that so often beset service users before the weekend. The guilty pleasure of playing truant from practice has never quite deserted me.

It would be satisfying to conclude this somewhat rambling intellectual odyssey with arrival at a high vantage point from which a sense of perspective could be gained; a place from which the journey undertaken would suddenly make sense. At the time of writing, though, I am – to change the cliché slightly - still meandering in hope.

Appendix 3: Full Case Summaries of Seven Young People (Not Interviewed)

A.3: Introduction:

These seven cases have been selected for two reasons. Firstly, because it is important for the reader to have a sense of the backgrounds of some of the young people not interviewed. As will be apparent, some of these are cases that involve very complex welfare needs, deriving in part from severely traumatic past experiences. It will be understood that some of these young people were deemed unsuitable for interview. By the same token, though, it is important that they are represented in this dissertation. Secondly, each one of these cases illustrates an important theme or set of characteristics. **Martin Lawler (A.3.1)** is a particularly vulnerable young person with very high welfare needs. Initially he came to the attention of Social Services because of child protection concerns. The subsequent management of the case exposed him to risk of abuse and criminalisation. **Sarah Ashforth (A.3.2)** is unusual in that this is a troubled young person from a middle class background. The case also raises issues about the way in which therapeutic considerations appear to be subordinated to the punitive social control represented by *National Standards*. **Jason Richardson (A.3.3)** was originally subject to a Care Order before being placed for adoption. His return to the care system and subsequent entry into the criminal justice system is traced. The case of **Marc Hurst (A.3.4)**, a young person diagnosed with ADHD, highlights the way in which medical discourses interact with welfare and criminal justice discourses. **Gavin May (A.3.5)**, a young black male with special educational needs and subject to a Care Order, charts a path from child protection to criminalisation in a residential unit. **Robert Copeland (A.3.6)** tracks the career of a young person with learning difficulties through the criminal justice system. **Teresa Bradley (A.3.7)** presents the complex welfare needs of a sexually abused young person and the difficulties she experienced as a care leaver. It also demonstrates how, before the full impact of the New Youth Justice was felt, the courts were prepared to privilege the welfare needs of the young person above the priorities of the criminal justice system.

A.3.1: Martin Lawler

Martin Lawler was aged 14 years, subject to his second Supervision Order and accommodated – under Section 20 of the Children Act 1989 - at an English ‘out of county’ residential unit at the time of this case analysis. This had been his fifth residential placement (and the third ‘out of county’) in less than a year.

Martin was the only child of his parents. He was brought up on a social housing estate in a low income, high crime neighbourhood. His natural father left the family home while Martin was still a baby. There had been no contact with him since that time. When he was aged two years his mother formed a co-habiting relationship with a Mr. Walcott. There were two children by this relationship.

Concern about Martin’s welfare came to light at around this time when he was admitted to hospital with inadequately explained injuries. Between the ages of 2 and 3 years there were five reported injuries (bruising to forehead and legs, etc.). At the age of four he was placed on the Child Protection Register. Between the ages of 4 and 7 there were eleven reported incidents to Social Services (bruising, neglect, unsupervised in street, etc.). Mr. Walcott was a violent man who directed most of his aggression towards Martin. He also threatened violence to professionals. A Child Protection Committee noted that there had been a particularly dangerous period of nine months when Health Visiting Services were withdrawn (because of these threats) and there was very patchy contact by Social Services. Monitoring for signs of physical abuse appeared to have been more closely monitored after this period, particularly when he commenced school.

The full extent of the neglect and abuse that the child had suffered only emerged when Mr. Walcott separated from Martin’s mother and left the family home. Martin was thirteen years of age at this point. It was, incidentally, only at this juncture that he discovered Mr. Walcott was not his biological father. Not only did the true extent of the pattern of violence come to light, but also – eventually – disclosures in respect of sexual abuse. Both his stepfather and a trusted adult female friend of the family were

implicated. These were the subject of police and Social Services investigations at around the time that I was conducting an analysis of this case. It should be noted that the disclosures were consistent with the inappropriate, erratic, over-sexualised and sometimes violent behaviour that Martin had displayed in school and some other settings. Subsequent assessments of him suggested that sexual abuse had, in all probability, taken place. Martin's mother, herself a victim of Mr. Walcott's violence and a survivor of child sexual abuse, emerges from the records as a rather vulnerable woman who experienced guilt about failing to protect her son. However, she also by now had problems managing his increasingly frequent episodes of challenging behaviour. It was against this background that she requested her son be accommodated under Section 20 of the Children Act 1989.

At this point it is worth describing the main characteristics of this young teenager. He was diminutive for his age and, at 14 years, had the physical appearance of a nine or ten year old. In Year 3 (aged 7-8 years) Martin was assessed as having special educational needs. At the age of 14 years, with an IQ score of 66, he was still very much functioning at the level of a primary school child in terms of intellectual and emotional development. He was assessed as having moderate learning difficulties and diagnosed with Conduct Disorder (an essentially descriptive diagnosis based on observed behaviour) and Attention Deficit Hyperactivity Disorder (also known as Hyperkinetic Disorder). As one psychiatrist explained in a Report, ADHD is a syndrome that is characterised by,

"...very short attention span, leading to poor concentration in school and extreme distractibility; poor impulse control, which means acting without thinking, which can cause very dangerous behaviour; and overactivity, inability to keep still and fidgetiness."

All the assessments and reports by professionals (teachers, psychologists, social workers, psychiatrists and paediatricians) repeat the same words to describe Martin: 'vulnerable', 'damaged' and 'immature for his age'. His emotional lability was also increasingly manifesting itself in challenging behaviour. At the age of thirteen years Martin was excluded permanently from high school for a physical attack on another pupil as well as

over-sexualised behaviour. The latter behaviour went well beyond the usual badinage that one might encounter amongst Year 9 pupils. Seemingly, his behaviour towards female teachers was not merely inappropriate, but bordered on sexual intimidation. Drawing attention to his erections and the simulation of anal sex in the classroom are just two examples. It is worth noting that although Martin was subsequently offered an activity-based 'alternative' educational programme, instruction in basic skills was neglected. It was said that his complex educational needs could not be met 'in county' outside of mainstream provision.

Although Martin was generally polite and co-operative, his outbursts – in which he would punch, kick and throw objects – were shocking because of their sheer force and unpredictability. There were no apparent cues or warning signs. Women, though, seemed to be particularly vulnerable. Martin's reception into the various residential units served only to exacerbate this difficult behaviour. Despite medication, Martin slept very badly and at night time could prove very difficult. Some speculated that this might be related in some way to the nocturnal pattern of sexual abuse. In the evenings he certainly seemed to be more at risk of causing damage to property in his own room (and reacted violently to staff when they tried to intervene). If he did sleep, it was on the floor. Inexplicably, a chair would be placed under the blankets of the bed and there would sometimes be urine and/or faeces covering the floor. On one occasion, Martin tried to commit suicide by hanging himself with live electric wires.

It is important to make the point, moreover, that this young person's Care career is inextricably bound up with his criminalisation. Although Martin had been cautioned for Criminal Damage and Arson prior to his admission to public care, it is only when he was accommodated that he began to appear before the court. The offences for which he was charged related either to offences committed within the residential unit (mainly Criminal Damage, but also a Common Assault on a staff member) or, when in London, committed in the company of another resident. In one information-sharing meeting attended by professionals, the YOT worker asked whether it was possible to desist from prosecuting

Martin for Criminal Damage offences. The manager of the residential unit was recorded in the Minutes as saying,

“...Martin needs to understand that there are consequences to his actions...”

This policy ensured that Martin was quickly classified as a ‘persistent young offender’ which, of course, placed him at severe risk of custodial detention.

When Martin had been living in a residential unit for a few weeks his behaviour would generally settle. Every placement move, though, was accompanied by more difficult behaviour. His time at a London Children’s Unit is probably one of the most worrying episodes in a brief, but troubled history in residential Care. He was moved to this particular unit because it was considered, quite wrongly, to be a ‘therapeutic environment’. Whilst an Art Therapist did work there part-time, it was clearly not a unit capable of meeting his high needs. This was recognised by a London-based YOT manager who, in a letter, expressed the belief that Martin was an *“extremely vulnerable young person”* who was a *“risk to himself”*. In the circumstances he was deeply concerned about the *“inappropriateness of the placement”*. In a report to a London Youth Court, an educational psychologist made the same points. There were also concerns about the failure to consult and explain to Martin the rationale for the move to London. It is reported that he thought it was because he was *“naughty”*: he had been *“kicked out of Wales for smashing up the home”*.

It emerged that Martin was bullied by members of staff and other residents at the unit. It was against this background that Martin absconded with another boy from the home; offended in and around Kings Cross Railway Station (Arson, Criminal Damage, throwing bottles at the station and putting a wheelbarrow on one of the lines); and was arrested. Apart from the fact that he and the other boy were committing offences, the police were concerned that two such vulnerable young people were frequenting such a notorious site for paedophile and drug-dealing activity. The police, who quickly became aware of his intellectual limitations, conducted a long and complex interview within which there were

many breaks. Although Martin wasn't prosecuted for most of the offences, the arson damage to the seat of a car did go to court. The details of the bullying that emerged resulted in a Children Act 1989 Section 47 investigation at the residential unit. The investigation upheld the allegations and some members of staff were removed from their posts on the grounds of physical abuse.

The return to an 'in county' residential unit coincided, unsurprisingly, with the presentation of some initially very challenging behaviour on his part. Many professionals were now involved in this young person's life. In a memorandum to her manager, the supervising YOT worker commented on this bewildering situation:

"...since his reception to the unit, Martin has been bombarded by a 'rugby team' of professionals causing complete confusion...."

Despite this unpromising start the YOT worker, with the active support of her manager, were instrumental in pooling the talents of some very committed practitioners for the common good. The twin-pronged strategy was aimed at: (1) diverting Martin from the criminal justice system; and (2) assembling a stable, supportive and therapeutic package of care for him. The first part of the strategy, which comprised two elements, was not realised fully - but it is nevertheless worth describing briefly. When Martin appeared before the court for more unit-based offending, the YOT worker pushed the issue of 'fitness to plead' very hard. In the PSR, she wrote:

"My concern is whether the basic principles of the criminal justice system apply. In the course of this session, I have undertaken a session assessing whether Martin understands basic right from wrong and naughty from seriously wrong in the sense of the old concept of 'doli incapax'. Martin understands right from wrong but perceives all the above behaviour as naughty with the exception of fire. His distinction is arbitrary. For example: to punch someone would be extremely wrong but to stab someone would be naughty. Whilst this no longer applies in relation to age, I am concerned as to his developmental age and as to psychiatric grounds in his case. I am not clear as to fitness to plead."

The YOT worker had hoped that a Forensic Consultant Psychiatrist who specialised in children and young people could undertake the Report on Martin. Unfortunately, there

was not one available to undertake an assessment within the time frame the court would allow. Although the psychiatrist who completed the Report emphasised the emotional vulnerability, immaturity and intellectual limitations of Martin, she stopped short of stating that he was unfit to plead. The result was that he remained within the criminal justice system.

The second element of the 'diversion' strategy was to persuade the Social Services Department not to automatically prosecute Martin or, indeed, other children if they committed 'offences' within the residential units. This negotiation was being done at management level. The possibility of applying other 'internal' sanctions and applying restorative justice principles could, for example, have been applied. The police had also agreed to help enforce 'time out' when Martin was upset (rather than take him to the police station and charge him). Unfortunately, very little progress was made on this agenda item while I was conducting fieldwork.

As no progress on the 'diversion' strategy could be made in time to help Martin, the YOT worker tried to persuade the court to impose a Conditional Discharge and allow the existing Supervision Order to remain in place (in line with the principle of minimum sufficient intervention). The Court rejected this proposal and made another Supervision Order. The 'voluntary' package of care proposed in the PSR was perceived by the sentencers as a worthy supervision plan.

The 'care package' put in place was very impressive. As well as the Children's Services social worker, a social work assistant and the YOT worker, the active participation was enlisted of - *inter alia* - the consultant psychiatrist, the community consultant paediatrician, a representative from Education, residential staff members and a specialist support team comprising a psychologist, nurse and assorted health professionals with backgrounds in mental health and learning disabilities. The latter team provided training, guidance and advice to the residential staff in how best to manage Martin, especially when he was 'acting up'. After a period of some ten weeks the improvement in Martin's behaviour was discernible. Even the YOT worker's mandatory work on 'offending

behaviour' was going well. The YOT manager had authorised the relaxation of the *National Standards*' requirement of twice-weekly appointments in the first three months and the worker had adapted her weekly 'offending behaviour' sessions to meet Martin's needs. The length of the sessions had been extended from an average of 4 minutes at the beginning, to 20 minutes at the end. Given that his short attention span had been much commented upon, this was a remarkable achievement. This period had also witnessed the re-establishment of regular contact with his mother.

Given the progress described above it was, therefore, a shock to all concerned when Social Services, a few weeks after a Review Meeting, made the unilateral decision to place Martin in an 'out of county' residential unit. Neither Martin nor the professionals involved in the case were consulted. Letters of protest were sent by most of the professionals concerned. The following extract from a letter by the consultant community paediatrician is representative of the strength of feeling.

"I hear today that Martin has indeed been placed out of county.... This was a unilateral decision made by a branch of social services and totally counter to the recommendations of Martin's psychiatrist, specialist psychologist, Youth Offending Team worker and myself.... It is also a matter of concern that Martin's own views about placement (he is 14 years) may not have been fully established."

Although the stated reason for Martin's move was to place him in a 'therapeutic environment', the rationale behind the decision was widely considered to be financial. The lack of transparency concerning the decision means that one cannot comment authoritatively on the matter.

Predictably, Martin's move 'out of county' placement was initially fraught with problems. It is too soon to say whether the decision was ultimately the right one.

A.3.2: Sarah Ashforth

Sarah Ashforth was aged 15 years when this case analysis was undertaken. Having experienced a number of different placements under Section 20 of the Children Act 1989,

she was living with her grandparents in an affluent neighbourhood. She was subject to both an Action Plan Order and a Supervision Order (for shoplifting offences).

Sarah was brought up by her parents in an affluent neighbourhood and attended a comprehensive high school with a reputation for achieving good examination results. Sarah was aged 12 years when her parents separated. Her father left the family home and subsequently established a relationship with a new partner. Sarah was, quite understandably, deeply upset by this development. During this period her behaviour in the home and at school deteriorated markedly. When she stopped attending school and staying out all night her mother requested that she be accommodated by the local authority (under Section 20 of the Children Act 1989). Sarah was aged 13 years at this point.

Initially, Sarah was accommodated at an 'in county' children's unit. After several placement moves within the first three months, she was moved to foster carers who were employed by a private sector company. Whether it was thought that this placement was commensurate with her social class background is not clear. In any event, the hope was that she would settle there for a reasonable period of time. Whilst she stayed there for some 18 months, the latter part of that placement was characterised by frequent absconsions. Some of these absences from the foster home were for as long as 11 days. A respite foster placement was found 'out of county' for Sarah. However, once again she absconded frequently. Most of her time was spent in a town some forty miles from the foster carers and sixty miles from her home area. At some point she had formed an association with a group of criminally sophisticated adult men (aged between 20 and 24 years) who introduced her to amphetamines.

At this point Sarah's father expressed concern that - despite the best efforts of various, review, strategy and harm reduction meetings - his daughter's welfare was at risk. Sarah went to live with her father and his new partner. Although there were spells of stability and harmony, disputes flared up within the home. As a result there were times when Sarah's behaviour became very difficult to manage.

When Mr. Ashforth and his partner took a holiday, Sarah was supposed to be staying with family friends. It emerged, however, that for most of this period she was living at her father's house unsupervised. During this time she was suspected to have held parties, used drugs and shoplifted. On his return, Mr. Ashforth tried to persuade professionals to use the Mental Health Act 1983 to detain his daughter. This endeavour failed. A matter of days after this episode it was alleged that Sarah had assaulted her father and his partner. She was arrested and charged. However, there were also counter allegations made by Sarah that her father had assaulted her. These were denied. Mr. Ashforth claimed that any physical contact that had taken place was in order to defend himself or his partner against Sarah's 'outbursts of temper'. The fact that Sarah exhibited such behaviour at school and in friendship groups lent some plausibility to this account. It was, of course, a very difficult matter on which to adjudicate and could not be resolved either way. It was at this juncture that Sarah moved into her grandparents' home.

Most of Sarah's offending took place whilst she was accommodated by the local authority. In the early stages of being accommodated a Reprimand was received for Criminal Damage to a Car; and an Attendance Centre Order for the Burglary of her father's house and Being Carried in a Stolen Vehicle. A year later, having struck up an association with the above mentioned adult males, she began shoplifting. Four offences of shoplifting were dealt with by way of a Reparation Order. In fact this Order was unworkable and because of placement moves and her frequent absconsions from foster carers. The commission of a further shoplifting offence led to an Action Plan Order being made. Although Sarah missed three appointments, she generally co-operated with her supervising YOT worker. Nevertheless, the YOT worker applied *National Standards* and breached her. The commission of another shoplifting offence in a large department store was committed a few days after the altercation with her father and his partner. The day after Sarah was arrested and charged for this offence she tried to commit suicide by taking a drug overdose. On her discharge from hospital she was not assessed as suffering from a diagnosable mental illness, but was considered to be a deeply unhappy girl with difficult personal and family issues. A Supervision Order was made in respect of the

shoplifting offence and breach of the Action Plan Order. Sarah's co-defendant, another girl, received a Reprimand.

There are a few comments that should be made about this case. Firstly, Sarah's education had been severely disrupted during her years in the care system. When she returned to live with her father, her reintegration into school life was not achieved successfully. There were apparently incidents when she challenged teachers and friends inappropriately. She also failed to attend school on a frequent basis. This was considered particularly regrettable as she was considered an able pupil who could achieve Grades A-C in the full range of all her GCSE subjects. However, because of the amount of school time lost, she could not be entered for all subjects. It was therefore a question of entering her for selected subjects in which Grades A-C could be achieved within a comparatively short space of time. Teachers' attitudes towards Sarah had generally been very sympathetic and supportive. However, the corporate attitude had become a little more ambivalent. It was described thus by the PSR author:

"At present, Sarah is not excluded but is not welcome to attend pending the outcome of this report, and the plan put in place to address risk."

Secondly, a few comments should be made about Sarah's offending and criminal history. Whilst, the offending history placed her in the category of being a 'persistent young offender', Sarah's record was not actually that bad in comparison with many other offenders. Her early contact with the criminal justice system coincided, of course, with being received into public care. Thus, the stolen car in which she was carried was driven by someone to whom she was introduced by the public care system. It is also worth noting the way in which family troubles migrated from the privacy of the domestic domain to the public arenas of the criminal justice system and other professional fora. Whilst there are positive reasons for doing this in respect of hitherto hidden crimes committed against the vulnerable and less powerful (e.g., child abuse and domestic violence against women), is it really always absolutely necessary to bring from behind closed doors the 'crimes' of children and young people into the public light? The burglary and the alleged assaults committed in her father's home come to mind as

instances where family mediation could have perhaps been pursued a little more vigorously as an alternative to intervention by criminal justice agencies. Finally, it should be noted that the last offence of Shoplifting was allegedly committed under duress from one of the criminally sophisticated men with whom she was associating. The goods being shoplifted were items for men and were, apparently, being 'stolen to order'. The YOT worker confirmed that the man threatening Sarah had already subjected her to an assault on a previous occasion (a 'glassing', in fact). This information, which was shared with the court, would appear to place the issue of *mens rea* in respect of this offence in a different light.

Thirdly, there are some issues to do with statutory supervision and *National Standards* enforcement that are worthy of close re-inspection. Firstly, there is the subject of the Action Plan Order breach. The PSR author writes about Sarah's response to supervision in the following terms:

"Sarah has two parts to her order, conducted through two sessions per week. She has attended emotional health sessions with myself, which she has responded to positively. For the second session she has attended health sessions with...the specialist nurse, the content of which must remain confidential. I am able to make the court aware that drugs education is a part of this work. Overall, Sarah has done well on her order and attended her sessions. She has missed three sessions over the course of the order (which at this point had run for almost three months) which is the subject of a breach of order which can be dealt with today. This has to be considered, however, in the light of the above information and overall I am satisfied that Sarah has made good use of her order."

The above passage represents a very positive commentary on Sarah's response to supervision at an extremely difficult time in her life. In the circumstances, the question should be asked about the rationale of taking breach proceedings against her. Was this simply a case of applying the bureaucratic 'letter' of Youth Justice Board *National Standards* or did it serve some other, unstated purpose? Was there not a risk of alienating the young person? Was there no room for discretion? All of these are questions to which the answers are not clear. This presents a court with a problem. How should it respond to this breach? By making this a problem for the court, there is a risk of creating more

problems for the young person. The second enforcement issue relates to the PSR proposal in respect of the last shoplifting offence. Here the author struggles to reconcile the competing principles of justice and welfare:

“It is clear that whilst the seriousness of Sarah’s offence may be proportionate with an Action Plan Order, the previous order and current analysis indicate that the more extensive intervention is necessary to address risk. To achieve these conflicting aims, I would recommend a six month supervision order. Twice weekly contact allows two programmes to run in the first three months and a maximum of two programmes to run (if required) in the second three months. I believe this addresses proportionality by looking at the shortest possible intervention whilst allowing the flexibility to cover a range of issues.”

The problem with this new supervisory regime is twofold. Firstly, if enforced strictly, it increases the likelihood of a return to court for breach. Secondly, there are some aspects of the proposed Supervision Plan that raise questions about which interventions or services should be compulsory and which voluntary. The YOT worker supervising this case was actually a highly motivated practitioner who worked extremely hard for her service users. However, she was also someone who, as has been evidenced, enforced *National Standards*. It is against this background that questions should be asked about the appropriateness of insisting upon a statutory framework for all of the areas in which work was being undertaken. One example from the Supervision Plan will suffice. A social work referral had already been made to a specialist therapeutic unit that focused on resolving problematic family issues. The philosophy of the unit was not to apportion blame to individuals for the presenting problems, but to examine the way the family functioned as a system. This is usually a long, involved and challenging process for all concerned. It would appear that Sarah had co-operated with this process as best as she could in the circumstances. The process, of course, was one that depended upon the voluntary co-operation of all participants. There was no question of people being compelled to participate in therapy. If any participant opted out of a session, there were no sanctions imposed. This would appear to contrast with the way in which the Supervision Order Plan is presented to the court. The YOT worker committed herself, Sarah and Mr. Ashforth to sessions in which ‘family relationships’ would be explored. As it is recorded that Sarah is particularly ‘angry with her father’ it makes sense to

address this subject. What is at issue, though, is whether this should be compulsory. Given that Sarah is reported as being in an emotionally volatile state, it is entirely possible that there would be some weeks when she didn't want to meet with her father. Would such absences be deemed unacceptable (and therefore count towards future breach action)? Moreover, there seems to be a shift away from the ethos of all family members sharing responsibility (with adults, quite rightly, shouldering the greater weight) to the young person bearing the sole responsibility. Thus, the PSR author writes that 'family relationship' work will involve Sarah learning skills that include developing an, "*Ability to communicate effectively without resorting to shouting, hitting.*" This will be delivered by methods derived from programmes that deal with "*Anger management*". What is being queried here is not the use of 'anger management' techniques to help Sarah communicate more effectively, but the fact that the message being sent to the court, parents and Sarah is that she is the main problem in this troubled family situation. Having interviewed the YOT worker concerned I know for certain that this was not the approach taken with Sarah and the family. Mediation skills were, no doubt, brought to these troubled relationships. The power of words in official documents cannot be over-estimated, though. Somewhere in that document it might have been helpful to have recorded that Sarah was the least powerful actor (and possibly the most justifiably angry and aggrieved) in an unhappy situation largely made by adults. Also, perhaps there could also have been some acknowledgment that any work undertaken on these issues with Sarah and her family would be on a voluntary basis.

As indicated earlier, Sarah was living with her grandparents at the time that analysis of this case was completed. There had been a number of 'temper outbursts' and there were suspicions that she was still shoplifting. The plan was that she should eventually return to the care of her father.

A.3.3: Jason Richardson

Jason was aged 16 years at the time of this case analysis. He was subject to a Detention and Training Order licence and, having been previously accommodated at a children's

residential unit under Section 20 of the Children Act 1989, was now in independent accommodation.

Jason spent his early years with his mother in a low income, high crime neighbourhood on a large social housing estate. Social Services were involved with Jason from a very young age as there were considerable concerns about his mother's parenting capacity. It was against a background of Neglect that arrangements were made within the extended family to care for Jason. However, when he was approximately two/three years old his grandmother, with whom he had been living, died. There followed a period of uncertainty concerning the childcare arrangements as various family options were explored. As his supervising YOT worker observed:

“His early experiences must have severely traumatised him as a young child and it is my view that the unsettled and chaotic life he had had by that age has no doubt left scars.”

A Care Order was made and he was eventually placed with his adoptive parents, Mr. and Mrs. Richardson, at the age of three years. Jason remained with the couple for the next ten years in their privately-owned home in a low crime, middle class neighbourhood. Jason's behaviour, understandably, was difficult in the early stages. However, he later proved to be particularly challenging at home as he approached his teenage years. When the couple fostered (with a view to adoption) a younger child the home situation deteriorated further. Mr. and Mrs Richardson reportedly felt that neither they nor Jason were provided with enough support and guidance by Social Services during this distressing period. It was with a profound sense of regret that, when Jason was thirteen years, they requested that he be accommodated by the local authority.

Jason was accommodated at an 'in county' children's residential unit. Although he co-operated with the staff at this Unit and presented few problems, his school attendance deteriorated. Inevitably, he also began associating with young people at the Unit who had troubled backgrounds; some with a history of offending and substance misuse. He first came into the criminal justice system at the age of fourteen years. An offence of Theft

was dealt with by a 12 months Conditional Discharge. Within months this had been breached for Handling Stolen Goods and his part in a non-dwelling house burglary. For these offences, and the breach of the Conditional Discharge, he was given a 12 months Detention Training Order. He was still aged 14 years at this point. On his release, subsequent offences (mainly offences of dishonesty, but including Burglary of a commercial property) were dealt with by way of Conditional Discharge, Action Plan Order and Reparation Order. At the age of fifteen he was serving a second Detention Training Order sentence (4 months) for an offence of dishonesty and Possession of Cannabis.

On his release from custody he was placed at another 'in county' residential unit. Jason did not settle there and, seemingly, spent a good deal of time away from the unit. Whilst being an intellectually capable individual, this potential had not been realised in the Pupil Referral Unit. Later, plans to study for a BTEC E2 Entry course at a local college were not realised because he failed to attend.

It was not long before Jason was before the courts once again. At the age of sixteen years he was sentenced to his third custodial sentence; this time for public order offences, Attempted Burglary and Possession of Class B drugs.

A few points should be noted in respect of this case. Firstly, his time in public care appears to have been characterised by many nights being spent away from home. In one period of five months he averaged only one night in four at the unit.

Secondly, many of the offences were committed in the company of friends from his residential unit. Within a very short time it would seem that he graduated from being an ingénu and apprentice criminal to one who was perceived as a corrupting influence on younger children. The fact that only his second conviction resulted in a 12 months custodial sentence may well have played a decisive part in fast-tracking his criminal career.

Thirdly, it was strongly suspected that Jason had a burgeoning drug misuse problem. It was hypothesised that the offences of dishonesty financed his habit. It should be emphasised, though, that this was denied by Jason.

Fourthly, the supervising YOT worker and social workers noted that Jason was spending a great deal of time on the social housing estate from where he had originated. Indeed, he was moving in the same circles as some members of his extended family. Jason only had a vague knowledge of his past and there was speculation that he might be trying to re-establish contact with his family. It would appear that no-one had really discussed these issues with him properly.

Finally, the fact that - by the age of 16 years – Jason had served three custodial sentences is worthy of note. It would seem that PSR authors were sometimes in difficulty because he had missed crucial appointments. Consequently, there was uncertainty about the extent to which he would co-operate with community sentences. The underlying exasperation that was, no doubt, felt by the authors is sometimes translated into negative comments that leave the court with nowhere to go other than custody. One example will suffice:

“I am well aware that the tenor of this Report is negative and I have offered nothing that redeems this. Jason has consistently and apparently placed himself beyond the care of those who are charged with this responsibility and his low level of commitment is concerning. He has not met the expectations required of him and I do not feel that I am able to propose a community penalty whilst he continues to demonstrate such chaotic and irresponsible behaviour.”

The challenge of working with troubled and disengaged young people should not be over-estimated. The frustrations for the practitioner are often considerable.

Nevertheless, when the complex case histories of young people such as Jason are presented, it is quite clear that there are probably some very good explanations for this state of disengagement. In even the most difficult of circumstances, is it not the responsibility of the practitioner to offer the court an alternative to custody?

At the point at which this case was analysed, Jason was in the early stages of being supervised in the community following the completion of the custodial element of his Detention Training Order. He was still estranged from his adoptive parents.

A.3.4: Marc Hurst

Marc Hurst was aged 12 years at the time of this case analysis. He was subject to a Supervision Order and accommodated at an 'out of county' children's residential unit. At weekends he returned to stay with his paternal grandfather.

For the first two years of his life Marc was brought up by his parents in a low income, high crime neighbourhood on a social housing estate. When they separated, at around the time of the birth of a younger sister, Marc's time was divided reasonably equally between his mother (for one half of the week) and his father and new partner (for the other half). Marc's father and new partner lived in a neighbouring county. At the age of three years Marc suffered quite a serious illness. Although no causal connection can be inferred from this event, Marc's behaviour deteriorated significantly from about this time – especially when in the care of his mother. When Marc was four years old, his father returned to Porthglo and set up home with a new partner. Although his father maintained contact with Marc, less time was actually spent together. This had the effect of making Marc's mother the primary carer, a role she fulfilled with difficulty.

Social Services became involved when Marc was 4 years old. It was recognised that Marc's mother was not coping well with her son's behaviour and he was accommodated briefly at the age of 5 years. He did, however, return home. At the age of 7 years Marc was assessed as having ADHD (Attention Deficit Hyper Activity Disorder) and, intermittently, attended a Child and Family Clinic. For a period he was prescribed Methylphenidate (Ritalin). Subsequently, he also attended a Special School for children with behaviour problems. Although his attention-span was variable, he made good progress there and was described by staff as, "*normally a polite and charming little boy.*"

Several assessments of Marc and his sister were conducted by Social Services over the next few years. Some of the relationships with partners that Mrs. Hurst had during this period of time were volatile and violent. Marc and his sister were present during a number of violent episodes and may themselves even have experienced physical abuse (although this was never established conclusively). Marc's paternal grandparents offered support and some respite, but Mrs. Hurst remained the main carer until Marc was aged 10 years at which point he went to live with them at their home on another part of the estate. Social Services were satisfied that the grandparents provided a loving environment and clear boundaries. Although he enjoyed a close relationship with his grandparents, he missed being with his mother. Social workers and the child and adolescent psychiatrist also believed that he probably felt an acute sense of rejection. At around this time there developed a worrying pattern of running away from home. This behaviour had started while he was still living with his mother, but intensified while he was in the care of the grandparents. There was great concern that Marc was being found in parts of Porthglo where he was placing himself at great risk. There was, according to more than one report, concern that he might be being paid to perform sexual services. This was never confirmed, though. Nevertheless, the fact that he was consistently found in those districts in which sex workers and paedophiles operated was sufficient evidence for Social Services to intervene more directly.

At the age of 11 years he was accommodated at an 'in county' Children's Unit. Most of the children in this unit were older adolescents and he experienced difficulties in settling. Seemingly, he was bullied at the unit. It was around this time that he experimented with drugs. He was subsequently placed in a rural Welsh 'out of county' therapeutic unit. Despite the placement being some considerable distance from his home area, he absconded and returned to his old haunts in Porthglo. He had been unhappy in this environment and made complaints against the staff. The outcome of those complaints is not known. After a few days' spent at his mother's he was found another 'out of county' placement; this time at a residential unit in rural England. This placement went well until the commission of an offence there (see below) made it unviable. Following a period spent with his grandparents (who by this time were also caring for a parent who had a

stroke), Marc was placed at another rural Welsh 'out of county' placement. At weekends, however, he was permitted to stay with his grandparents.

Marc's behaviour had been challenging for some years, his first offending coincided with his reception into public care. At the age of 10 years he was given a Referral Order for Criminal Damage and a minor case of Arson. At the age of 11 years a case of Theft resulted in a Conditional Discharge. This was breached by offences of Criminal Damage and Theft and Driving a Stolen Vehicle (resulting in a Reparation Order). His most serious offence, however, related to a case of Arson in which a barn was damaged severely. The offence took place while Marc was placed at the English rural 'out of county' placement. He was the youngest (then aged 11 years) of a group of children and young people who were playing in a barn. Two of the children were from the same unit, whilst the other two were from the local village. Apparently, Marc borrowed a lighter and began to play with lighting small handfuls of hay. One handful became difficult to extinguish and the fire began to spread. The children fled. When he got back to the unit Marc explained to staff what had happened and the fire brigade and police were summoned. By this time, however, extensive damage had been caused.

The accounts given by the other children and the assessment of the psychiatrist would suggest that this was an accident. The psychiatrist did not consider the incident of arson to be indicative of a mental illness or deep psychological disturbance:

"I do not consider that he made the cognitive link that lighting might incinerate a barn."

The psychiatrist, whilst acknowledging the exacerbating effects of family and placement instability, privileges an explanation that links Marc's impulsivity to the diagnosis of ADHD. In a Psychiatric Report for the court her explanation of ADHD goes some considerable way towards reducing the degree to which the child could be held fully responsible for his actions.

“ADHD can lead children into a cycle of poor school achievement, sense of failure, poor self-esteem and depression.

ADHD is best thought of as a specific developmental delay. Children and young people with this condition are slower to develop normal self-control than their peers. They are more likely to act without thinking through the consequences of their behaviour.

The exact cause of the syndrome remains unknown, but research has shown it to have quite a large genetic component and it is likely that it is due to immaturity of certain parts of the brain.

The natural history of the syndrome is that the majority of children will 'grow out of it' sometime during their childhood, with a proportion having ongoing problems in adulthood. It is impossible to predict at what age any one child will 'grow out' of their symptoms.”

There are, of course, clear dangers in medicalising children's problems and behaviours. It can draw them into a powerful system that is, arguably, controlled by a largely unaccountable psychiatric profession. However, there are also short-term advantages in surrendering a young person to the medical discourse in that it can help secure non-custodial sentences. Psychiatric Reports, like PSR's, are tactical documents that are designed to achieve specific outcomes. It should not be assumed that psychiatrists are any less 'knowing' and 'artful' than their counterparts in Social Services and Youth Offending Teams. What is of significance here, though, is that the discourse of medical positivism seems to be privileged above the repertoire of social explanations of behaviour offered by social workers and YOT workers. The social status of medicine and psychiatry is more powerful in that lay challenges to professional authority are more difficult to mount. For the PSR author, a psychiatrist can be a powerful ally in the courtroom.

At the time of the case analysis, the new placement was stable and the visits to the grandparents were going well. This meant that he could be reconnected to a suitable educational programme. Marc was, however, still missing his mother a great deal and wished to have more contact. The possibility of absconsions at weekends was still a source of grandparental and professional anxiety.

A.3.5: Gavin May

Gavin May, who described himself as 'Black/Other' on the ethnic monitoring form, was 15 years old at the time this case analysis was completed. He was subject to a Care Order and serving a custodial sentence in an English institution as part of a Detention and Training Order.

Gavin, the second of four children born to his parents, lived with his mother when their marriage ended. He had no contact with his father for many years. The family lived in social housing in a low income, high crime neighbourhood. Gavin's childhood was extremely difficult in that his mother had a long history of violence and drug misuse. She was not co-operative with Social Services and the younger children were taken into public care. The eldest child, meanwhile, went to live with a relative. Despite her undoubted problems, Gavin was very attached to his mother. The initial judgement of Social Services was that home was probably still the best place for him. Over a period of time, however, this assessment was revised. At the age of 13 years he was removed under an Emergency Protection Order because of Neglect and Emotional Abuse. With the benefit of hindsight, it was recognised that it would have been better to have removed him from this environment much earlier. In the event his removal proved traumatic for Gavin. His mother held a knife to her throat and threatened to commit suicide if Social Services removed him from her care. This distressing incident haunted Gavin and he initially made attempts to abscond from local residential units in order to visit his mother. It was because of this that Social Services placed him in a Secure Unit in London for three months. These initial experiences away from home proved to be a profound shock to him. He was described as "*a frightened and uncommunicative child*" when he first entered the public care system.

Back in Wales he was placed in a children's residential unit in a neighbouring county. It had been intended that this would be a temporary measure until a more suitable placement was identified. The 14 months that he remained there proved to be a deeply

negative experience for Gavin. Before his removal from the family home he had been assessed as having Special Educational Needs and was attending a Special School. He had been making good educational progress prior to his removal. Indeed, his relationships with the school staff had been an important source of stability for him. For reasons that are not entirely clear, he could no longer attend the Special School, even though it was only a comparatively short distance from the unit where he had been placed. What is worse is that he was not provided with an educational placement of any description during the entire 14 months of his stay at the unit. His special educational needs could not be met by the unit's own school and he was apparently not permitted to attend a local school. The policy of the unit, moreover, was that school non-attenders were not allowed to participate in extra curricula activities. Consequently, Gavin found himself without any meaningful occupation for 14 months. Having effectively been 'warehoused' by the care system, he complained of boredom and depression. He absconded on many occasions in order to make contact with his family. Sometimes those absconsions put him at odds with the law (e.g., the commission of driving offences).

Gavin had not been in any trouble with the law until he was placed at this particular unit. At the age of 14 years, along with other young people from the unit, he committed the first in a series of offences that included Taking a Vehicle Without Consent, Theft and Possession of Drugs. The sentences attracted by this intense period of collegial offending included Attendance Centre Orders and Supervision Orders. The culture of crime that existed amongst the young people is glimpsed in some of the pre-sentence reports. On one occasion, for example, Gavin had gone to bed one night. Later, he was awoken by a fellow resident and told that a stolen car was waiting outside the home. He was encouraged to join them for a drive. Whilst he could have declined the offer, of course, the pressure to conform could also be understood. After one incident where he and other children were driving to Porthglo, the Social Services Department made an application for a Secure Order under Section 25 of the Children Act 1989. He was detained at a Welsh Secure Unit for three months and reportedly made good progress there. However, the lack of support and absence of correspondence from his family was the cause of some upset.

On his release, Gavin was placed with experienced specialist foster carers in Porthglo. Although he took some time to settle, he did form a positive relationship with them. This placement also enabled him to have more regular contact with his mother and sister. Contact with his younger siblings, however, was not facilitated. He reported that he missed them and was concerned about their welfare. Nevertheless, overall the new placement was a positive experience for him. The main problem was that fresh offences he had committed (with other young people of his acquaintance) in the early stages of this placement came back to haunt him. He became convinced that he was going to receive a custodial sentence and didn't believe he had the power to shape his future. Whilst this was a pessimistic assessment, it was not an entirely unreasonable reading of the situation. Gavin became so despondent that his YOT worker was concerned for his mental health. He was initially resistant to the idea of co-operating with a psychiatrist because he feared the consequences of being labelled as mentally ill. Eventually, he did meet with a Child and Adolescent Psychiatrist and it was her view that he was not suffering from any diagnosable mental illness. Any despondency being experienced, in other words, was a natural reaction to an unhappy situation. Despite a positive report from the Bail Support Team and recommendations from the psychiatrist and PSR author that a custodial sentence would be inappropriate and potentially harmful, he received a 6 months Detention and Training Order. This was being served at an English Young Offenders Institution.

Although one cannot state with confidence that Gavin would not have entered the criminal justice system at some stage, it is difficult not to draw the conclusion that the 14 months spent at the 'out of county' residential unit proved to have a corrosive effect on his morale and accelerated his descent into offending behaviour. One PSR author was scathing in her assessment that this period in Gavin's life had caused considerable damage.

“Although I would not want to make excuses for this youngster's criminal behaviour, I do believe that this inactivity and lack of focused support, from both

Child and Family Social Services and the Education Department, placed Gavin in a position from which offending was almost inevitable.”

One footnote worthy of mention is that when Gavin entered custody, supervision of the case was transferred from a white woman to a black male. It is not clear whether gender and ethnicity were factors in this re-allocation. However, the former supervising officer was very clear in her last PSR that the “*relationship of trust*” between her and Gavin had broken down “*irretrievably*”. Consequently, she commended the new supervisor as someone who could provide “*a fresh start*”. Whilst consistency in the supervisory relationship may generally be regarded a ‘good thing’ (working through problems together, etc.), it is nevertheless notable that the former supervisor chose to take some responsibility for the problem rather than representing this as ‘non-compliance’ or lack of co-operation on Gavin’s part.

A.3.6: Robert Copeland

Robert was aged 14 years and subject to a Detention and Training Order at the time of this case analysis.

Robert was born in an English city to an English father and Welsh mother. He is the second eldest in a family of seven children. Initially, the family lived in England, but when Robert was only six months old the mother and children returned to Porthglo where they lived with the maternal grandmother. The maternal grandmother provided a great deal of the care for the children. She was profoundly deaf and Robert communicated with her through sign language. At the age of three years, Robert’s own language development was considered to be rather under-developed. Some two years later Robert was assessed as having moderate learning difficulties and was given a Statement of Special Educational Needs. At around this time Robert’s care was entrusted to his father and he moved back to England. Records would suggest that the following few years were characterised by instability, with father and son spending a great deal of time in Bed and Breakfast accommodation. Eventually, Mr. and Mrs. Copeland were reunited and father and son moved back to Porthglo. The family lived in social housing in a low

income, high crime neighbourhood. Social Services became involved with the family when Robert was aged 11 years. There were allegations of physical abuse and concerns about possible Neglect in respect of the children. Younger siblings had also been involved in shoplifting. Although Robert had not, at this stage, been involved in offending, his behaviour at home and school was sometimes challenging. Later that year, at the age of 12 years, Robert was accommodated under Section 20 of the Children Act 1989.

The next year witnessed numerous placements (both foster care and residential), brief periods at home and spells in secure accommodation. The main problems appear to have been threefold. Firstly, he was vulnerable to bullying by peers. Secondly, he was easily influenced by those who took the trouble to befriend him (and this seems to have led directly to offending behaviour). Thirdly, he absconded frequently and was found by police in the company of older young people in the centre of Porthglo or districts in which his welfare could have been at placed at risk. On one occasion, for example, he was reported as a missing person and was eventually found by police in the centre of Porthglo after 2.00 AM. The issue common to all these problems appeared to be Robert's learning difficulties.

By the age of 13 years he was serving a 12 months Detention and Training Order at an English Secure Unit following a second court appearance (Robbery from a younger child, Theft and Deception). The first, for Theft and Criminal Damage, resulted in a three months Reparation Order. This Order had been completed successfully. On his release from the custodial element of the DTO, Robert re-offended. After a period on remand at a Secure Unit in the North of England, he was eventually given a Supervision Order for Theft and minor Arson (committed at the residential unit where he was staying). A matter of months later he was involved, albeit peripherally, in an Attempted Robbery and was given his second custodial sentence.

A few general points should be made in respect of Robert's case. The most important, however, relates to learning disabilities. The case records provide numerous examples of

not only under-developed cognitive and educational skills, but also inappropriate social behaviour. In a letter of referral to a clinical psychologist (in which a fresh assessment is being sought), a specialist nurse for Looked After children writes about this young person at the age of 14 years:

“Robert ...has already spent several spells in a secure unit. His offences range from theft to smearing faeces over restaurant windows. Robert also displays inappropriate behaviour regarding his own body awareness often playing with his genitalia openly in front of other adults and young people. Professionals involved with Robert are concerned that he has no conception about right/wrong, appropriate or inappropriate behaviour.

Robert has a statement of education which began...on school entry. At the time the educational psychologist’s report suggested that Robert was cognitively functioning at considerably below average and he also displayed similar language delay. It was unclear at the time whether Robert’s delay was due to social deprivation and emotional factors.

The statement review undertaken in (when Robert was aged 11 years) ...suggested moderate learning difficulties and a reading, spelling age approximately 6 years of age.

Robert has not been in school placement...for almost a year due to periods of time in secure units.”

The type of behaviour described above led to Robert experiencing some difficulties in both residential units and custodial regimes. He was, as previously mentioned, intimidated and bullied. While he was serving his first Detention and Training Order he was the victim of an assault that led to police involvement. Review meetings conducted at the Secure Units reported that whilst Robert tried hard and responded particularly positively to one-to-one input from staff, his relationships with peers could be strained. The one example cited here is representative:

“Robert’s strange and often unsocial behaviour does cause some unsettlement within the group. The other residents have some difficulty understanding why he does things and others just see him as irritating. We are trying to work round this and increase tolerance. But we are not helped by Robert’s stubbornness.”

Whilst many professionals expressed concerns about Robert's limitations and inappropriate behaviour, he was nevertheless processed by the criminal justice system as a competent actor. The offences he committed all took place whilst in public care and in the company of older and more able peers. The extent to which he understood fully the implications of his actions are called into question by some of the accounts by YOT workers of the subsequent interviews conducted. As one wrote:

“Robert tells me he does not know the victims and failed to recognise any impact this offence may have had on them. Until such time as Robert displays some level of victim empathy the potential for restitution would seem small.

When we initially met Robert did not engage at all appearing to treat the interview process as a joke.”

Robert's failure to empathise with victims (or even pretend to empathise) resulted in early release from his first custodial sentence being denied. A letter from the Headquarters of the HMPS YO Group confirmed the rationale underpinning this decision:

“While I accept that Robert's general behaviour has been very good and there has been a general change in attitude, I am most concerned at the risk still posed by Robert. Even after taking into account his learning difficulties, I am concerned at comments attributed to offence-related work sessions.

It is said that Robert 'has not progressed in terms of recognising victims feelings (empathy) or remorse' and so far as victim awareness is concerned, Robert is said to 'lack understanding although he attends sessions, it is difficult to believe there has been an overall change.

In view of the perceived high risk, I cannot authorise his early release.”

The argument that Robert was being set goals that his learning difficulties effectively prevented him from achieving was made by the supervising YOT worker. It was also suggested that it was inappropriate to deal with him through the criminal justice system

“I understand that the Secure Unit is unwilling to recommend early release due to the high risk that Robert presents because of his vulnerability to the negative influence of others, lack of victim empathy and difficulty with offence-focused

work. However, throughout the Order these factors have always been recognised as directly related to moderate learning difficulties and social skills. There is no indication that one (or two) months more in the secure unit would reduce the risk he poses.

At the last review meeting there were clear concerns raised about discrimination through not taking account of Robert's limited abilities. I do not feel it at all appropriate for a criminal order to be used to address Robert's vulnerability, as it is Social Services' responsibility to provide a secure bed to do so....

He may not have achieved as much as desired, but has done all that was asked of him in his planning meetings."

One effect of his multiple placements and Detention and Training Orders was that his educational needs were not met. Between custodial sentences, Mrs. Copeland was sufficiently concerned about her son's needs not being met that – with some assistance – she wrote to the Welsh Assembly Government's Minister for Education in the following terms:

"I am very concerned regarding my son's education. My son is Robert aged 14...he is statemented and (until he received his first custodial sentence) was a pupil at Brynhyfryd School. Whilst Robert was a difficult pupil and had short term exclusion, I do not believe he was ever permanently excluded.

However, Robert committed an offence of Robbery...and was sentenced to a 12 month Detention Training Order....

Since Robert's release I have been informed by... Pupil Support that the only school available is Cwmglas. Robert is being offered two and a half hours education per day from 9.00 AM to 11.30 AM. Robert will be given a bus pass and be expected to travel via bus from his home to Cwmglas.

Robert has severe learning difficulties and has the reading/writing age of a 7 year old. Robert also needs the support of full-time education as per his statement. Furthermore why is my son only being offered twelve and a half hours education a week?

Robert is a vulnerable child and easily influenced. I am very concerned about my son being given a pass with the expectation that he will travel to the otherside of Porthglo. My concern is he will wander off – which will put him at risk both in terms of safety and further offending.

Please can you help me as I want support and education for my son?"

The matter was not resolved before his return to custody. This sentence, of course, caused further educational disruption. The reports of Robert's progress in Education whilst serving custodial sentences highlight the difficulties experienced by both staff and the young person. Here are just two extracts from the Minutes of different Review Meetings.

"Due to his special needs he finds written work very difficult. He enjoys Art and shows basic skills in Technology. In Maths he is working excellently and enjoys the challenge of solving problems.

He tends to annoy others in class and rely on staff to help him. He often receives one to one help."

"Robert can be isolated socially and although not aware of it, can annoy others."

As will now be clear, the most striking feature of this case centres on the question of whether the criminal justice system was the most suitable place with which to deal with Robert's needs. That he could be difficult and – when in the presence of other young people with criminal tendencies – become involved in some serious offences is beyond doubt. However, the concern was that both residential units and custodial regimes had the effect of increasing the risk of re-offending.

The existence of learning difficulties has not protected this young person from the full force of the criminal justice system. At one point, while Robert was remanded in custody in the north of England, a psychiatric report was sought. This never materialised because a YOT worker intervened. There were two reasons cited by the YOT worker. Firstly, he was concerned that the length of time it would take to obtain such a report would extend the young person's time in custody. This, he thought, was potentially very damaging. Secondly, he took the view – based on extensive practice experience – that psychiatrists tended not to diagnose a young person under 18 years with a mental health problem. The 'learning disabilities' route was preferred. This rationale was partly based on the principle of diversion (the mental health system being potentially damaging to young

people) and partly because adolescent mental health services were under-developed. Robert duly appeared in court and received a Supervision Order. Within a matter of months, though, he was back in custody.

A.3.7: Teresa Bradley

At the time of this case analysis, Teresa Bradley was subject to a Community Rehabilitation Order and remanded in custody at an English Young Offenders Institution. She was awaiting a court case in respect of an offence of Arson.

Teresa and her younger sister were, for the most part, brought up by their mother and stepfather. There appears to have been little contact with the natural father. When Teresa was younger the family lived in another Welsh urban area, but subsequently moved to Porthglo where they resided in social housing in a low income, high crime neighbourhood.

Teresa first came to the attention of Social Services when she was eight years old and living in another Welsh urban area. The police made two referrals to Social Services when it was alleged that, over the course of the previous summer holidays (when she was aged seven years), a neighbour had sexually abused Teresa. It would appear that, whilst the investigation indicated that sexual abuse probably had taken place, a prosecution of the alleged abuser did not follow. It should be noted that Teresa remained reticent about these specific incidents as, indeed, she did in respect of other instances of alleged abuse. Mrs. Bradley seemed to be in no doubt and burgled the alleged abuser's house as an act of revenge. The family subsequently moved to Porthglo and the risk to the children was deemed to have passed. There was no evidence that Mrs. Bradley had failed to take reasonable steps to protect her children by trusting the neighbour. The children were not, therefore, placed on the Child Protection Register.

As she got older Teresa made oblique references to various incidents of sexual abuse that had taken place during her early childhood. However, it was only at the age of 17 years

that - after years of resistance - she agreed in principle to be referred to psychiatric and therapeutic services in order to discuss specific issues from the past that continued to trouble her (including sexual abuse). Whether her engagement with these services would eventually lead to such disclosures being passed to the police was a matter that would be in her hands alone. What emerges very clearly from the records, though, is that those who had contact with Teresa were persuaded that she probably had been the victim of some form of sexual abuse when she was quite young.

Teresa came to the attention of Porthglo Social Services when she was aged 12 years. Her mother said that her daughter was beyond her control and needed help. At this time Mrs. Bradley was living with her father on a Porthglo social housing estate. She was suffering from depression, had physical health problems and there is a suggestion that she was drinking alcohol heavily. At a Case Conference Mrs. Bradley is reported as saying that:

“Teresa was mixing with a bad group of youngsters and she had a bad attitude towards her mother. She was sneaking out and staying out late.”

Teresa was duly accommodated at an ‘in county’ Children’s Unit under Section 20 of the Children Act 1989. There her behaviour became more high risk. She misused alcohol and other substances (solvents, amphetamines and other ‘pills’) and became sexually active. A bright and able pupil, she was also now truanting from school. Mrs. Bradley expressed concern that her daughter’s behaviour had deteriorated since being admitted to public care and, for a short time, returned home. This arrangement did not work out and Mrs. Bradley reported that her daughter was still beyond her control. She was returned to a local authority children’s unit under Section 20.

The exact sequence of events is not entirely clear from the available case records (there are slightly conflicting accounts), but it was certainly when she was still 12 years old that Teresa attempted to take her life with a drug overdose. Her mother did not accompany her to hospital and refused to have her return home. This parental reaction was experienced by Teresa as an act of rejection and hurt her deeply. Although Teresa was

seen by a psychiatrist before discharge, she refused to co-operate with follow-up services. This refusal to engage with psychiatric services became characteristic of Teresa's attitude towards the profession over the next five years. Her way of dealing with painful episodes in the past was simply not to discuss them.

The new local authority unit placement witnessed higher risk behaviour by Teresa. The repertoire of drug use widened and her sexual behaviour became positively dangerous. One report to a Child Protection Case Conference noted that:

"Even though Teresa was only 12 years of age she became promiscuous and was known to misuse drugs and alcohol. She absconded from the unit on several occasions and failed to attend school.

Teresa dresses beyond her years and has clearly encountered inappropriate life experiences for a girl of her age."

The Conference heard that:

"Teresa began consuming large amounts of alcohol getting into cars of strangers. She got very drunk and was admitted to hospital. Teresa alleged rape and was very drunk on that occasion."

The Minutes also relate Teresa's account of her behaviour at around this time.

"She also talked about prostituting herself and described instances where she stopped cars in the street and asked men to go with her. Teresa was saying money was not an issue, she was rarely offered money."

At around the same time, Teresa was missing from the unit for sometimes quite lengthy periods. She was apparently staying with friends on a nearby social housing estate and, at one stage, went to live with a man in a Welsh town some sixty miles away. Placed on the Child Protection Register on the grounds of her risk to Actual Sexual Abuse and, because of absconsions, she was accommodated in an 'out of county' foster placement in rural Wales. This did not prove to be successful. The source of instability seemed to be the lack of contact with her mother and sister. Mrs. Bradley explained that she had not been

in contact as much as she would have wished because of ill health. In any event, Teresa's unhappiness, absences, offending and lack of contact with her family precipitated a review of the placement arrangements. It was decided that a therapeutic placement at a privately-run residential unit in England was identified as the best available option. Although its distance from Porthglo still raised issues concerning family contact, there were other aspects of this intensively staffed regime that were considered positive.

Although there were problems from time to time, between the ages of 13-14 years Teresa was generally settled at this unit. She undertook education at the unit and showed glimpses of her underlying ability, especially in Sciences. The reports that emerge from the unit at around this time not only confirm earlier assessments of a vulnerable and unhappy girl with low self-esteem, but also as a young person with talent and potential. One report comments:

"Teresa has a lovely personality and often shows a level of caring for others which is far beyond her years."

As already mentioned, there were problems from time to time. Sometimes these related to events that occurred outside of the placement (e.g., family issues); at other times it was connected to dynamics within the unit. Here, for example, the arrival of a new young person upsets the delicate balance. A unit staff member writes about,

"...the arrival of another young lady from ...Wales. As a match the girl and Teresa were perfect, but the match proved to be a negative one in so much that we saw the girls absconding (to chase boys), and involve themselves in self harm behaviours to include sniffing gases, hairsprays, etc. and scratching/cutting her arms and bodies."

When the other girl left, after a period of sadness, Teresa settled down once again.

At the age of 14 years, for reasons that are unclear (but may have been related to resources), Teresa was returned to foster carers in rural Wales. This placement broke down almost immediately and her behaviour reverted to old patterns. Although she is

described as a girl “*more vulnerable than aggressive*” she got very drunk and assaulted one of her carers. She was returned to a residential unit in Porthglo where she engaged in extensive substance misuse, absconding and risky sexual practices. She also caused Criminal Damage (by fire in one case) at the unit and was duly prosecuted. As the PSR author noted at the time that these offences came to court:

“It now seems obvious that had she not been moved... (from the English residential unit), a substantial number of the matters before the Court would not have occurred.”

After this chaotic and deeply damaging interlude, Teresa was returned to the English residential unit. Although she was much happier there, there was a feeling amongst the practitioners that she never quite recovered from the disruption of her first placement there. Not only were there times when she absconded, she also began to establish a network of dubious contacts in a large town near the unit. There were rumours of men offering her work in prostitution and pornographic films. Unit staff could not be absolutely certain that these rumours were untrue. Nevertheless, overall Teresa was still much happier in the English unit than she had been in Porthglo.

On the day of her maternal grandfather’s death, Teresa’s mother committed suicide. The devastating impact of this event cannot be over-stated. She seems to have been well-supported, but obviously nothing could insulate her from the shock waves of grief and the acute sense of abandonment. She made another attempt on her life (an overdose) later that year. At the time this case analysis was undertaken she was still coming to terms with these terrible events.

Teresa’s move to independent living at the age of 16 years does not appear to have been well-managed. The psychiatrist who assessed Teresa after her second suicide attempt was so concerned by the apparent lack of planning that he was moved to write a letter that he copied to Porthglo Social Services. He described how she was “*tearful*” and spoke of wanting to “*join her mother*” before launching into stinging criticisms of the absence of suitable leaving care plans:

“I hear with some concern that there does not appear to be any clear plan for what happens when she is 16; this is imminent. Teresa herself is saying she is going to leave the unit, and the staff were saying that this indeed might be the case, as they would have no right to detain her against her will.”

It is very clear that when she reaches the age of 16 she will not be able to cope on her own. I suspect that if there is a longstanding pattern of deliberate self harm that this will continue. I was surprised to hear giving the circumstances that she is still in voluntary care.”

Leaving Care support services were apparently not so good in the English county in which the unit had been located. Teresa returned to Porthglo without any qualifications at the age of 16 years. In the early stages she lived in good standard Housing Association accommodation. However, after - as she put it – living “under 24-hour supervision” at the unit, she could not settle in this new setting. Instead she spent her nights with friends. The accommodation was lost and she drifted between bedsits and hostels for the homeless. Case records show how she disappeared for short periods and re-emerged periodically in court or asked for help and advice at the YOT. It is noteworthy that Teresa’s relationship with her supervising YOT worker was very good. Regular visits, telephone calls and letters had been maintained by the current and previous YOT worker during her years away from Porthglo. The narrative of Teresa’s life after leaving the unit are too involved and complicated to be represented here. However, the salient events and issues can be summarised briefly. Teresa drank cider heavily and took a cocktail of drugs. Her use of heroin and crack cocaine was particularly worrying, as was her pattern of self-harming behaviour (cutting). Intermittently, she was also working the streets as a sex worker. The following extracts from the narrative case record convey the nature of her life over a two month period before her remand in custody.

“Took Teresa out. She had been drinking. Window smashed -told me she was indecently assaulted by Thomas Davies – landlord – now being thrown out for smashing the house. No money as her book has lapsed. Met boyfriend Denis and another resident called Gareth. Later took her to (another Welsh town) to stay with friends. She was very drunk. Suicidal talk subsided. Did not give money (as planned) because she was so drunk and going to the pub again. Gareth with her.”

“Teresa staying with friends at (address given). Seemed settled. Gareth helping her claim benefits. She had picked up with someone in (previously mentioned Welsh town) who was described as a ‘pimp’. He had followed her to Bryngolau in Porthglo threatening to kill her. Teresa wouldn’t press charges and was avoiding Bryngolau, quite frightened. Rang Leaving Care. No vacancies at (a particular accommodation project). Teresa to stay at (another friend’s address) for a few days.”

“Thomas Davies is alleged to have raped her on Saturday (police are involved). Now staying at her boyfriend Denis in Caederwen, Porthglo. Teresa very low, had self-harmed. Cut her neck with a razor, also talking suicide.”

“Teresa living with Shirley (described elsewhere as a ‘mother figure’) in (a Welsh town other than the one already mentioned). Saw her Tuesday, she looks awful, bloated, cut her arm which has become infected....

Don’t know how long this will last. Fled with only the clothes she stood up in.”

There are a number of additional points concerning this case. Some of the points raised are illustrative of wider of issues. Firstly, some of the absconsions put Teresa at considerable risk. This will be apparent from much of what has already been written. However, it is worth drawing particular attention to three incidents that have not been mentioned. The first involved Teresa being apprehended on a train to London. She had no plan and nowhere to stay in London. The second involved her hitching on a slip road to a motorway far from home. She was alone and had been drinking alcohol. She passed out on the side of the road and could not be revived by a passing lorry driver. An ambulance was called and, although she assaulted a paramedic when she regained consciousness on her way to hospital (and acquired another conviction), she was - at least - safe. The third incident saw Teresa driving a stolen car under the influence of alcohol. It was fortunate that neither she nor other road users were killed or injured.

The second area of comment concerns Teresa’s offending and the way in which it was dealt with when it came to court. Teresa’s offending (mainly Criminal Damage, but also TWOC, Theft, Assault and Arson) generally corresponded to those periods when she was unhappy with her placement or there was accommodation instability of some sort. The records show that during periods of placement stability Teresa did not offend. Most of

her time at the residential unit in England, for example, was offence-free. It is interesting to note that the courts seemed to have no difficulty in understanding this pattern. As part of the period preceded the implementation of the new legislation, the Courts therefore made a series of Conditional Discharges - something that they cannot now do. The PSR's of this period make interesting reading. One, in particular, is noteworthy not only because it deals with the offences committed when Teresa's English placement was disrupted but also - almost in defiance of the recently passed 1998 Crime and Disorder Act - because it invokes the spirit of Section 44 of the Children and Young Persons Act 1933:

"This places an obligation for courts to consider the welfare of children placed before them..."

However, the PSR author argues against a criminal Supervision Order on the grounds of welfare and effectiveness:

"Attempts to direct or force compliance have so far proved counter productive and all evidence demonstrates that the most effective method of preventing offending is to maintain her current placement and work on the issues already identified.

She has a social worker and a high support needs placement, working on issues of self harm, alcohol misuse, family relationships, and appropriate behaviour. She will continue to be vulnerable for some years until she reaches maturity and I would ask Your Worships to take a long term view of the situation by continuing to support the child care plan."

At this time, of course, the establishment of YOT's had not been completed and Social Services still supervised young offenders as well as children in public care. It is against this background that the PSR author explains another reason for the inappropriateness of a Supervision Order. It

"...would only confuse working arrangements and, in any event, as she is on the child protection register, her current social worker would have to remain as the supervising officer and as such, supervision would be purely cosmetic and inappropriate."

Presumably because the courts took the “*long-term view*” and supported the “*child care plan*”, they made yet another Conditional Discharge. Under the new legislation this would not have been possible.

The final point that should be made relates to a couple of years later when, under the new regime, offence-focused work on driving crimes is attempted with Teresa. It soon became clear that this young person had other things on her mind. The session is recorded as follows:

“Teresa found to be in a very depressed and emotional state. We began the session with looking at the high way code questionnaire but Teresa admitted she didn’t know much about it. Teresa began talking about the loss of her mother and grandfather. I allowed her to continue the line of conversation.

Teresa was sitting on her bed again very upset having attempted to paint her bedroom and broken down due to it all going wrong. She told me about the pain she was feeling and how she thought painting would help, ...”.

Sometimes, despite the fact that young people may have committed serious and dangerous offences, the priorities of the criminal justice system are their very last concern. Sometimes, working on offending behaviour is the least important thing in a young person’s life.

At the time of completing this case analysis the last entry in the case file concerned a visit to Teresa at an English Young Offenders Institution. She had been remanded in custody.

“Visit to YOI. Teresa ok, has some scratches but doing ok. Wants to go back to medical wing.”

Appendix 4: Full Case Summaries of Young People Referred to by Practitioners

A.4.1: David Spiteri

At the time this case analysis was undertaken David was aged 16 years and, having been previously accommodated by the local authority under Section 20 of the Children Act 1989, was then serving a Detention and Training Order sentence at an English YOI.

David was the second-born of three children of Mr. and Mrs. Spiteri. The family lived in social housing in a low income, high crime neighbourhood. Mr. Spiteri had a chronic alcohol misuse problem. This impacted severely on family life and was a prominent factor in the domestic violence that took place within the marriage. Eventually, his drinking was the main cause of the couple's separation. The children stayed with Mrs. Spiteri, but she found it difficult to manage all three children. Her relationship with David also deteriorated markedly after the departure of Mr. Spiteri from the family home. At the age of 12 years, at their request, David was accommodated by the local authority. David did not settle well into public care and spent a period in secure accommodation because of absences without approval. It was also at the age of 12 years that David was excluded from his high school (for fighting other pupils and being abusive towards teachers). The next two years witnessed 15 placements in public care. Although there were periods of stability (one very positive foster placement and spells with his paternal grandmother), overall these were years of extreme disruption. Contact with his mother and father was intermittent. His grandmother, who was approved as a foster carer, was an important source of emotional warmth and stability in his life. During his periods living there she also managed to facilitate appropriate contact between parents, siblings and David. It would seem that, due to health reasons, David's grandmother was not always able to sustain lengthy placements. Nevertheless, she was always available to David when he needed her. Her death, just before David's then current custodial sentence was imposed, was a profound blow.

It was in public care that David began to use drugs (cannabis and Temazepam) and alcohol. His substance use generally followed the pattern of bingeing when upset, angry or depressed. On one occasion he made a serious attempt on his life through a drug overdose. David's offending commenced when he entered a children's residential unit at the age of 12 years. The majority of offences committed by him took place inside the unit (offences of Criminal Damage, Theft, Burglary and Assault). Most of the others were committed with older residents or adult males in their twenties who had befriended him. A few observations can be made about David's Care-related offences. Firstly, he was identified as someone who was particularly susceptible to peer influence, especially when the boys were older or more sophisticated. This was noted at a Secure Training Centre. It was recorded by staff that,

“David has instantly formed superficial friendships with certain trainees, and furthermore, attempts to gain status and acceptance through negative actions and behaviour.”

Despite being labelled a 'trainee', the nature of the apprenticeship being served is called into question here. The pattern of behaviour described above is consistent with observations made in other settings, including the residential unit. Many of David's offences involved playing a supporting role in the presence of stronger characters. An assault, for example, involved a group of children administering a retaliatory attack on a peer who had just struck a popular member of staff. David, the youngest present, was peripheral to the assault, but complicit in the joint venture.

There were occasions, though, when David did act alone. These tended to be offences committed when he was upset or angry about the lack of control he had over his own life. There were, for example, incidents of criminal damage that seem to have been protests about placement moves. Once, he broke the wing mirror of a car parked near the unit and then presented himself immediately to the police station in order to report the crime.

There were also offences that bore a more oblique relationship to his status as a 'looked after' child. Thus, after visiting his grandmother on the other side of Porthglo, he found

himself without sufficient bus money to make his way back to the unit. He phoned the unit to explain the problem, but was told that he could not be collected. After walking some distance he decided to steal a car for the rest of the journey.

David's offences were dealt with by way of an Attendance Centre Order, Conditional Discharge, a Reparation Order, four Supervision Orders, two Secure Training Orders (at the age of 13 years) and two Detention Training Orders (15 and 16 years). The DTO being served at the time of this case analysis was for a qualitatively different offence than those that had preceded it: Robbery. It was an opportunistic 'handbag snatch' committed whilst under the influence of drugs. The aggravating feature of the offence was that the victim had fallen down some steps and been injured when the bag had been stolen. The commission of this offence was a complete surprise to all of those who had been working with David. At that particular point his local authority placement at a residential unit was stable and he had been attending a work experience placement as part of an Alternative Curriculum (a glowing character reference from his employer had been submitted to the court). The trigger for the drug misuse that preceded the commission of the offence had apparently been an argument with his girlfriend. David didn't in any way blame his girlfriend for what subsequently happened, but the incident highlighted the extent of his emotional lability.

There are two additional points worthy of comment in respect of David's case. The first, concerns his education. David was assessed as being an able child with academic potential. However, his educational needs were never addressed during his period in public care. The only time his potential was recognised and appropriate standards of educational work were set was during his time in Secure Training Centres. Whilst the reasons for referring David to the Alternative Curriculum are understandable on one level (David loved the work experience placements), it also denied him access to the opportunity of taking GCSE's. When his parents' signed away his right to be entered for these public examinations, one wonders whether they or he truly understood the wider implications of this decision.

Engagement by the Social Services Department and the YOT with David's parents appears to have been quite poor. Mr. Spiteri, though a chronic drinker, did take an interest in his son and made telephone calls. Contact was also facilitated through his mother. However, it was unclear as to whether Mr. Spiteri was an 'approved visitor' to the various institutions in which David was detained. Mr. Spiteri also made a complaint when he and his estranged wife were not informed of their son's court appearances. On one occasion this led them to not knowing that David had received a custodial sentence. Mr. Spiteri wrote to the YOT:

"Monday my son was sentenced to 4 months in prison. Neither myself nor David's mother were informed of this sentence. I later found out the homes in Porthglo (the residential unit), knew nothing about this either. For all myself and his mother knew, David could have been lying in a ditch somewhere. If it wasn't for a young girl who knows David, we would not have known. Myself and David's mother, find it disgraceful for not being informed of this matter, and we would like to make a complaint."

The manager of the YOT made a full apology for the distress caused and the oversight of not informing the residential unit where David had been staying. As there appeared to be an element of 'role confusion', the manager went on to explain the respective functions of the agencies. It is pointed out that Social Services had also failed to fulfil its responsibilities:

"...nor was there any member of Social Services care staff accompanying David at court. My staff are not part of Children's Services but members of the YOT."

In such cases our procedure would be to contact the parent of any child who is either sentenced to custody or remanded into custody or a secure unit, unless that child is 'Looked After' by the local authority in which case we contact the Residential Unit staff where the child is located. The designated social worker or Residential staff will then take responsibility for deciding which family members need to be contacted and the best means of giving them the news."

Whether the complaint was taken further is not clear. This did, though, appear to be a case where services were not particularly well 'joined up'.

As mentioned previously, David was serving the custodial element of his DTO in an English YOI. On his release, it seemed likely that he would be living independently of his family.

A.4.2: Amanda Bealing

Amanda Bealing was aged 15 years and subject to a Care Order when this case analysis was undertaken. She was accommodated at a privately-run, 'out of county' children's residential unit located in a remote part of rural Wales.

The second eldest of six children, Amanda was brought up by her parents in social housing in a low income, high crime neighbourhood. Social Services first became involved with the family when Amanda was under two years of age. This was due to concerns about the welfare of the children. Standards of parenting were low and there were instances of heavy alcohol misuse and domestic violence within the home. When Amanda was 8 years old, her parents separated. The children stayed with their mother. A year later Mrs. Bealing formed a relationship with a Mr. Douglas. When he moved in with the family, concerns about the children heightened as standards of care deteriorated. Following a child protection investigation it emerged that all of the children had been subject to Neglect and Physical Abuse. Additionally, all of the girls - including Amanda - had been sexually abused by Mr. Douglas. Amanda was actually the most extensively abused child in the family. It was subsequently discovered that Amanda had also been sexually abused by her natural father's friends when he was living at the house. Mr. Bealing was suspected of being directly involved in sexual abuse, too, but the evidence was insufficient to prosecute. Amanda's early memories were obviously less reliable than those of more recent years. However, she could not recall a time when she had not been sexually abused. Mr. Douglas received a custodial sentence for sex offences and Assault, whilst Mrs. Bealing received a shorter term for failing to protect her children. Mrs. Bealing was clearly also a victim of both men's violence and intimidation.

Amanda was evidently profoundly damaged by her experiences within the family. The legacy of this prolonged trauma was a disrupted sleep pattern, flashbacks, depression, anger and – at times – physically challenging behaviour. Her relationship with family members was also damaged severely. As the eldest daughter she harboured a sense of guilt concerning her inability to protect the younger sisters from sexual abuse. Amanda's relationship with her mother was complex in that she felt a confusing mixture of love, anger and guilt for her. The anger related to her mother's failure to protect, whilst the guilt was borne of the disturbing experience of being forced to assist Mr. Douglas in humiliating her mother. A variety of diagnoses were attributed to Amanda by a consultant psychiatrist. These included Post Traumatic Stress Disorder, Attention Deficit (Hyperactivity) Disorder and Attachment Disorder. Whilst these terms may be contested, they represented approximate descriptions of the complex emotional and behavioural state of a severely traumatised child. The diagnostic labels provided by an 'expert professional' also allowed the courts to deal with Amanda in a way that they hoped would help rather than punish. The crucial messages were, moreover, expressed in comparatively clear terms.

“Amanda suffers from a complex pattern of psychological disturbance consequent upon many years of sexual, physical and emotional abuse and neglect. She finds it hard to differentiate between appropriate and inappropriate social interaction, and her insecurity leads her to be both challenging and limit-testing.”

The ability to distinguish between 'right' and 'wrong' behaviour was not always clear to Amanda. Ideally, what was required was,

“...a consistent, warm, caring environment with clear boundaries in which she needs to develop some sense of trust and safety.”

It took some time before such an environment was found. She experienced a number of different placements, both foster care and residential, and proved to be a major management problem – even by the standards of the public care system. What was worrying, moreover, was that her absconsions and inappropriately sexualised behaviour placed her at risk. Her streetwise manner disguised an emotionally needy and vulnerable

young person. During some of her absences without authority she was found in the company of Schedule 1 offenders and drug users. Her problems in negotiating routine day-to-day social interactions with others were apparent as outbursts of temper flared in residential units and other settings. Some of these incidents were brought to the attention of the courts (included Assault and Criminal Damage) and were dealt with, *inter alia*, by Reparation Order and Conditional Discharge. However, at the age of 14 years a custodial sentence seemed a real possibility when, under the heavy influence of alcohol, she and three other girls committed a serious assault on another vulnerable young person. In the event a 2-year Supervision Order was made and a specialist placement found in rural Wales.

At the point at which this case was analysed, Amanda had been placed at the said unit for approximately a year. Overall, good progress had been made in the intervening period. It was discovered that Amanda was of above average intelligence and, albeit with 1-1 tuition, seemed to be on target for good GCSE results. The therapeutic work, conducted with the assistance of local psychiatric and psychological services, followed her pace. There were also moves to re-establish more regular contact with her mother and siblings. Crucially, there had been progress in terms of Amanda's behaviour – although there were still outbursts from time to time. In one month, for example, there were 16 incidents reported, including Criminal Damage to unit property and assaults on staff. None of these incidents found their way into the criminal justice system, but mediation was undertaken and – where appropriate – ‘in house’ sanctions applied. These sanctions were accepted by Amanda. There was an agreement that if the number of incidents reported taking place in the Unit fell below a certain level, then the Supervision Order could be revoked on the grounds of good behaviour.

Had Amanda been accommodated in a Porthglo residential unit in that one year period, there is little doubt that she would have appeared before the courts. It is also possible that she would have received a custodial sentence. As things stood, there were cautious grounds for optimism. Although recent behaviour had become a little more unpredictable since she had formed a relationship with a local boy, she was not as difficult as she had

been some 12 months previously. The big challenge, of course, was that - with the approach of her 16th birthday - independent living was on the horizon. Seemingly, she had no desire to return to Porthglo – other than for visits. She had attended a local youth club, formed friendships beyond the unit and had plans to attend a nearby college. There were concerns, though, that the level of community support she required might not be available in the event of setbacks and disappointments.

A.4.3: Marianne Stewart

At the time of this case analysis, Marianne Stewart had recently had her 15th birthday, was subject to a Supervision Order and was accommodated at a local authority children's residential unit under Section 20 of the Children Act 1989.

Before Marianne was accommodated at the age of 13 years, she lived with her parents and younger brother in social housing in a low income, high crime neighbourhood. The family were reported to have provided a stable and supportive environment. Two significant events, however, had a profound effect on the dynamics of family life. When Marianne was eleven years old her mother lost a child at birth. This had a devastating effect on Mrs. Stewart and other family members. It certainly seemed to make a deep impression on Marianne. It was an event to which she continued to make reference in interviews and conversations with social work staff and others during her time in public care. Shortly after this tragic loss, Marianne's younger brother was abducted. Although he was subsequently found and returned safely, this was a traumatic experience for the child and an already emotionally fragile family. Mrs. Walker was later to reflect that Marianne's needs were probably neglected in the aftermath of these difficult events. Most of the parental concern focused on their son because Marianne was a bright, capable girl who seemed to be coping. She was good at school, gregarious, musically talented and an outstanding athlete.

It was a complete shock to her parents when Marianne (then aged 13 years) and her friend, Zoë Lloyd (see Appendix 5) committed a Theft and Burglary together. Although there had been a slight deterioration in her attitude towards teachers, Marianne's attendance and general standard of work was still good. Marianne's involvement in these crimes was, therefore, also a surprise to those outside of the family. Marianne never gave a coherent explanation of why she and Zoë had committed these crimes. Both offences had taken place while Marianne was staying for a few days at the home of Zoë and there seems to have been an element of encouraging one another to commit the offences. As there had been aggravating features to the offences (the victims had been older people) it was dealt with by the Crown Court. The fact that a custodial sentence was being considered by the higher court proved to be an ordeal for both Marianne and her family. In the event a 2-year Supervision Order was made.

The initial relief was followed by a marked deterioration in the relationship between mother and daughter. Mrs. Stewart was the disciplinarian in the family and this brought her into frequent conflict with Marianne as she attempted to enforce boundaries. Eventually, Mr. and Mrs. Stewart turned to Social Services for help and, after much discussion, she was accommodated by the local authority under Section 20 of the Children Act 1989. The plan was for a short-term placement to allow breathing space. The intention was to work towards reconciliation and return.

Marianne was placed in foster care at the age of 13 years. She settled well and showed a marked improvement in behaviour. Her attendance at school was also good. At the same time Social Services invested considerable resources and expended a great deal of energy in working towards the planned reconciliation and return. There were also successful short-term stays and nights spent at the family home and with grandparents. Although it took longer than the originally projected 6 months, Marianne returned to the family home. At this point she was aged 14 years.

Unfortunately, Marianne's return home lasted less than two days. She and her mother had a very bad argument. The police removed Marianne on an Emergency Protection

Order because a distraught Mrs. Stewart said she was at risk of harming her daughter if she stayed. Marianne was duly accommodated under Section 20 of the Children Act 1989. This time, however, she was accommodated in a children's residential unit.

Marianne was described by staff as "*quiet and compliant*", but was also expressing deep unhappiness about her life in the unit. Marianne was initially distant from staff and other residents, forming pragmatic and "*shifting alliances*" rather than "*friendships*". She made repeated requests for a foster care placement over the ensuing year. There were obviously difficulties in identifying available and appropriate placements. Matters were not helped, however, when Social Services were unable to allocate a case accountable social worker. Thus, while plans were made at the various Looked After Children Review meetings, there was a long period when no-one was in place to ensure that these were implemented. The absence of an identified social worker to drive the work forward and achieve the agreed objectives probably contributed to the sense of drift that characterised the case from this point onwards. Although a reason for the non-allocation of the case was not given, on the basis of my knowledge of other cases it is reasonable to assume that staff shortages probably accounted for this situation.

The Minutes of the LAC Review and Harm Reduction Strategy meetings over the next 9 months documents a steep descent in Marianne's trajectory. She stopped going to school, gave up her extra-curricula activities (music and athletics), went missing from the unit for days at a time, had unprotected sex (there was a pregnancy scare) and engaged in substance misuse (alcohol, cannabis, ecstasy and solvents) that resulted in two emergency admissions to hospital. In the unit she was now described as "*sullen and withdrawn*" and occasionally abusive. The LAC nurse, with whom she developed a good relationship, was deeply concerned for Marianne's mental health, believing her to be dangerously depressed. She refused referrals to psychiatric, psychological and counselling services but did continue to confide in the nurse. Staff in the unit observed the physical manifestations of Marianne's decline with alarm. At one LAC Review meeting the change in her appearance was noted.

“She has now gone from being a clean, tidy and well-groomed young person to a young person whom appears to no longer be concerned about her appearance. Observations by the residential social worker include:

- *Unwashed hair, not styled;*
- *Not changing her clothes often;*
- *Very pale and pallid complexion;*
- *Eyes looking red and bloodshot;*
- *Dark circles under the eyes;*
- *Decrease in weight;*
- *Flying off the handle regularly, loss of temper when challenged or asked to do anything deemed reasonable...”.*

The failure to eat properly and the attendant weight loss led to speculation about heroin use or the development of an eating disorder. Neither explanation could be evidenced, though. Nevertheless, the decline in her health and well-being were palpable. She presented as being “*emotionally flat*” and seemed to care little about her future.

The Nurse’s concerns about the young person’s mental health were realised when Marianne was admitted to hospital following a suicide attempt (drug overdose). She discharged herself before a psychiatric assessment was conducted. Marianne’s mood swings seemed to be closely related to the fluctuating state of relations with her family. When there was the prospect of a return home, things improved and *vice versa*. Whilst her depressive moods were largely related to the state of family dynamics, the means by which she dealt with her unhappiness were shaped by the environment of the residential unit. Thus, she tended to associate with those who drank, took drugs and committed crimes. She was also introduced by them to wider networks of young people and adults who engaged in these activities. Convictions for offences committed in the unit (Criminal Damage, for example) were thus supplemented by those committed outside (e.g., Being Carried in a Stolen Car by older teenage boys). An Attendance Centre Order and an extension of the existing Supervision Order followed. These offences took her into the category of ‘persistent young offender’. Additionally, she was not complying with the Youth Justice Board’s *National Standards* in terms of appointment-keeping and risked being breached.

Her increasing propensity to offend was, though, an almost incidental or contingent manifestation of the dangerously chaotic lifestyle into which she was being drawn. The paramount concern centred on her safety and welfare. The absences from the Unit became more frequent and prolonged. In one month, for example, Marianne was absent from the unit for a total of 10 days. 7 of those days were consecutive and she was registered as a missing person. Police intelligence suggested that she and others 'looked after' young people were staying at the homes of adults who presented tangible risks to them. On one occasion, for example, Marianne and another 'looked after young person' were found in the home of a drug user (crack cocaine and other drugs were removed from the premises) and an adult male suspected of presenting a sexual risk to children and young people. It was against this background that the possibility of placing Marianne in secure accommodation was discussed at Harm Reduction Strategy Meetings.

On her fifteenth birthday Marianne had been due to spend the evening with her family. She did not arrive and instead went out drinking alcohol. She was found in the early hours of the next morning by the police with a black eye and bites on her neck. Marianne had only a vague recollection of the previous night, but believed she had been raped. The police investigation was still ongoing at the point at which this case analysis was completed. It was too soon to tell whether this incident might precipitate a reconciliation between Marianne and her family. Shortly before the attack, in a piece of work undertaken as part of an exercise with her supervising YOT worker, Marianne had been asked to write down a wish that she would like to come true. Marianne had simply written:

"I would wish to not offend and live with my mum and dad and live life again like it was."

A.4.4: Donna Chandler

At the time of this case analysis being undertaken, Donna Chandler was aged 13 years, subject to a Supervision Order and accommodated at a local authority children's

residential unit under Section 20 of the Children Act 1989. There were also outstanding offences that were due to be processed by the court.

Mrs. Chandler is the mother of four children and Donna is her only daughter. The two older sons, Donna's half brothers, were young adults and living in another part of Wales (although at the time one was serving a custodial sentence). Donna and her brother had no contact with their natural father. Mrs. Chandler had, for the most part, raised all four children on her own. However, it is worth noting that all had also been accommodated during their teenage years. The family lived in an enclave of social housing in a comparatively prosperous district of Porthglo.

Although Donna had only been accommodated for approximately six months when this case analysis was conducted, Social Services knew the family because of a history of problems in respect of the other children. Mrs. Chandler, who had chronic financial problems, worked full-time and raised the children with very little support from anyone else. In common with many workers, her employers allowed for very little flexibility in terms of taking account of family circumstances. Consequently, she could not always ensure that her children really attended school. One of Mrs. Chandler's complaints is that she never received proper support from statutory services. Although there is evidence of practical support from Social Services, it is quite possible that this intervention came a little too late to arrest a deteriorating home situation. Mrs. Chandler emerges from the case records as a stressed and exhausted woman with a nervous disposition. She is also represented as someone with a severe alcohol problem; drinking large quantities of spirits on a nightly basis. This placed a certain burden of care on the children. It would appear that there was one period when Mrs. Chandler became very ill and had to be hospitalised. It is not clear from the case records what arrangements were made for the children.

The stresses and strains of unsupported lone parenthood, along with a burgeoning alcohol problem, undermined Mrs. Chandler's capacity to provide consistently appropriate parenting. The case records that relate to the accommodation of Richard (Donna's brother) assess her parenting in the following terms:

“Shouting, swearing, hitting, requesting accommodation from social services...”

“Parenting skills practically non-existent. Richard says he cares for his mother but does not respect her.”

Richard’s physical abuse of his sister is explained with regard to the relationship dynamics between mother and children. The aggressive behaviour displayed by Richard, it is suggested, has been learnt from the mother. In the following extract from case records the dynamics of home life and the position of Donna within the family are depicted:

“Mrs. Chandler stated that she had no control of her children, in particular Richard. She attempted to protect Donna from Richard but could not do so when she was not at home. Mrs. Chandler also stated that she hit Donna. This was also supported by social work support staff who had witnessed mother strike Donna last week.

Further to this, social work support staff raised the way Mrs. Chandler addressed the children reflected the way they responded to her as she swore at the children it wasn’t surprising that they were swearing back. Mrs. Chandler wanted respect from her children but seemed unable to comprehend that this was reciprocal.”

When Donna’s brother was at home family dynamics were particularly fraught. For that period when Richard was accommodated, Donna settled at both home and school. However, when he returned Donna’s behaviour deteriorated. This would seem to be because Richard was, once again, being physically abusive towards her. As already indicated, Mrs. Chandler was often not present when these violent incidents occurred. Even when she was present, though, Mrs. Chandler appeared unable to protect Donna adequately. Donna displayed some self-harming behaviour (cutting) at around this time and apparently had suicidal thoughts.

It was around the age of 12 years that Donna began to challenge her mother more directly. Donna also started to assert herself physically. Just as her home life had been overshadowed by the bullying presence of an older brother, so her school career had been punctuated by incidents of violence from peers. At this time, though, Donna showed

clear signs of 'fighting back'. Her first contact with the criminal justice system followed an assault on a fellow pupil. Apparently, this had occurred against a background of being bullied. Donna failed to comply with the Referral Order and this was duly replaced by a Conditional Discharge. It was from this point onwards, though, that Donna became known as a girl who lost her temper quickly and flew into dangerous rages. Most of her subsequent offences and misdemeanours relate to incidents where she apparently 'lost control' (Criminal Damage and Assault). Donna's next offence, committed at the age of 13 years, was a minor public order offence arising from a domestic dispute with her mother. The police were called to the home where they found Donna in a state of 'hysteria'. Another Conditional Discharge was imposed.

Shortly after the above incident, Donna was accommodated by the local authority under Section 20 of the Children Act 1989. An initial foster placement broke down almost immediately and Donna declared that she didn't want to live with a family. She absconded on an almost daily basis. After a few weeks she was transferred to a children's residential unit located on a large social housing estate (a low income, high crime neighbourhood). Residential social work staff reported that, after a two week 'honeymoon' period when her behaviour was very good, the situation deteriorated. The residential staff believed that the subsequent arrival of two new young people into the unit proved to have a decisive influence on Donna. Both were troubled, challenging and already entrenched in offending. They also had links to wider criminal and drug-using networks. Donna formed friendships with both of them and her behaviour changed accordingly. Although she would, as before, be tearful and seemingly overwhelmed by emotions, Donna was also more challenging towards staff and some of the other residents. Misdemeanours and incidents in the unit involving Donna and other children resulted in criminal prosecutions (e.g., Theft of Food from the kitchens and Criminal Damage). The following extract from Crown Prosecution documents gives a flavour of the type of incident which drew her deeper into the criminal justice system. The friction that can result from an emotionally volatile young person rubbing up against the rigidities of institutional life are well captured.

“One of the residents, the defendant, Donna Chandler, approached staff and demanded food after the recognised time.

Around 11.00 am that morning Donna Chandler became more and more aggressive towards staff throwing a cup of coffee across the kitchen. She walked up to the fire alarm control box in the hallway and put her fist through the frost panel smashing the unit. Staff contacted the police and a short time later, PC Williams attended spoke to staff.

PC Williams arrested Donna Chandler on Suspicion of Causing Criminal Damage and conveyed her to the ...Police Station.”

It is interesting to note, incidentally, that residential social work staff in this particular unit were critical of the police for not being sufficiently robust with the young people. In one Harm Reduction Meeting, for example, it was noted:

“The police have been called to the unit in relation to Donna’s anti-social behaviour on a number of occasions. Ms. Carys Morris (Unit Manager) to consult with the police about their softly, softly approach to Donna, as it was noted that some officers were not engaging with Donna to assist her to reduce her offending behaviour.”

Over a period of 4-5 months at the unit Donna attracted three of her four convictions (the most recent resulting in a Supervision Order). The descent into high risk behaviour was also alarmingly steep. Despite some early educational problems, Donna was described as an academically able pupil Her exclusion from mainstream education and erratic attendance at a pupil referral unit meant that she had a great deal of time on her hands during the day. Although she was referred for a ‘fast track’ Statement of Educational Need (on emotional and behavioural grounds), this did not happen in the period under scrutiny. Consequently, Donna did not return to school and found herself ‘hanging around’ a great deal - despite some creditable efforts to engage her in day time activities (in which, to some extent, she participated). In the evenings she would go out with other residents and, if she returned, would usually be under the influence of alcohol and/or drugs (including solvents, cannabis, amphetamines and ecstasy). In fact a psychiatrist had attributed Donna’s “*mild depressive illness*”, in part at least, to a worrying pattern of substance misuse. Donna spent many nights away from the unit and was known to be

spending a great deal of time on the social housing estate in which the unit was located. This included visits and overnight stays at 'unsafe addresses'. One, for example, belonged to a chronic drug user whose children had been taken into public care. On one occasion, when the police visited the house they found Donna in bed with the woman concerned. It was not known whether any sexual liaison had taken place, but it had already been confirmed that Donna was sexually active with teenage boys in the unit and on the social housing estate. She had been prescribed oral medication, but whether safe sex was practised was uncertain. Donna was known to frequent a part of Porthglo that was frequented by those trying to recruit young people into prostitution. Although there was no evidence that Donna had been recruited, she had associated with friends who belonged to one prostitution ring. In summary, then, within a period of six months in public care Donna was considered to be at risk in terms of her substance misuse, sexual activity and association with adults known to be a danger to young people. At the same time she was at risk of criminal prosecution every time she lost her temper. The fact that she had also missed recent appointments with her YOT worker placed her in breach of the Supervision Order. Although the YOT worker showed no sign of breaching her, the lack of co-operation would probably be reported at the next court appearance. The possibility of a custodial sentence could not be discounted as she approached her fourteenth birthday.

At the point at which this case was analysed, it seemed unlikely that Donna would be staying at the children's unit for much longer. A Child Protection Conference was being convened because of the risks to which she was exposed. A return home in the short term seemed unlikely, so the possibility of her being placed in a Secure Unit (under Section 25 of the Children Act 1989) was being discussed amongst practitioners. If this was not accepted by senior managers then an 'out of county' placement seemed likely. The current placement appeared to be untenable. Within a very short period of time Donna had seemingly graduated from the category of being 'easily led' to one who posed a risk to others. In an email from a residential social worker it was pointed out that:

“The other young people are terrified of her, they often ring the unit to see if she is in before they return. At least two of the young people stay out to be away from her.”

One final point that should be made in respect of this case concerns the young person’s voice. Donna complained that she was not listened to by the adults responsible for her welfare. Given the expression of this viewpoint, perhaps more effort could have been made to ensure that Donna was put in contact with an advocate. Although advocacy services were available to all of the children in the unit, a more proactive stance probably needed to be taken in introducing her to them. It is noticeable that neither Donna nor an advocate is represented at a number of the statutory review meetings. A skilled advocate may have acted as an important conduit between those in authority and a girl who sometimes found it difficult to express herself without becoming agitated. Having said that, Donna was obviously capable of speaking to adults intelligently and reasonably in certain circumstances. The psychiatrist, writing shortly before the above cited email, stated without any hint of irony that Donna.

“...was happy to see me individually, and presented as a polite and co-operative young lady who attempted to answer all of the questions I put to her.”

As stated previously, at the time this case analysis was completed Donna had arrived at a crossroads where some important decisions were going to be made. Firstly, there was the court appearance for further offences of Criminal Damage and Assault; and secondly, there was the Child Protection Conference that would determine whether she would be placed in a Secure Unit, ‘out of county’ residential unit or remain ‘in county’. The Childcare plan would, of course, influence the outcome of the court appearance. Conversely, if the childcare plan were to be put on hold in order to await the outcome of the court appearance, then a custodial sentence would be a distinct possibility. The timing of the Child Protection Conference would very likely determine which road Donna would travel: welfare or punishment. This would also, of course, have implications for which budget funded her next address: the local authority or the Youth Justice Board. At such a crucial point in her life, the intervention of an advocate acting on Donna’s behalf could have done no harm.

NB: Subsequent to the case file analysis being completed, Donna was accommodated in a rural Welsh 'out of county' residential placement.

Appendix 5: Full Case Summaries of Eight Young People

5.1: Introduction:

Summarised below are the trajectories of the remainder of the young people who formed a part of this research study.

5.2.1: Peter Gully

Peter Gully had just turned 18 years at the point at which his case was studied. At this juncture he was living in social housing in a low income, high crime neighbourhood with his lone parent mother, an older sister and a brother aged one year. He is the eldest boy in a family of six children.

Peter's father's death occurred when he was aged around 7 years. The Social Services Department's Children & Families Team became involved in the family when he was aged eight years. Concerns were expressed for Peter's care, safety and well-being because of his mother's misuse of alcohol. The risk of neglect resulted in his being placed on the child protection register. Concerns about her misuse of alcohol had, in fact, been expressed previously in connection with his older sisters, although this had not resulted in their admission to public care. Peter was admitted into public care on a voluntary basis on numerous occasions from this point. It would appear that Peter's mother generally co-operated with Social Services. When his mother was abstinent, or her drinking was under control, Peter lived with his mother. However, when her drinking became problematic, he was – with her consent – placed in public care. He experienced many placements (both residential and foster care) over the next eight years. This instability appears to have had a profound effect on his emotional and educational development. The disruption to his education seems to be connected to the subsequent identification of special educational needs. It is worth noting, though, that he was never formally statemented. This may have been because of the number of placement and school moves he experienced. Peter's truancy during his teenage years also exacerbated

this problem. In any event, the outcome was that Peter's literacy and numeracy skills were under-developed. Social Services' strategy of working with the mother in a spirit of partnership and voluntarism is both comprehensible and laudable in terms of empowering the mother to 'keep the family together'. Moreover, the principle of making no Order unless absolutely necessary is one that was formalised in the guidance to the Children Act 1989. However, the fact that Peter was not made subject to a full Care Order may have resulted in his being a victim of planning blight and short-term, reactive social work practice. The chronic indecision that seems to have characterised the way in which his case was managed is in marked contrast to the swift action taken in respect of two younger brothers who were not only made subject to full Care Orders and were subsequently put forward for adoption. It is worth mentioning at this point that, for perfectly understandable reasons, older children are often subject to the kind of professional vacillation that characterised Peter's case, whereas the treatment of younger siblings is characterised by early intervention.

Peter's offending career commenced at the age of twelve years. Most of the early offending involved minor offences of dishonesty (e.g., theft) and criminal damage (e.g., causing damage to cars when trying to gain access for theft). These offences were committed with older children. Peter's minor supporting role was recognised by the courts by giving him a series of Conditional Discharges. At the age of 14 years, however, he was sent directly to custody for being a lookout in a house burglary committed by older children from a local authority children's home. Most of this six month period of detention was served at a local authority secure unit. Why the court did not, for example, consider making a Supervision Order is not recorded. Nevertheless, one might speculate that the fact that Peter was at that time accommodated by the local authority in a residential unit was not helpful to him. In the eyes of the court, perhaps he was already considered to be in receipt of twenty-four hour 'supervision' from Social Services. As this 'supervision' hadn't proved to be particularly effective, his removal to a 'secure' environment was possibly considered to be a logical next step. Had he been living at home at the time of these offences, though, would he have received a community based sentencing option? It is a question that only the sentencer can answer.

On his return to the community Peter's attendance at school was erratic. For reasons that are not entirely clear, various educational options (including alternative curricula) were deemed unsuitable or closed to him because of his age and/or complex needs. Over the next two years most of Peter's offending focused on car theft and driving illegally. All of these offences were committed jointly with older boys. Nevertheless, he does appear to have a genuine passion for cars and driving. His offending cannot, therefore, be attributed solely to the influence of other offenders. By this time, though, most of his friends were drawn from offending circles. Many, it is worth noting, also had a background in Care. A number of Supervision Orders followed.

At the age of sixteen Peter returned to his mother's home. It is clear that he enjoys a very close relationship with his mother. He is supportive to the point of being protective and looks after her during those periods when she is drinking heavily. At the time of analysis, Peter's mother had begun to drink problematically once again. This was upsetting for Peter, but he was also anxious that Social Services were becoming concerned about the youngest child. Peter described his own support network as still being drawn mainly from friends of his own age and some a little older. Most of these friends had criminal records.

Despite the unpromising scenario described above, his home did offer him a degree of stability. When he was placed on a Community Rehabilitation Order for a Theft his YOT worker focused on finding him a suitable training placement. A local training placement agency that has a partnership with the YOT alighted on his interest in music. He was duly found a training placement in which he could learn how to perform as a DJ on the club dance scene. This involved learning about electronics, sound production and all aspects of the performative dimension of the job. The training placement also demanded that he work on his English and Mathematics. Peter responded very positively to the training on offer. Not only was his attendance an exemplary 98%, he also exhibited great talent. This was evidenced by his selection to DJ at a Garage venue managed by a UK-

wide company. Following successful gigs he was assessed as someone who had the potential to succeed in the business.

At the point at which this case was studied, Peter had been free of offending for almost a year. However, an old case returned to haunt him and he was duly charged with Driving whilst Disqualified and associated matters. The YOT worker was faced with a dilemma at the PSR stage. On the one hand, Peter was making good progress on placement and staying out of trouble. On the other hand, he had failed to attend three consecutive appointments with his YOT worker. According to *National Standards* he should have been breached. The YOT worker decided not to do this because she feared it would threaten to de-stabilise the delicate balance that he had managed to strike between a difficult home life and a rewarding training placement. The good progress that had been made might have been jeopardised. Nevertheless, Peter's non-compliance with *National Standards* was cited in the PSR. The PSR recommended a Community Rehabilitation Order to run concurrently with the existing Order. Additionally, it was recommended that Peter's period of disqualification from driving should not exceed the ban already in place. It was argued persuasively that Peter's career as a DJ would be enhanced if allowed to drive. Moreover, funding from the Prince's Trust was available to help pay for the driving lessons. The court followed the PSR's proposals.

The court's sentence, in conjunction with the YOT worker's earlier decision not to apply *National Standards* inflexibly, resulted in a constructive package of measures that was rehabilitative, reintegrative, educational and community-based. There were, of course, many other influences and factors that could sabotage this plan of action. Nevertheless, the key professionals in this situation exercised their discretion in a spirit of creativity and optimism.

5.2.2: Timothy Swinson

At the time of the analysis, Timothy was aged 19 years and still subject to a Detention Training Order Licence (supervised by the Youth Offending Team). Although I met

Timothy with his Youth Offending Team worker, and he'd agreed to be interviewed at a later date, the appointment was not kept. This may have been related to the fact that, in the intervening period, he had breached both bail and Licence requirements. In the circumstances it was reasonable to assume that had he been at home when I visited I may have reported this to his Youth Offending Team worker. In fact the worker concerned was relaxed about my visit and simply wanted to re-engage with Peter as soon as possible.

Timothy is the eldest of three children and the only son of parents who are described in the PSR's as 'ordinary, respectable' and hard working. This is, of course, a coded way of conveying that the family do not belong to the usual 'client classes' from which most social workers' cases are drawn. Such nuanced messages about social class position also convey sub-textual assumptions concerning the moral hierarchy. The family live on a social housing estate in a well maintained and pleasant corner of a low income, high crime neighbourhood. Details of family life are somewhat sparse. Whilst the family co-operated with the statutory services, they quite reasonably maintained a certain distance from the assorted professionals involved in Timothy's life. I form the impression of parents who, quite reasonably, did not wish their family to be too open to the scrutiny of social workers and police officers. Marital difficulties did come to light when Timothy was sixteen years: his parents separated for a period and the children lost contact with their father during this time. Whether the difficulties that precipitated this short-term separation had been present when Timothy was younger is not known. It should not therefore be assumed that family problems *caused* Timothy offending behaviour. The fact of the matter is that because nobody outside of the family really knows what happened, it is difficult to assess the degree to which these domestic problems influenced Timothy's behaviour.

The first signs of offending behaviour were manifested when he was 14 years of age. He received two cautions for minor dishonesty. After his second caution there was a family altercation concerning the offence. This led to Timothy being accommodated under Section 20 of the Children Act 1989. He was placed with community foster carers who

developed a sound and supportive relationship with him. Nevertheless, shortly before his 15th birthday he received his first conviction: an Attendance Centre Order was made for non-dwelling house burglaries. A little over three months later, after the attainment of his fifteenth birthday, he was sentenced to six months in a Secure Unit (Section 53) for his part in dwelling house burglaries. It is interesting to note that the court moved to impose a custodial sentence rather than a Supervision Order. This may have been influenced by the fact that Peter failed to comply with the Attendance Centre Order. Once again, though, the fact that he was in public care may have influenced the sentencers. It is worth noting that he was considered vulnerable, depressed and at risk of self-harm during this first sentence. Both his parents and the foster carers maintained contact with him during this sentence. On his release he returned to the family home. However, this arrangement broke down within a matter of weeks. Although Timothy's behaviour at home was good, his use of alcohol, drugs (mainly cannabis) and offending with other boys on the estate brought the police to the family home (including searches for stolen goods). This was considered unacceptable and there was parental concern about the effect this was having on their young daughters. He was once again accommodated and placed with the same foster carers as previously. Further offences were dealt with by a Supervision Order with additional requirements. Although Timothy maintained contact with his supervisor, the additional requirements (attendance at groups, etc.) proved too much for his increasingly chaotic lifestyle. Additional conditions in Orders might well appear constructive in tackling the root causes of offending, but for young people in unstable circumstances they can act as concealed tripwires that trigger breach proceedings. Although enforcement action was not taken for failure to comply with the conditions (although it was subsequently reported in a PSR), when he absconded from the foster carers after a matter of a few months Timothy was placed in clear breach of the Supervision Order. This resulted in his being remanded to secure local authority accommodation under Section 23 (1) of the Children and Young Persons Act 1969 until he was given another custodial sentence (10 months) at the age of sixteen years. On his release on Licence he re-offended (burglaries) and was duly given a 2 year custodial sentence that was served at an English Young Offenders Institution. The pattern, then, can be summarised as a cycle of unsuccessful spells in the family home, local authority accommodation and custody.

Timothy's family have always been clear that he has a place in their home provided he stays away from drugs, excessive use of alcohol and offending. At the time this case was being analysed, this was a tall order that Timothy felt unable to meet. Most of his offending was committed with peers, but there were also occasions when he seemingly acted alone. This increased speculation that his misuse of substances was actually more serious than he claimed.

Five key points should be made in respect of this case. Firstly, it almost goes without saying that Timothy's education was severely disrupted during the period in the question. Social Services tried to maintain him in the one community foster care placement, but this became unavailable once he had absconded. On the basis of the available records it would appear that very little constructive education was undertaken in custody. Indeed, some reports comment that he failed to take advantage of the more constructive education and training opportunities available to him. For the period he was in the community and still of compulsory school age he appears to have attended very little. The documentary evidence is not entirely clear, but it would seem that an informal agreement was made between school and pupil. This was an impression confirmed by the recollections of one of the YOT workers. The *modus vivendi* was based on Peter not wishing to go to school and the school not wanting him there either. He was neither a disruptive nor a distinguished pupil, so there seemed little point in bothering the local education authority with his case – particularly as he seemed destined for custody. Of course, his non-attendance at school would have increased the likelihood of custodial sentences.

Secondly, as Timothy entered his late teens and it became clear that returning to the family home on a long-term basis was remote, the issue of securing stable accommodation assumed greater importance. There is clear evidence of the social worker from the Leaving Care Team making efforts to engage with Timothy on this issue. Peter, however, rejected these offers of help. The result was that Timothy was referred to a hostel for those with a history of rough sleeping. Many of the residents either had mental health problems or were dependent on alcohol and/or drugs. This was

an accommodation option that Timothy did not take up; preferring, instead, to stay with friends.

Thirdly, it is worth noting that this case was affected directly by the reformation of the youth justice system. When his case was first opened the social worker concerned was case accountable for all aspects of Timothy's welfare and offending. The social worker's direct involvement in arranging a suitable, high quality and consistently bounded foster care placement was an important piece of damage limitation in the early stages. The early pre-sentence reports are markedly child-centred and welfare oriented. The social worker was also closely involved in drafting the release plan for the first custodial sentence. When the social worker lost case accountability it is worth noting that Social Services' perspective was no longer represented in the sentence planning (including the release plans). In the last analysis, the enforced bifurcation of welfare and juvenile justice services did not serve this young person particularly well.

Fourthly, the misuse of alcohol and drugs is cited by practitioners on many occasions as the main influence on Timothy's offending. Most of his offending was ostensibly committed in order to finance the purchase of alcohol and cannabis. Some offences were also committed under the influence of alcohol. Whilst crack cocaine and ecstasy were used recreationally, most money was apparently expended on a staple diet of alcohol and cannabis (although some practitioners speculated on whether this was really the true extent of his involvement with drugs). Alcohol and drug assessments were organised by various practitioners, but Timothy never really divulged very much about his pattern of substance use. He acknowledged that it was a factor in his offending, but refused to be drawn on the extent of the problem. It was, for him, an issue that he planned to address himself at some point in the future.

This last point relates to a more general issue of Timothy's non-co-operation with statutory services. On one level Timothy was polite and well-mannered. When I met him I was struck by his good manners and friendliness. However, this clubbable side of Timothy did not extend to anything more than the most superficial and formal co-

operation with statutory services. He clearly disliked any regime that smacked of punishment and authoritarianism, but seemed particularly suspicious of those in authority who offered any form of help. The file contains numerous examples where Timothy refused offers of assistance by welfare and health professionals (accommodation and drug counselling, for example). In the area of employment, moreover, he refused to co-operate with an interview for New Deal that had been arranged by a YOT worker. Instead, he preferred to pursue employment leads provided by members of his own extended family. Such polite refusals characterised most of his dealings with professionals, both in the community and in custody, especially as he became older. Timothy disliked custodial institutions, but was uncomplaining about 'doing time' because he'd 'done the crime'. Whether this rejection of welfare constituted a quiet resistance to the imposition of client status is difficult to say; although this wouldn't be inconsistent with the working class pride of his parents. Whatever the truth of the matter, this failure to co-operate was self-defeating because it undoubtedly made life far more difficult for him. On one occasion he told a PSR author that she was wasting her time as he didn't want to engage in any discussion about his past or present offending. This type of refusal presents the practitioner with the dilemma of how to report lack of co-operation to the court. Does the practitioner share some responsibility by acknowledging a professional failure to engage with a vulnerable and 'hard to reach' service user, or is the blame for this failure apportioned solely to the young offender? In this case there are examples of both practices. One PSR author expressed it in the following terms:

"Timothy has, for some time now, felt that he wishes to control his own destiny and not have input from agencies or those in authority."

Unsurprisingly, a custodial sentence followed.

Timothy is an enigmatic figure in many respects because he gives so little away - particularly as he grows older. His refusal to 'play the game' and admit remorse for his criminal acts can be read variously as an act of integrity, a chilling lack of empathy or - as some practitioners have suggested - evidence of an underlying depression and lack of

self-esteem. Did Timothy really care about what happened to him? Increasingly, the question seemed likely to be answered in the negative.

5.2.3: Zoë Lloyd

Zoë was 14 years of age at the time this case was analysed. She was the subject of a Supervision Order and an Action Plan Order; and, having been accommodated the previous year under Section 20 of the Children Act 1989, was living at an 'in county' residential unit. Prior to that she had been living with her parents and younger sister in a council house on a social housing estate (a low income, high crime neighbourhood).

The previous year Zoë's world imploded in dramatic circumstances. Her father was arrested, and subsequently convicted and imprisoned, for a Schedule 1 offence. Although the family was initially supportive of Mr. Lloyd, when he was actually convicted Mrs. Lloyd effectively terminated the children's contact with their father. Zoë experienced cruel forms of teasing at school when rumours about Mr. Lloyd circulated around her peer group. This had the effect of making her feel acutely disaffected and she began to truant. In fact, at the point at which I was analysing the case she was barely attending school. On the rare occasions that she did attend, her behaviour proved to be very challenging. Mrs. Lloyd subsequently formed a relationship with another man and he moved in with the family. Zoë resented his presence in the home and the two developed a very tense and difficult relationship. This, too, affected the mother and daughter relationship adversely.

It was around this time that Zoë's general behaviour deteriorated markedly. It was at this point that she became involved with others in a Theft and Burglary. The commission of the burglary had some aggravating features and was dealt with by the Crown Court. A Supervision Order was duly made.

Zoë was responding reasonably positively to the Supervision Order when her mother decided that Zoë's behaviour at home was too challenging and requested that she be accommodated (under Section 20 of the Children Act 1989). Zoë was profoundly upset by this development and interpreted it as a hurtful rejection. She also failed to settle satisfactorily into the residential unit in which she had been placed. Her behaviour within the unit was challenging. It was, in fact, described by residential staff as "*disruptive and manipulative.*" Zoë was prosecuted for two offences whilst at the Unit: she caused criminal damage to property; and was found in possession of a kitchen knife (which, she claimed, was to be used for self-harm). The offences were dealt with by way of an Action Plan Order.

Although the plan was to return Zoë to her mother, Mrs. Lloyd was resistant to the idea at the time the case was being analysed. A friend of the family had offered to look after Zoë until a rapprochement could be negotiated. However, there were two problems with this offer of help: the accommodation was too small and would have to await the friend's move to a larger house; and Mrs. Lloyd had not yet sanctioned such a move.

Zoë was receiving counselling from a psychiatric nurse based at a therapeutic centre staffed by social work and healthcare professionals. These were apparently proving to be of some help. The YOT worker was also in the process of negotiating Zoë's involvement in an Alternative Curriculum (a training placement). Her continuing residence at the Unit, however, was being reviewed. It was thought that she might need to be moved in the near future.

5.2.4: Joseph Williams

Joseph Williams was 17 years old at the time of undertaking this case analysis. He was subject to a Community Rehabilitation Order for his part in offences of Theft, Aggravated TWOC (Taking a Vehicle without Consent) and related road traffic offences. He was living in semi-supported independent accommodation (managed by a voluntary sector agency) in a socially mixed urban area.

Originally, Joseph lived with his father and mother in a low income, high crime area on a social housing estate. His parents separated when he was quite young and there had been no contact with his natural mother since the age of eleven years. His father remarried and the family remained on the same social housing estate. Joseph has three younger stepbrothers. Unfortunately, relations between Joseph and his stepmother were troubled. As a result of this he absconded from home and spent a period of his mid-teens homeless. During this period he stayed with friends and members of his extended family. When the instability of this situation affected his school attendance adversely, the nature of his situation came to light. As he had become so estranged from his family, he was accommodated under Section 20 of the Children Act 1989 and placed in a children's residential unit. This intervention seemed to stabilise the situation sufficiently to facilitate a return to school. Although he did subsequently return to his family, this whole episode in his life undoubtedly disrupted his studies. As an obviously capable boy, he was therefore very disappointed that he attained only one GCSE in his examinations. Since that time an acute sense of under-achievement appears to have haunted Joseph. The indications are that he is an intellectually capable individual with a great deal of academic potential.

Despite the disappointment, Joseph left school and found immediate employment. During the period of his employment Joseph's life appeared to run reasonably smoothly. However, when problems with relationships within the immediate family flared up once again, he found himself homeless. The Leaving Care Team responded by helping him to secure the semi-supported independent accommodation referred to previously.

From this point onwards, his life began to take a downward trajectory. Living independently proved difficult, especially after he lost his job. In his earlier years he had managed to insulate himself from the more negative neighbourhood influences (crime, substance misuse, etc.). At the accommodation project, however, there were a number of young people who had troubled backgrounds. Whilst ostensibly engaged in training, he

nevertheless found that he had a great deal of time on his hands. His new friends drew him into a wider network of older and more criminally sophisticated offenders.

Joseph's first offence of carrying a bladed instrument received a Referral Order. Although he co-operated with the Order completely he reoffended during its currency (motoring related matters). The Referral Order was extended. Once again, though, he reoffended with other young people. The most serious offence involved the theft of a car by Joseph and two other young boys. The aggravating feature of the offence involved a police chase. On this occasion Joseph received a Community Rehabilitation Order.

In summary, Joseph had managed to get to the age of 17 years without a criminal record. Nine months later he found himself on a Community Rehabilitation Order – arguably, one step away from custody. On a more positive note, although he was still estranged from his immediate family Joseph was in contact with his grandparents. As a longstanding source of stability and support, ongoing contact with his grandparents also represented the possibility of reconciliation with his father and stepmother.

5.2.5: Darren Forbes

Darren was aged fifteen years at the time this case was analysed. Having been released from the custodial part of his Detention Training Order he was being supervised by the YOT in the community. Darren was living with his parents, older brother (18 years) and young niece (aged two years). Although the social housing estate on which the family lived had some social problems, these were generally confined to specific pockets of deprivation and petty crime.

Darren is the youngest child in a family of six children. When his niece (the child of his 18-year old brother) moved into the home this obviously had a big impact upon family life. Mrs. Forbes gave up full-time employment to look after the child, but did manage to undertake some part-time work. This disruption caused by this change in family circumstances was exacerbated by the stress caused by an ongoing court case in which a

Residence Order was being contested. This obviously had an effect on all family members, including Darren. When Darren formed the habit of staying out at night with parental permission, his parents requested that he be accommodated at a Children's residential Unit temporarily (under Section 20 of the Children Act 1989).

Darren was a young person with identified Special Educational Needs. He presented as someone who was rather immature and highly suggestible. His YOT worker took the view that he was influenced and 'used' by other young people (e.g., stealing for them). There is some evidence of his fulfilling this role whilst in Care as well as for friends in his home neighbourhood.

Darren's offending started at the age of 14 years old when he was involved, with others, in motoring offences. He received a Referral Order for this offence. An Attendance Centre Order was imposed for his part in a cluster of offences (mainly offences of dishonesty). A Conditional Discharge was subsequently imposed for similar offences that actually pre-dated the imposition of the Attendance Centre Order. Subsequent offences of Theft and Shoplifting were dealt with by an Action Plan Order. A matter of two months later, at the age of fifteen years, he was sentenced to custody (Detention Training Order: 4 months) for Attempted Theft and Criminal Damage. It is worth noting that whilst serving a custodial sentence he was given a Conditional Discharge (18 months) imposed for offences (Dishonestly Handling Stolen Goods and Vagrancy) committed prior to the imposition of a custodial sentence. The vagrancy offence related to a period in the summer when his accommodation situation was unsettled and he was sleeping outdoors. On his release from custody the Conditional Discharge extended beyond the period of that part of the Detention Training Order served in the community.

A few brief points should be made about this case. Firstly, it is worth noting that Darren was excluded from school at the point at which he received his custodial sentence. It raises the question of whether a custodial sentence would have been imposed had he been participating in full-time education. Ironically, the custodial sentence was too short for any meaningful educational activity to be undertaken (especially for a boy with Special

Educational Needs). It should also be mentioned that the timing of the sentence had the effect of disrupting the following academic year's educational arrangements.

The second point concerns the conviction for Vagrancy. This seems an entirely inappropriate offence with which to charge a young person who had recently had his fifteenth birthday, been accommodated by the local authority and was temporarily estranged from his family. One would have thought that there would have been concern for the welfare of such a young person sleeping out in the open. Instead, an issue of vulnerability is criminalised. Seemingly, the quick conviction is easier than sorting out a messy family situation.

As indicated earlier, Darren returned to live with his parents on his release. Relations between parents and son were reportedly much improved. However, there were some problems. Although Darren was found a place in the Alternative Curriculum he was bullied and threatened by some other young people on work placement. He reacted to this development by walking out of the placement.

Finally, since Darren was neither at school nor engaged in the Alternative Curriculum he had a great deal of time on his hands. There were concerns that he was drifting back into the company of young people involved in offending.

5.2.6: Steven Ridgley

Steven Ridgley was aged 15 years at the time of this case analysis and subject to a Supervision Order with a requirement that he attend a treatment programme for sex offenders. He was also subject to a Care Order and accommodated at an 'in county' children's residential unit. Steven was made the subject of a Care Order when he was aged three years. Due to concerns in relation to Neglect he was initially accommodated away from home under a Place of Safety Order. Steve had been in the public care system since that time. Although the full records were not available, it would appear that Steven

experienced a large number of placements (foster care and residential units) over the years. His supervising YOT worker commented that,

“...the consequent exposure to differing rules and regulations, the changes in personnel and boundaries and the resultant rejection caused by such instability have undoubtedly affected the development.”

Steven had a Statement of Special Educational Needs and attended a specialist school. Whilst attendance was good, his behaviour could be *“demanding and uncooperative”*. It was noted that he also experienced difficulty in completing class assignments. Despite these problems, school life represented an important source of stability in his life. Whilst there was clear evidence that the Social Services Department provided a level of resources that were commensurate with his needs, the high number of placement changes appeared to create an acute sense of insecurity in this young person. Added to this, according to social work assessments, were unresolved early childhood issues of confusion, trauma and rejection. To this end he was referred to a Child and Family Clinic. For reasons that are not entirely clear, the proposed treatment programme was held in abeyance. In light of subsequent offending, however, a fresh referral was duly made. The overall impression of Steven that emerges is of a vulnerable, immature and insecure young man of limited intellectual abilities.

Steven’s initial offences of Criminal Damage and Assault were dealt with respectively by way of Reprimand and Final Warning. His first court appearance, at the age of fourteen years, was for a minor offence of Arson. He received a 6 months Referral Order and cooperated fully with the process. A subsequent offence of Affray, committed with a group of other young people, attracted an Attendance Centre Order.

At the age of 15 years Steven committed an offence of Indecent Assault on a 13-year old female friend. Whilst the victim’s account conflicted with that given by Steven, he nevertheless accepted that he had touched her inappropriately. The incident had

obviously been upsetting for the girl and Steven, whilst possibly not comprehending the full implications of his actions, exhibited encouraging signs of empathy for his friend.

At the outset it is, of course, important to acknowledge that this type of offence needs to be taken seriously. There are, though, a few general points that should be considered in respect of sex offences and/or inappropriate sexual behaviour committed against young peers. The teenage years are typically characterised by the formation of exploratory relationships and sexual experimentation. It needs to be recognised that some of this sexual experimentation may be clumsy and inappropriate. Sometimes, of course, acceptable boundaries will be transgressed. As a result, some young people may feel distressed and/or violated. The impact of such experiences should be acknowledged. This is a hugely complex area for young people to negotiate and self-manage. From an adult viewpoint it is also difficult to supervise. It is a terrain that certainly requires of professionals an ability to make finely calibrated judgements about such issues as maturity, understanding and the dynamics of power relations. This is, in short, an area that demands nuanced assessments and considered decisions about appropriate and proportionate interventions. Can the first fumbblings of adolescence be distinguished from more seriously threatening behaviours? Is it possible to deal with this behaviour through better sex education or more therapeutic interventions? These are the questions that need to be answered by professionals working with young people.

As will already be apparent, the designation of young people to categories has a massive influence on their subsequent trajectories. To label a young person as a 'sex offender' is a particularly significant act. It results in becoming a Schedule 1 offender and being registered as a 'sex offender'. This has far-reaching implications for the young person in terms of additional legal and professional processes (e.g., supervision under *National Standards*, police reporting and risk assessment/management procedures). To be constructed as a 'sex offender' at a young age may, of course, open the way for preventative therapeutic interventions. However, even the most helpful of interventions runs the risk of confirming its subject in the identity of being a 'sex offender'. Meanwhile, the overtly negative constructions of 'sex offenders' need little elaboration.

The prison culture that places the Rule 43 'nonce' below the 'grass' at the bottom of a brutal hierarchy even has its echoes in the professions of social work and probation. It is not uncommon to find practitioners who subscribe to the belief that all sex offenders are devious, manipulative and beyond rehabilitation. The best that can be hoped is to reduce risk to the public through containment or close supervision in the community. Whilst there may be more sympathy for the young sex offender, especially when they themselves have been victims of abuse, there is a sense of determinism that governs much practice. Unfortunately, so the argument goes, these young people face an adult future of risk management meetings. Behind this belief lurks the assumption that sex offending is a qualitatively different type of offending from other offending. By logical extension, therefore, the people who commit such offences must be different. They are, in effect, 'otherised'. Myers (2001: 42) makes this point well.

"They become a 'kind of person', a young sex offender, who requires a specific response based on that label, as distinct from their individual needs."

Writing in the tradition of Schur's (1971) work on deviant behaviour, he goes on to point out,

"...some of the potential difficulties in what is clearly a labelling process..., where subsequent actions are reframed into a problematic paradigm from which there is no opportunity of 'escape'."

(Myers, 2001: 42)

So, for example, the workers at the residential children unit and the teachers at the local school are tasked to observe for warning signs of inappropriate sexual behaviour. Between the ages of 12-17 years (and, indeed, beyond) there is much behaviour in the general population that might be considered inappropriate. What is of concern is that the pre-labelled child 'sex offender' is the one most likely to be reported.

There is insufficient space here to enter the debate concerning the aetiology of sex offending. What should be of concern, though, is the extent to which legal and professional practices create, promote and sponsor social categories that sustain people in their deviant 'differentness'. Whilst it is obviously necessary to protect the vulnerable from the predatory, there is surely also a responsibility to rehabilitate and reintegrate the offender into the wider community. The construction of a 'sex offender' identity in early life certainly appears to risk creating barriers to social inclusion in later life. Thus, the child sex offender inevitably grows up into the more dangerous adult sex offender.

There is, of course, another dimension that needs to be considered in respect of young people in public care- especially those accommodated in residential units. As has already emerged fairly clearly, much of the behaviour learned in this setting brings young people to the attention of the criminal justice system. If a young person graduates from the children's home with a sophisticated knowledge of how to steal a car, then it is assumed that something that happened inside the setting contributed to the acquisition of this accomplishment. When a young person emerges from the same environment with a tendency to behave in sexually inappropriate ways the question of exactly where this behaviour was first acquired is a reasonable one. The challenge for Social Services Departments and other agencies managing residential units is how to place vulnerable and often damaged children in settings where they will not be exposed to substantial risks posed by even more vulnerable and damaged peers.

Whilst the foregoing discussion should be regarded as being of a general nature, it will be appreciated that some aspects of this commentary are relevant to the case of Steven. At the point at which the case analysis was closed, the label of 'sex offender' had been applied securely and the risk assessment procedures were still in the process of being undertaken in the various domains of his life. The nature of his intervention programme was also being assessed by the Sex Offender Project for young people. These were early days. It was too soon to say how things would turn out for Steven.

5.2.7: Lucy Price

Lucy Price was aged 16 years and subject to a Supervision Order at the time of the case analysis being undertaken. She had previously been accommodated at a children's residential unit under Section 20 of the Children Act 1989. For a variety of reasons her case had recently been transferred to Porthglo from another urban area in Wales. She was living independently in semi-supported accommodation managed by a voluntary sector agency.

Lucy was the fourth in a family of five children. Her father died of a drug overdose while she was still quite young. Her mother subsequently remarried. Lucy did not enjoy a good relationship with her stepfather and was received into public care. She did not settle particularly well at two family placements and eventually returned to her mother. By this time her stepfather had left the family home and was estranged from Lucy's mother. A new boyfriend, however, had moved into the family home. The couple apparently drank alcohol very heavily and she became very unhappy. It was against this background, in her early teens, that she left home.

Lucy spent a substantial period as a homeless 'rough sleeper' on the streets of her home area. When she was not living on the street she was staying in dilapidated vacant properties. Although a number of other people living on the street looked after her, this dangerous lifestyle introduced her to drugs, alcohol and underage sexual relationships. This supportive network could not, moreover, protect her from an abusive man with whom she formed a relationship. For a period she lived with him in another Welsh urban area. Away from the informal surveillance of her network of street mentors, this was probably one of the most dangerous periods of her life. Eventually, though, the couple drifted back to Lucy's home area where they resumed their life on the streets.

When Lucy tried to take her own life with a drug overdose, she came once again to the attention of Social Services. She was duly accommodated in a foster placement under Section 20 of the Children Act 1989. There followed a brief period of stability during

which time her educational needs were assessed. After only six weeks, though, she re-established contact with her old network of rough sleepers and returned to the streets. She quickly fell into a pattern of heavy alcohol and drug misuse. This formed the background to the commission of public order offences at the age of 15 years which brought her before the court and led to a Conditional Discharge and a Supervision Order. It also resulted in her being accommodated at a Children's residential unit.

At the Unit she made good progress in terms of abstaining from drug use and re-connecting with education services. Her referral to a local drugs agency youth project (where she received confidential counselling) seemed to have a decisive impact on her attitudes and behaviour. She also attended Anger Management sessions organised under the auspices of the local Youth Offending Team. At her best, though, the residential staff described a girl who presented as "*mature, polite and responsible*". However, her occasional alcohol binges resulted in shows of belligerent behaviour. On one occasion she and another girl from the unit returned heavily under the influence of alcohol. When she became uncharacteristically aggressive towards members of staff, they were unable to calm her down and the police were called. She was arrested for being Drunk and Disorderly and kept in the cells of the police station. Whilst being detained at the police station she damaged her cell and was charged with offences of Criminal Damage. This cluster of offences put her in breach of an earlier Conditional Discharge. The Court made another a Supervision Order.

One of the striking features of this case is the apparent ease with which Lucy disappeared below the radar surveillance of the welfare agencies and other institutions with whom young people might be expected to have contact. Although she was living in - by Welsh standards - a comparatively substantial urban area, this was not a place the size of London, Birmingham or Manchester. Her story goes some considerable way towards challenging the cosy Welsh myth that our little country is a 'community of communities'. It is no exaggeration to state that during her period of homelessness Lucy was at acute risk.

Lucy's move to Porthglo at the age of 16 years provided her with the opportunity of making a fresh start in a new area. There were also dangers inherent in being comparatively isolated in a new place. That said, strenuous efforts were being made to organise appropriate education and training. It was obviously much too soon to make a judgment about whether her occasional depressive moods would lead to binge-drinking and court appearances.

5.2.8: Lee Redman

Lee Redman was aged 12 years at the time of this case analysis. He was subject to a Supervision Order and accommodated in an 'in county' Children's Residential Unit under Section 20 of the Children Act 1989.

Prior to being accommodated he was living with his mother, stepfather, older brother and two younger half-siblings. Two older sisters and a brother were adults and living independently. The family lived in social housing located within a low income, high crime neighbourhood. When Lee was aged 7 years, his natural father died of cancer. It was a loss he still felt acutely, although possibly in a different way as he grew older and encountered new difficulties.

Social Services had longstanding concerns about the parenting capacities of Lee's mother and stepfather. Lee and two of the other children were placed on the Child Protection Register on the grounds of Emotional Abuse. Additionally, all of the male children made allegations of sexual abuse against their stepfather. However, an investigation could not find any tangible evidence to substantiate these allegations. Lee's name was subsequently removed from the Child Protection Register at the age of 11 years. Later that year, though, he was accommodated in a Children's Residential Unit because he ran away from home frequently. There was concern that he was associating with Schedule 1 offenders and visited places known to be frequented by paedophiles. Lee did not settle in the residential unit particularly well and absconded on a number of occasions. Social Services were making efforts to secure an appropriate foster care placement for him.

Consideration was also being given to an 'out of county' residential unit. At the time of the analysis, however, he was still living in a residential unit. Contact with the rest of his family was infrequent.

Lee was a thoughtful child of average ability. He had, though, been statemented for emotional and behavioural difficulties. There had been many occasions when he was subject to exclusions. Truancy had also been a problem. In his final year at primary school his attendance was only 13%. Attendance had improved significantly in his first year at High School. The strategy and support put in place by the Head of Year Tutor and the Special Needs Co-ordinator were widely commended by the staff from Social Services and the YOT. Most importantly, Lee himself enjoyed some of his lessons.

Lee's first offence was committed at the age of 11 years. He received a Reprimand for Shoplifting. A subsequent offence of Shoplifting was dealt with by a Final Warning. His first court appearance was at the age of 12 years. He received a three months Referral Order for Shoplifting. This was extended when he committed a dwelling house burglary. The Supervision Order was made for his part in Taking and Driving Away a dumper truck from a construction site. Five children aged between 9 and 15 years were involved in this episode. Apparently, the keys to the truck had been left in the ignition. Some time between 9.00 and 10.00 pm on a winter's evening the vehicle was driven from the construction site along a main road and around some streets on a nearby social housing estate. Lee drove the vehicle while one of the other children worked the pedals. Fortunately, no-one was injured and the vehicle was undamaged. It is not clear whether the other children involved in the incident were residents of the unit or simply from the local neighbourhood in which it is located.

It is interesting to note that the PSR author, in proposing a Supervision Order, intended to use it very much as a flexible means of support for the other welfare agencies involved in Lee's life:

“The disposal, which will allow the flexibility to support Social Services and Education Department plans, is a supervision order. The aim is to work together to provide a joint plan. Given the likelihood of considerable change in accommodation and welfare plans an order of longer duration would not be beneficial. It is expected that welfare provision alone may have a greater impact in the long term.”

The rationale for this approach is spelt out clearly earlier in the PSR:

“In his current living circumstances and emotional turmoil it is highly likely he will re-offend. Lee does present a high level of risk to the public as seen by the nature of his current offence.

To reduce this risk, Lee will need to have his needs as a child met. It is clear that at present his welfare and protection needs weigh far greater than his level of offending.”

The above passages attempt to make the case for dealing with Lee’s offending behaviour entirely outside of the criminal justice system, perhaps through a civil Supervision Order. However, the YOT worker was clearly working within the constraints of local and national political and practitioner culture.

As indicated earlier, the Supervision Order was made. Despite the progress made by him at school and in other areas of his life, there were still great concerns about Lee’s tendency to abscond from the unit and put himself at risk. The need for a suitable placement was a high priority.

Appendix 6: Interview Guide for Young People

Introduction:

What is your name?

How old are you now?

Where are you living now?

What are your interests? What do you like to do?

Contact with Social Services' Children & Families Team:

Do you remember your first contact with Social Services' Children & Families Team?

Can you tell me something about that time? (How old were you? What were the circumstances? What was happening in your life at that time?)

Why were they involved? What do you think the social workers were trying to do with you and your family?

Overall, was their involvement helpful or unhelpful? (What was helpful? What was unhelpful? Elaborate?)

Public Care System:

Can you remember your first contact with the Care System?

What was happening at around that time? (Reasons for going into Care?)

What was the purpose of going into Care? What were the social workers/social work staff trying to do?

What did you think of Care? (Experience of specific placements – residential and foster care?)

Overall, was the experience helpful/unhelpful? (What was helpful/unhelpful?)

What are the main criticisms you would make of the Care System? How could the Care System be improved?

Do you have any contact with Social Services now? (Leaving Care Team? Any accommodation issues? Any welfare issues?)

Education:

What do you think of the education that you've received in recent years?

Have you ever been excluded? (Why? What happened when you were excluded? What education did you receive when you were excluded?)

Health:

Do you have any health issues? (Substance use? Mental health?)

What do you think of the health services that you've received?

Criminal Justice System:

Can you remember when you first offended/got into trouble with the law? (What did you do? Why did it happen? What was going on in your life at that time?)

How were you dealt with?

Was that fair?

What did you think of the way with which you were dealt? Was it fair/unfair? Was it helpful/unhelpful?

Can you remember your first experience in court?

What did you think/feel about the experience?

How were you dealt with? What did you think of the way with which you were dealt?
Was that fair?

Have you experienced custody/detention?

What was that experience like? Helpful/unhelpful? What was the point of custody?
What were they trying to do?

Why did you/do you commit offences? What would help you stop?

Youth Justice Team/YOT:

Do you remember your first contact with this office (Youth Justice or YOT)?

What were the circumstances?

What was your experience of that contact? Helpful/unhelpful?

What Order are you on now? Views about past/present Orders? What are these Orders trying to achieve?

Do you understand how YOT's work (e.g., What are they trying to do? Who works in them?)?

Do you know what the occupation of your YOT worker is?

Do you tell your YOT worker everything? What sort of thing don't you tell them? Does the occupation of your YOT worker influence what you say to him/her?

Is the YOT helpful/unhelpful?

Specific Questions:

Specific questions arising out of reading the file and/or discussing the case with the social worker/YOT worker.

Discrimination:

Do you think some types of people (males/females; people from certain backgrounds; certain ethnic groups) are treated less fairly than others by the Care System?

Do you think some types of people (males/females; people from certain backgrounds; certain ethnic groups; young people from Care) are treated less fairly than others by the criminal justice system?

Do you think some types of people (males/females; people from certain backgrounds; certain ethnic groups; young people from care) are treated less fairly than others by other (named) institutions (e.g., schools)?

Miscellaneous/Conclusion:

Why do you think quite a lot of young people from Care end up in trouble with the law?

What makes a good social worker/YOT worker?

If you were in charge of sorting out youth crime, what would you do?

What are your plans for the future?

Are there any questions you think I should have asked? Is there anything else you think I should know?

Appendix 7: Interview Guide for Parents

Introduction:

What is your name?

What is your relationship to the young person?

Social Work Contact:

Could you say something about your, and the young person's, initial contact with social workers from Children's Services (When? What were the circumstances? What was happening at around that time?)

What did you think the social workers were trying to do?

Overall, would you say that they were helpful/unhelpful? (Elaborate?)

Care System?

What were the circumstances of the young person's first contact with the care system? (What has happening at around that time? What were the circumstances?)

What was the purpose of the young person going into Care? What were the social workers and/or you trying to do?

Overall, what did you think about what happened to the young person in the Care system (including specific residential and/or foster care placements)? Helpful/unhelpful? Criticisms? Ideas for improvement?

Any contact with SSD now (including the Leaving Care Team)? Thoughts on this ongoing contact? Helpful/unhelpful?

Education:

What have you thought of the education your child has received over the last few years? (Exclusions?)

Health:

Have there been any health issues re: the young person? Any thoughts? (Substance use? Mental health?)

Criminal Justice System:

When did the young person first start getting into trouble? Any ideas about why s/he was getting into trouble? What was going on at around that time?

Has the system (the police, courts, etc.) dealt with the young person fairly?

Any views on specific sentences and Orders (including custody) Helpful/unhelpful?

What has been your experience of the Youth Justice Team/YOT? What have they been trying to do? Helpful/unhelpful?

Do you know how the YOT works? Composition of YOT? Do you know the occupational background of the YOT worker supervising your child?

What do you think will keep the young person out of trouble?

Specific Questions:

Specific questions arising out of the file and/or discussion with the social worker/YOT worker.

Discrimination:

Do you think your child has been discriminated against unfairly by any of the systems I've mentioned (Care, Criminal Justice, Education, etc.)? (Mention gender, ethnicity, social background, Care, etc.).

Miscellaneous/Conclusion:

What makes a good social worker?

What are your hopes for the young person's future?

Is there anything else you would like to add?

Appendix 8: Interview Guide for Supervising Youth Justice Social Workers/YOT Workers

Introduction:

What is your position in the Team?

How long have you been a member of the Team?

How long have you been a social worker (or other occupation)? When did you qualify?

What did you do before?

General:

What is the main piece of legislation that you use in your work?

What do you consider to be the most important principles of that Act? (Rank in order of importance).

What do you think the senior management in your agency consider as being the most important piece of legislation? What would they consider as being the most important principles of that statute?

What other important piece of legislation do you use in your work?

What would you consider to be the most important principles in that statute?

Where do National Standards fit into your work? How important are they to you, personally? What do you think of them? What are the most important Standards as far as you are concerned?

How important are the National Standards to your agency?

In your work, who or what are the main sources of advice and guidance?

Is there any literature or research that you find helpful in your work?

What are the main values that underpin your work?

What, if any, theories or models of practice tend to influence your work?

Case Specific Questions:

In the case of X, what was the main piece of legislation that informed your work with her/him?

Which, if any, other pieces of legislation informed your work with her/him?

Where did National Standards fit into your work with her/him? (Possible questions re: breach. Did you consider breach?).

Who or what were your main sources of guidance in this case?

Was there any reading or research that informed your work with this case?

What theory or model of practice was used in this case?

What were the main values that underpinned your work with her/him?

When you first became involved in this case, what were you trying to achieve?

What are you trying to achieve now?

What do you think are the main reasons for X's offending?

What thoughts, if any, do you have about X being received into public care in the first place?

What thoughts, if any, do you have about her experience of public care?

What do you think Children & Families Services were/are trying to achieve with her/him?

What thoughts do you have about X's experience of the criminal justice system?

What thoughts do you have of X's experience of other systems (e.g., Education, Health, etc.)?

Specific questions/issues arising out of the case file.

On reflection, is there anything that you think that either this agency (the old Youth Justice Team and/or the YOT) or Children's Services should have done differently?

General/Conclusion:

What thoughts do you have about the relationship between Children's Services and the old Youth Justice Team? What thoughts do you have about the relationship between Children's Services and the new YOT?

What thoughts do you have about the relationship between the public care system and the criminal justice system?

Do you think that young people with care backgrounds experience discrimination in the criminal justice system (including your Team) or any other systems (e.g., Education)?

Are males and females treated differently by the public care and criminal justice systems?

Are young people from certain ethnic backgrounds treated unfairly by Social Services and the criminal justice system (including the YOT)?

What are the major changes in practice that have taken place as a result of the formation of YOT's? Do you think of yourself as a social worker? How are young people treated differently (especially those with Care backgrounds)?

What do you think of the YOT? Is it working? What are YOT's doing well and what are they doing less well?

What are relations like between the different occupations and agencies? Is there a hierarchy?

If you could change one or two things about your current work circumstances, what would they be?

Is there anything else that you would like to add?

Appendix 9: Interview Guide for YOT Practitioners outside of the Supervision

Team

What is your name?

What is your age?

How long have you been a member of the YOT? When did you qualify?

What did you did before?

Why did you choose to work in a YOT?

What is your position and role in the YOT?

What is the main piece of legislation that you use? What is the most important principle of that statute? Where does the Children Act 1989 fit into your work (if not already mentioned)?

Where do National Standards fit into your work?

In your work, who or what would be the main sources of advice and guidance?

Is there any literature or research that has influenced your practice?

Which theories or models of practice do you use in your work?

What are the main values underpinning your work?

Would you describe what you do as social work?

On the basis of your experience, are there any observations that you would make about the way in which young people with Care backgrounds are dealt with by the YOT and other agencies?

Do you have any thoughts about the relationship between the public care system and the criminal justice system?

What observations do you have about the way the YOT is operating? Is it working?
What works well and what works less well? Occupational culture? Hierarchy?

If you could change one or two things about your work circumstances, what would they be?

Is there anything that you would like to add?

Appendix 10: Example of Interview Guide for Middle Manager

(Many meetings and three interviews took place with the Middle Manager. Below is one interview guide that was used. The other two interviews were variations on the same themes).

As far as young people are concerned, what have been the main changes that have taken place in the way Youth Justice services have been delivered? In which ways are things better for young people? In which ways are they worse?

What have been the changes in Youth Justice services' relations with Children's Services, the 'Looked After' system and the Leaving Care team?

As far as practitioners are concerned, what have been the main changes (e.g., working practices, etc.) over this period of time? How are things better? How are things worse?

What have been the main changes in practitioners' relations with Social Services (including the 'Looked After' system and the Leaving Care Team)?

How has the practitioner culture changed since the YOT was established? Hierarchies? Relationships between occupational groups? Relationship with management?

What is the YOT's relationship with the Youth Justice Board?

What is the YOT's relationship with the National Assembly for Wales?

How has your role as middle manager changed over this period?

Do you have anything to add?

Appendix 11: Focus Group 1 (with Social Services Youth Justice Team prior to formation of the Youth Offending Team)

1. As a group, I'd like you to write up on the flip chart the main principles, values and beliefs that underpin your practice as social workers in the Youth Justice Team.
2. As a group, could you agree on the order of importance?
3. Are any of these under threat when you move into the new Youth Offending Team? Where does the threat come from? Are there any new principles and values you will acquire when you join the YOT?
4. What would you see as being the main opportunities of working a in a YOT?
5. What you see as being the main threats or disadvantages of working in a YOT?
6. What difference will working in a YOT make to your daily practice?
7. Any other thoughts that anyone would like to share?

Appendix 12: Focus Group 2 (with recently arrived Probation Officers in the new Youth Offending Team)

1. Why did you decide to join the YOT?
2. Please could you write up on the flipchart the main principles, values and beliefs that underpin your work with young people in the Probation Service?
3. Could you agree on the order of importance?
4. Do you consider any of these to be under challenge or threat in the new YOT? If so, where does that challenge or threat come from?
5. Are there any additional principles and values you have acquired since joining the YOT?
6. What would you see as being the main opportunities of working in the YOT?
7. What would you see as being the main threats or disadvantages of working in the YOT?
8. What is different about working in a YOT in comparison with the Probation Service (especially in terms of daily practice)?
9. Are there any further thoughts you wish to share?

Appendix 13: Focus Group 3 (with YOT workers who were previously members of the old Youth Justice Team)

1. What have been the main changes to your daily practice since the YOT was formed?
2. What are the main advantages of the YOT?
3. What are the main disadvantages of the YOT?
4. Are you glad you joined the YOT?
5. I want to run a brief vignette past you. There are very few details available. You pick up a PSR on a young person (a 15 year old male) who has committed an occupied dwelling house burglary. He has a background in public care. Originally, way back, he'd been taken into Care for his own protection. At the present time, though, he's home 'on trial'. In pairs/trios, I'd like you to discuss the following four questions and make brief notes in preparation for discussion.
 - A. What knowledge would you bring to bear in this case? That may be knowledge of legislation, knowledge of research, knowledge of theory or some other forms of knowledge.
 - B. What values and principles would you bring to bear on this case?
 - C. What do you need to find out? (Ask me questions).
 - D. What three things would you do in practice?

Discussion.

Appendix 14: Letters and Consent Forms

Cardiff School of Social Sciences
Ysgol Gwyddorau Cymdeithasol Caerdydd

Director Cyfarwyddwr Professor Yr Athro Huw Beynon

Cardiff University
Glamorgan Building
King Edward VII Avenue
Cardiff CF10 3WT
Wales UK

Tel Ffôn +44(0)29 2087 5179
Fax Ffacs +44(0)29 2087 4175
<http://www.cf.ac.uk/>

Prifysgol Caerdydd
Adeilad Morgannwg
Rhodfa Edward VII
Caerdydd CF10 3WT
Cymru, Y Deyrnas Gyfunol

To: Jonathan Evans
School of Social Sciences
Cardiff University
Glamorgan Building
King Edward VII Avenue
Cardiff CF10 3WT



Dear Jonathan

Re: Research on 'Looked After' Children and the Criminal Justice System

As the parent/guardian (delete as applicable) of the young person named below, I give my consent for him/her to be interviewed by you in relation to the above research.

Name of Young Person:

Signature of Young Person:

Name of Parent:

Signature of Parent:

Date:

Cardiff University is the public name of the University of Wales, Cardiff, a constituent institution of the University of Wales.

Prifysgol Caerdydd yw enw cyhoeddus Prifysgol Cymru, Caerdydd, un o sefydliadau cyfansoddol Prifysgol Cymru.

JE/SH

Dear

Re: **Access for Ph.D. Research**

Thank you for your recent letter regarding my research access application. I respect and fully understand the Department's position in relation to 'Looked After Children'.

Further to that letter I have had the opportunity of discussing the situation with Mr. Mr. has indicated that there would be no objection in principle to the research being conducted with Youth Justice staff and clients. The themes outlined in my previous letter would, of course, be the same. That said, there would obviously be the need to negotiate the exact parameters of the research.

In the circumstances I would be most grateful if you could confirm that the proposed access is acceptable to you. It may be helpful to mention that Mr. Dinham is fully supportive of my research proposal.

I look forward to a reply at your earliest convenience. Should you have any queries in the meantime, please do not hesitate to contact me by telephone.

Yours sincerely

Jonathan Evans
Professional Tutor

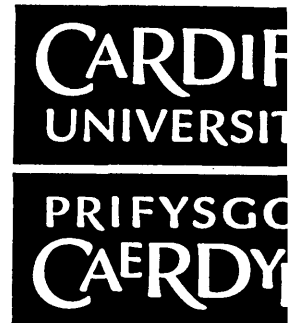
c.c.

School of Social and Administrative Studies
Ysgol Astudiaethau Cymdeithasol a Gweinyddol

Head of School K S Delamont MA (Cantab) PhD (Edin)
Pennaeth yr Ysgol K S Delamont MA (Cantab) PhD (Edin)

Cardiff University
50 Park Place
Cardiff CF1 3AT
Wales UK
Tel Ffôn +44(0)1222 874803
Fax Ffacs +44(0)1222 874436
<http://www.cf.ac.uk/uwcc/socas>
Prifysgol Caerdydd
50 Plas y Parc
Caerdydd CF1 3AT
Cymru UK

JE/SH



Dear .

Re: Proposed PhD Research

Further to an initial meeting with Mr. , I am writing to request access to social services staff, service users/clients and relevant documentation (case files, policy documents, etc.). The precise parameters of my research are negotiable, but it may be helpful to mention that the working title of the PhD is 'Punishment Versus Welfare? : Social Work with Young Offenders from Local Authority Care'. The principles of 'punishment' and 'welfare' have, of course, been a source of tension throughout the history of juvenile justice. However, given current developments in policy, practice and organisation (not least, the creation of youth offending teams), it would be a particularly interesting time to explore these themes in some depth.

Before proceeding to a more detailed research proposal, it would be most helpful if you could indicate whether the agency would approve the principle of access, in the event of a positive response from the Department. I would wish to plan the fine detail of the research with the advice and full agreement of your managers.

I look forward to receiving a decision on this matter at your earliest convenience. Should you have any queries in the meantime, please do not hesitate to contact me.

Yours sincerely

Jonathan Evans¹
Professional Tutor

Cardiff University is the public name
of the University of Wales Cardiff
a constituent institution of the
University of Wales

*Prifysgol Caerdydd yw enw cyhoeddus
Prifysgol Cymru, Caerdydd, un o
sefydliadau cyfansoddi
Prifysgol Cymru*

From: Jonathan Evans

To:

Copy:

RE: Research:

As you know I'm conducting my PhD research at [redacted] at the moment. [redacted] has suggested that the above mentioned young person/people would be appropriate to interview. In the circumstances I would be grateful if you could ask her/him/them whether she/he/they would be prepared to co-operate with the research. If she/he/they is/are agreeable, then I will obviously also require parental permission.

[redacted] has a set of explanatory letters and consent forms for young people and their parents. However, you may wish to discuss some issues with me before approaching anyone. If you don't see me around the [redacted] office in the coming weeks, please feel free to contact me by phone or email. My telephone numbers and email address are as follows:

Work: 876319

Home:

Email: EvansJW1@Cardiff

Thank you in advance for your co-operation in this matter.

Best Wishes

Jonathan

To: Potential Research Participants



Dear

Re: Research on 'Looked-After Children' ('Care') and the Criminal Justice System

Cardiff Youth Offending Team is supporting some research I am doing on the subject of **young people in the criminal justice system** (e.g., on *Supervision Orders, etc.*) **who have experience of being 'looked-after' by the local authority** (or in 'Care' as many people describe it). It is on this basis that I have been given permission to approach you to help me with the research. Would you agree to be interviewed by me?

Outlined below are some answers to questions you may have about the research?

Q.: Who is the researcher?

A.: *I teach students (including those training to be social workers and Youth Offending Team Officers) in the School of Social Sciences at Cardiff University. I also do research in the general field of social work. I am completely independent of both Cardiff YOT and Cardiff Social Services Department and have never worked for either agency*

Q.: What is the purpose of the research?

A.: *The purpose of the research is to find possible answers to some important questions. These include:*

- 1) *How and why do some young people who have been 'looked after' by Social Services get involved in offending?*
- 2) *What happens to such young people when they do offend?*

In the long-term, of course, it is my hope that the research will help to improve the quality of service provided to young people who come into contact with Social Services Departments and Youth Offending Teams.

Q.: How will my research be done?

A.: By:

- 1) *Looking into case files held by the Youth Offending Team and, wherever possible, the relevant Social Services Department.*
- 2) *Interviewing young people.*
- 3) *Interviewing parents/guardians and/or carers (wherever possible and appropriate)*
- 4) *Interviewing Social Workers and members of Youth Offending Teams.*

The interviews will give you the opportunity to express views on your own experiences. I am particularly interested, for example, in your opinions on Social Services and Youth Offending Teams. The interviews will be audio-taped to ensure that your views are recorded accurately. The content of these interviews will be typed up afterwards and the tapes wiped clean. The record of the interview will leave out any references to yourself and other people. This will ensure that the interview you give will be confidential.

Q.: How long will the interview last?

A.: *This will really depend upon how much you want to say. I would estimate, though, that interviews will last between 30-40 minutes.*

Q.: What will happen to the research when it is completed?

A.: *The results will be published as part of my PhD (a degree awarded by the university for research). I may also include in the text selected quotations from my interview with you. Such quotations, of course, will be anonymous (no names or places will be mentioned). The completed research will be kept in a library at Cardiff University. At a later stage I may base some academic journal articles on this research. Anybody who takes part in the research will be able to read what I have written. Alternatively, I can simply tell you about the results of my research. I have also offered to give feedback on the results of my research to Cardiff Social Services Department and the Youth Offending Team.*

Q.: Is confidentiality really guaranteed?

A.: *I take confidentiality very seriously. It will not be possible to identify you personally from the research that I publish. Names, addresses and other identifying features will be removed from the text of the completed research.*

Q.: Are research participants paid for being interviewed?

A.: *I am not permitted to pay money to research participants. However, there **are** funds available to give each young person a £10 Virgin gift voucher. This is a way of saying thanks for the time and trouble involved in being interviewed.*

I hope all of the above points cover everything you need to know at this stage. If you have any queries or concerns, I suggest you first of all discuss them with your social worker or YOT Officer. You are, however, also perfectly welcome to phone me at the university. My direct line is 029 20876319. If I'm not available, please leave a message on the answerphone and I'll call you back.

I look forward to hearing from you.

Yours sincerely

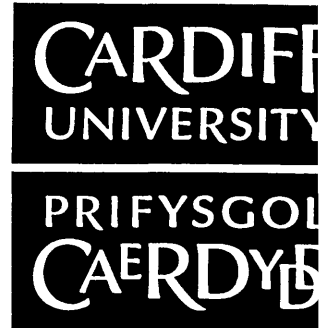
Jonathan Evans
Professional Tutor

Cardiff University School of Social Sciences
Ysgol Gwyddorau Cymdeithasol Prifysgol Caerdydd
Director Cyfarwyddwr Professor Yr Athro Huw Beynon

Cardiff University
Glamorgan Building
King Edward VII Avenue
Cardiff CF10 3WT
Wales UK

Tel Ffôn +44(0)29 2087 5179
Fax Ffacs +44(0)29 2087 4175
www.cardiff.ac.uk/

Prifysgol Caerdydd
Adeilad Morgannwg
Rhodfa Brenin Edward VII
Caerdydd CF10 3WT
Cymru, Y Deyrnas Gyfunol



Dear Parent/Guardian/Carer,

Re: Research on 'Looked After' ('Care') Children / Young people and the Criminal Justice System

I am writing to seek permission to interview Please find enclosed a letter addressed to your son. This explains the purpose and background of my research. If you are happy for me to conduct such an interview, I would be grateful if you could sign the appropriate consent form.

As you will see from the letter, I am also interested in interviewing parents, guardians and carers. If you would be willing to be interviewed, please sign the other consent form.

Thank you in advance for your co-operation in this matter. If you have any queries, I suggest you first of all discuss them with the social worker or Youth Offending Team Officer. You are, however, also perfectly welcome to phone me at the university. My direct line is 029 20876319. If I'm not available, please leave a message on the answerphone and I'll call you back.

I look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink that reads 'Jonathan Evans'. The signature is written in a cursive style with a long, sweeping underline that extends across the printed name below.

Jonathan Evans
Professional Tutor

Cardiff University is the public name of the University of Wales, Cardiff, a constituent institution of the University of Wales.

Prifysgol Caerdydd yw enw cyhoeddus Prifysgol Cymru, Caerdydd, un o sefydliadau cyfansoddol Prifysgol Cymru.

To:- Jonathan Evans
School of Social Sciences
Cardiff University
Glamorgan Building
King Edward VII Avenue
Cardiff CF10 3WT

Dear Jonathan

Re: Research on 'Looked After' Children/Young People and the Criminal Justice System

I give my consent to be interviewed by you in relation to the above research.

Name of Young Person:

Name of Parent/Guardian/Carer:

Signature of Parent:

Date:

Form B: (Young Person's Consent: to be signed by young person)

To:- Jonathan Evans
School of Social Sciences,
Cardiff University,
Glamorgan Building,
King Edward VII Avenue,
Cardiff.
CF10 3WT

Dear Jonathan Evans,

Re:- Research on 'Looked After' Children and the Criminal Justice System

I give my consent to be interviewed by you in relation to the above research:

Name:

Signature:

Date:

