

**“Diversion and Intervention within
the Children's Hearings System.”**

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Declaration

I declare that this thesis is my own work and has not been submitted in any form for another degree or diploma at any university or other institute of tertiary education. Information derived from the published and unpublished work of others has been acknowledged in the text, and a list of references is given.

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Thesis abstract

“Diversions and Intervention within the Children’s Hearings System.”

Using longitudinal data from the Edinburgh Study of Youth Transitions and Crime and findings from qualitative interviews, it was found that the Children’s Hearings system, in relation to young people referred on offending grounds, had no significant effect on the levels of self-reported offending in those referred to the Children’s Hearings system, compared with a matched sample who had no contact with the system. In addition, no differences were found between a smaller matched sample who were placed on a Supervision Requirement and those with no contact with the system.

The interventions provided within Supervision Requirements are argued to be ineffective and do not reflect the contemporary literature on effective practice. Interactions with the Children’s Hearings system were not found to support labelling or deterrence theories. However, the gatekeeping practices of the police appeared to be biased and labelling in effect.

The diversionary approach of the Children’s Hearings system was supported through the finding that the majority of cohort members desisted from offending without requiring formal measures. It is argued that the functioning of the system could be improved by diverting more young people with offending behaviours prior to their referral to the Reporter (on the basis of their low risk and low levels of criminogenic needs). The small number of high risk offenders with high levels of criminogenic needs, who are unlikely to desist naturally, should receive structured interventions that reflect current findings in relation to effective practice.

Chapter 1.

Introduction and summary of aims.

Introduction

The Children's Hearings system is a diversionary body which aims to address the needs and behaviour of children and young people who are referred to the system on a range of issues which relate to their welfare, education or offending behaviours. The origins of this system are found in the Kilbrandon Report, which when published in 1964, was regarded as radical in its approach and appeared to be greatly influenced by research on labelling theory and diversion. It is argued here that the contemporary literature on effective practice in working with offenders has a number of similarities to the original philosophy of the Children's Hearings system.

This introductory chapter aims to provide an overview of the thesis by summarising the main arguments that will be developed and the basis for these points. In the following sections literature covering the origins of the Children's Hearings system, labelling and diversion, desistance, and effective practice will be briefly discussed as these areas are key to the discussion of the system's effectiveness. Following this, the political and legal context that has shaped the functioning of the Children's Hearings system in recent years will be discussed. The final sections of this chapter will describe the methodology employed and a brief review of some of the findings from the Edinburgh Study of Youth Transitions and Crime are presented.

1.1. Overview of thesis

The impact that the Children's Hearings system has on the offending behaviours of children and young people will be investigated using data obtained through the Edinburgh Study of Youth Transitions and Crime (discussed more in chapter 4 for). The effectiveness of the Children's Hearings system in relation to the levels of offending behaviours has not previously been examined using longitudinal data. The argument developed within this thesis is based on the comparisons between the ideology and functioning of the Children's Hearings system, as laid out in the

Kilbrandon Report (1964), with the contemporary literature on effective practice in addressing the needs of young people with offending behaviours in order to reduce recidivism (e.g. Lipsey and Wilson, 1998). Three substantive research aims will be addressed by the present study:

- describe and analyse the factors that influence whether young people are referred to the Children's Hearing system;
- evaluate the impact of the Children's Hearings system on delinquent development;
- present qualitative findings on the experience of the system from the perspective of the offenders, their parents and caseworkers.

The main arguments throughout this thesis are: firstly, that application of the principles of effective practice, are consistent with the Kilbrandon philosophy (defined later); secondly, the Children's Hearings system (in relation to young people referred on offending grounds) in practice does not demonstrate many of the principles of effective practice defined within the "what works" literature.

These arguments are based on the application of the risk principle. This thesis will build the argument that the Children's Hearings system (at the time of data collection and in relation to those referred on offending grounds) did not effectively target resources on a clearly defined notion of risk which was based on an assessment of criminogenic needs. It is argued that the system at this period of time was overly inclusive of young people from disadvantaged backgrounds as a consequence of the discretionary powers of gatekeepers. On this basis, the functioning of the Children's Hearings system could be improved by diverting away more young people referred on offending grounds on the basis of their low risk, rather than including them in the system on the basis of perceived social disadvantage. Equally, through better assessment of risk, a smaller number of individuals who present as having a high risk, who are unlikely to desist without the requirement of formal compulsory measures, could access better resourced and targeted interventions.

In relation to the needs principle, as defined by “what works” (described in chapter 2) it is argued that the effectiveness of the interventions provided to children and young people who present primarily with offending behaviours, are generally ineffective due a lack of focus on addressing criminogenic needs and resource limitations. Opportunities to provide effective early interventions to reduce the likelihood of delinquent development, and interventions to meet the needs of those who are already involved in offending behaviours were, at the time of the data collection, not being provided in a consistent or structured manner. It is argued that effective interventions should be provided as early as possible (and according to level of risk), and should reflect the wider literature on effective practice (e.g. Latimer, 2001), and include interventions such as Multi-Systemic Therapy (Curtis, Ronan and Borduin, 2004) and Restorative Justice approaches (Latimer, Dowden and Muise, 2005).

1.2. The Children's Hearings system

In Scotland prior to 1971, juvenile offenders were brought before Sheriff Courts, Burgh Courts, or special Juvenile Courts in some regions. In 1961, a “Committee on Children and Young Persons” was appointed and chaired by Lord Kilbrandon with the remit to: “*consider the provisions of the law of Scotland relating to the treatment of juvenile delinquents and juveniles in need of care or protection or beyond parental control*” (Kilbrandon Report, 1964, p. 8).

The findings of this committee were published in the Kilbrandon Report (1964) which proposed a radical shift away from the justice model¹ and made recommendations for the implementation of a welfare model² for children and young people in Scotland. The aims of the welfare approach as described in the Kilbrandon Report (1964, p.28.) were primarily in relation to: “*the prevention of future criminal*

¹ Justice models are predicated on the assumption that individuals (including children) are rational agents who can be regarded as being fully responsible and legally accountable for their actions. Within justice models, the purpose of the system is to assess culpability and provide proportionate punishment (see Alder and Wundersitz, 1994).

² Welfare models do not regard children as rational agents but considered them to be products of their environments. Treatment, rather than punishment, is the key objective of welfare models (Alder and Wundersitz, 1994).

actions by the treatment of all the factors, whether personal or environmental, likely to conduce to such actions by a person who, either because he has already offended or on some other evidence, has shown himself prone to delinquency.” Despite this welfare orientation the Committee did consider the retention of punishment “*since punishment might be good treatment for the particular person concerned in his particular circumstances: but punishment would be imposed for its value to the purpose of treatment, not for its own sake as some sort of reward for ill-doing.*” (Kilbrandon Report, 1964, p. 27). This point reinforces the emphasis of the welfare basis of acting in the “best interests of the child” over just-deserts as would be applied in a justice model approach (Alder and Wundersitz, 1994).

The Kilbrandon committee argued that a court-based system was inappropriate for children. The precedence of the welfare over the justice approach is emphasised by the Children's Hearings system's separation of the process of adjudicating contested alleged offence grounds (which is conducted by the Courts when required) from the process of considering remedial measures for children who have admitted to offences and also children regarded as being in need of care and protection. The separation of some of the functions of the criminal justice model from the welfare model allowed the needs of the individual to be considered when providing interventions (Kilbrandon Report, 1964). The majority of the recommendations within the Kilbrandon Report were accepted by the government and integrated into the *Social Work (Scotland) Act 1968*, which came into effect in April 1971 establishing the Children's Hearings which replaced the youth courts and also altered the structure and practice of social work teams across Scotland.

Children enter the Children's Hearings system following a referral to the Children's Reporter. The Reporter is appointed to act as a gatekeeper and is independent from all of the other agencies involved in the Hearings system (and usually has a background and training in law or social work). The Reporter receives information about children who may be in need of compulsory measures of supervision from a number of sources (the majority or referrals coming from the police; e.g. SCRA,

2006). The range of grounds that make up referrals to the Reporter include for example offending, lack of parental care, truancy and misuse of drugs or alcohol (these grounds are presented in full in Appendix A). The decision making body of the Children's Hearings system is a panel of lay volunteer members of the public who are empowered to make decisions in order to meet the needs of children that attend the Hearings. At a Children's Hearings, three panel members, with at least one male and one female member, and a Reporter are always present plus, usually, the child or young person, at least one parent or carer and a social worker. Less frequently, others such as teachers, family, and other representatives may also attend. Since the publication of the *Social Work (Scotland) Act 1968* child care law was later reformed in the *Children (Scotland) Act 1995*, yet the Children's Hearings system has remained largely unchanged in its overall functioning. The mechanism and philosophy of the Hearings system are discussed in more detail within a review of the literature presented in chapter 3. The legal and political changes to the Children's Hearings system will be briefly discussed later in this chapter.

1.3. Labelling and Diversion

The main rationale for diversionary systems is to avoid formal contact with systems which are argued within labelling theory to result in negative consequences. The "labelling process" is based on the premise that powerful groups in society, such as criminal justice agencies, use labels to define acceptable and deviant behaviours. Individuals who participate in criminal behaviours acquire stigmatic labels and, according to Lemert (1951), a consequence of these labels is that they are denied various opportunities such as gaining employment due to the effect of the label. The result of the labelling process, it is argued, is that desistance from crime will be difficult once criminal activity has been initiated, particularly if the offender acquires an official record. More recent developments in labelling theory (such as that by Paternoster and Iovanni, 1989) differentiate between changes in the view of oneself as an offender (termed "self-concept") and changes in how other people relate to the individual as a consequence of the label (frequently referred to as "socio-structural labelling"). The negative effect on re-offending argued from this theoretical perspective has been very influential in the creation of systems that divert young people away from official, formal

criminal justice systems. A review of a selection of the relevant literature on labelling theory is presented in the following chapter.

Diversion aims to prevent the further development of criminality by limiting the levels of contact with and intervention from the systems which may have iatrogenic labelling and deviance amplification effects by allowing gatekeepers to make discretionary decisions on which individuals to divert away from formal measure. However, such discretionary decision making within diversion systems is open to the criticism that it can be subject to bias in referrals and interventions by the gatekeepers and that the informal nature of processes can be argued to deny “due process” rights (e.g. Lockyer and Stone, 1998). A summary of studies on the effects of diversion effects and labelling are presented in the following chapter reviewing the relevant literature in this area.

1.4. Desistance

Further support for the Children’s Hearing system’s “minimal intervention” approach is the observation from longitudinal cohort studies that young people tend to naturally desist from their offending (e.g. Moffitt 1993; Sampson and Laub, 1993). Sampson and Laub (1993) conclude that “desistance from crime is the norm and most, if not all, serious delinquents desist from crime.” Although, studies indicate that desistance is the norm for the majority of young people, there are found to be a smaller group who persist in offending into adulthood. In relation to the Children's Hearings system this process of age related desistance supports the use of a diversionary framework for the overwhelming majority of young people referred on offending grounds who desist around the middle of their teenage years. Within longitudinal studies, a minority of young people are usually identified as being responsible for a disproportionately high number of offences and are unlikely to desist in the normal way (Moffitt, 1993). It is argued throughout this thesis that the use of structured risk assessments and effective intervention with this minority is consistent with the Kilbrandon philosophy and the “what works” principles.

1.5. Effective practice

The history of criminal justice agencies being able to provide effective interventions to reduce levels of offending was, and to a lesser extent now is, contentious. The debate on the effectiveness of rehabilitation programmes with offenders originates in a pessimistic literature review of interventions, which has been interpreted as indicating that “nothing works” (Martinson, 1974). This position has not been supported in the growing body of evidence within the contemporary literature which indicates significant and positive reductions in recidivism following interventions with offenders (e.g. Dowden and Andrews, 1999; Latimer, Dowden and Morton-Bourgon, 2003). The “what works” literature indicates that specific types of treatments, targeted at particular groups of offenders, can reduce reoffending. Andrews and Bonta (1998) further define the elements of effective practice by their principles of risk, need and responsivity. The *risk principle* relates to the view that offending behaviours are predictable to a degree and consequently, interventions should be matched to the individual’s level of risk. On this basis, offenders who present a high risk should be targeted with more intensive interventions and that low risk offenders will gain far less from comparable interventions and should not be prioritised as requiring these resources. The *needs principle* relates to the focus on targeting interventions to address criminogenic needs in order to produce reductions in recidivism. Criminogenic needs are defined as having an association with recidivism and can be changed (e.g. anti-social attitudes and values; lack of employment skills; poor self-control; poor problem-solving skills; and substance abuse problems). Lastly, the *responsivity principle* refers to the manner in which interventions are delivered and the extent to which they are consistent with the ability and learning style of the offender. In the following chapters, it is argued that the application of these “what works” principles to the functioning of the Children's Hearings system would improve practice and at the same time remain consistent with the aims and philosophy of the Kilbrandon Report (1964).

1.6. Institutional and policy context

In this section, changes to the operation of the Children's Hearings system are presented in some detail. This review aims to explore the recent climate of political

and legislative change, in contrast to the stable beginnings of the Children's Hearings System.

The philosophy and practice of the Children's Hearings system had remained relatively unchallenged over a period of around thirty years from the original recommendations made within the Kilbrandon Report (1964), which led to the *Social Work (Scotland) Act 1968* and the first Hearings being held in 1971. Since their inception the original approach has been re-embodied more recently within the *Children (Scotland) Act 1995*, which established the creation of the Scottish Children's Reporter Administration (SCRA), and retained the key characteristics of the functioning of the system. One change that was introduced by this legislation reflected a shift in the emphasis of "deeds" and "needs" in circumstances where children were considered to present a significant risk of causing serious harm to themselves or others (see Bottoms and Dignan, 2004).

In contrast to this relative stability over the 70s to the 90s, other juvenile justice systems and child welfare systems in Europe and America had undergone considerable transitions within the same time period (Hallett and Hazel, 1998). More recently, however, the Scottish Executive announced a review of the system, whilst concurrently introducing new initiatives (such as Anti-Social Behaviour Orders and the use of electronic monitoring, which are discussed in the following section). The overall effect of these changes, it has been argued, is to shift the functioning of the system away from its welfare origins towards a more punishment orientated juvenile justice model regarded to be more convergent with practice in England and Wales (Bottoms and Dignan, 2004). This shift appears to be based on the interaction of public attitudes towards delinquency, political policies in responding to delinquency, and increasing levels of media attention culminating in an orientation which promises to "get tough on youth crime". Roberts (2004) discusses the recent rise in the United Kingdom and the United States of "populist punitiveness" where the general public supports the notion that young people should not perceive that they "get away" with their delinquent behaviours.

The political response in Scotland to this change in attitudes to offending by young people has been, at times, consistent with a more punitive approach. At the beginning of the millennium the political direction for the system appeared to highlight tensions between justice and welfare approaches. At this point in time policy appeared to be directing change in a way that was more congruent with welfare and diversion. In the document *It's a Criminal Waste: Stop Youth Crime Now!* the Scottish Executive (2000) set out a range of diversionary and lenient juvenile justice measures. An evaluation of the Children's Hearings system described it as being too focussed on welfare issues and unable to address particular aspects of youth offending. This report made a number of recommendations suggesting that an increased balance be made between the welfare and justice models. These included the following: expansion and availability of community-based interventions for persistent young offenders which could be used by Reporters and the Hearings; a feasibility study into bridging pilot schemes, which would refer as many 16 and 17 year olds as possible to the Hearings system; and a review of the age of criminal responsibility with a view of raising it from 8 to 12 years of age.

Around two years after the lenient and diversionary approach endorsed in *It's a Criminal Waste: Stop Youth Crime Now!* (2000), the Scottish Executive appeared to reverse its position and published the *Scotland's Action Programme to Reduce Youth Crime* (2002). This report abandoned the proposal of having bridging pilot schemes which would have resulted in more 16 and 17 year olds being managed within the Children's Hearings System and made the recommendation to pilot a Youth Court system. This rapid shift in policy was regarded by many as being contrary to the Kilbrandon philosophy and reintroduced youth courts which had been replaced by the Hearings in 1971. In addition, this report produced a number of performance targets for the system, one of which was to reduce youth crime by 10% by 2006 (a target which was not achieved). It also proposed to address persistent youth offending by establishing a well-resourced "fast-track" system of Hearings for persistent offenders under the age of 16. Consistent with what could be construed as a more punitive approach, the report also recommended a re-configuration of the

secure accommodation available in Scotland by increasing the number of available spaces by 25% with an increased specialist provision for girls.

In order to meet many of the targets set within the ten-point plan the *National Standards for Scotland's Youth Justice Services* (2002) detailed a range of objectives that would improve the overall functioning of the youth justice service. These objectives included improvements to the quality of assessments for children and young people who were to attend Hearings on offending grounds. These assessment reports were to include the use of risk and needs tools (ASSET or YLS/CMI; Baker, Jones, Roberts, and Merrington, 2002; Hoge and Andrews, 1996) and were to include an action plan detailing how the individual's criminogenic needs would be addressed. A further objective was to improve the range and availability of programmes that would address offending behaviours (such as anger management, and intensive community based support and supervision). In addition, the National Standards made the recommendation that victims of offences committed by a young person should have the opportunity to engage in restorative justice schemes where appropriate. Overall, it would appear that these shifts in policy represent a move towards the application of the "what works" principles within social work practice for young people involved with the Children's Hearings system. In this respect, the political interest in this literature could be taken to represent an increasingly "correctional" approach, as opposed to a preventative and welfare based application of effective practice. The literature relating to the effectiveness of these measures for juvenile offenders is discussed in the following chapter.

As part of the process of the development of recommendations made within *Scotland's Action Programme to Reduce Youth Crime* (2002), Audit Scotland produced *Dealing with Offending by Young People* (2002) in which a number of shortcomings within the Children's Hearings System were presented. In summary, they indicated that: the Children's Hearings System was too slow in processing young people through the stages of system and that there were significant inconsistencies in the decisions reached by Reporters on young people; many young offenders did not get the services they needed to tackle their offending behaviour;

and that there was a growing problem in finding social work staff to provide the core supervision service for children (Audit Scotland, 2002). The report made a range of recommendations that would improve practice which would be evaluated in a later follow-up report (Audit Scotland, 2003).

Audit Scotland's follow-up study to *Dealing with Offending by Young People*, was published in November 2003 and examined evidence relating to the levels of service provided to young people placed on supervision by Children's Hearings, the quality of supervision plans, and issues such as the time taken for social work and police reports to reach the Reporter. The main findings of this updated report were: some children were still not receiving the levels of statutory supervision that they required; and Social Workers saw some children very frequently, but around half of the children on supervision did not see their social worker often. The update report found that the majority of recommendations to improving services had been implemented, but made further criticisms: 15% of children on a Supervision Requirement were still not receiving the level of service required; around half of those on supervision did not see their social worker often enough and that poor record keeping was a further problem.

The Scottish Executive appeared to move policy further in the direction of punitiveness within the consultation document *A Partnership for a Better Scotland: Partnership Agreement* (Scottish Executive, 2003). This document described a range of initiatives including the introduction of legislation that brought in further significant changes to Scotland's juvenile justice system. The first of these was the extension of Anti-Social Behaviour Orders (ASBOs) to those under the age of 16 years (which now can be imposed upon 12 to 15 years olds); the second was the introduction of Parental Orders, which require parents to act in the best interest of their children. Other measures included in this proposal include (following evaluation) the expansion of fast-track hearings and expansion of Youth Courts to other Scottish regions. Consultation on a system of warnings for young offenders that, where appropriate, include a restorative justice element was discussed at this time as being ongoing.

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In a further move in the direction of punitive and deterrence based approaches, the consultation document *Putting our communities first: A Strategy for tackling Anti-social Behaviour* (Scottish Executive, 2003) set out its proposal to introduce electronic monitoring in Scotland as a disposal option for young people within the Children's Hearing system. The document notes that the provision of electronic monitoring was likely to be appropriate for individuals who presented at Hearings with "serious issues". The use of this disposal was proposed to be made available for children and young people in relation to the following circumstances:

- as part of the process of re-integrating a young person back into the community following a period in secure or residential accommodation;
- for breaching an Anti-Social Behaviour Order (ASBO), on the basis that the individual was more likely to be placed in secure accommodation as a consequence of the breach;
- and as an alternative to placing some young people in secure accommodation.

Shortly after the proposals laid out in *A Partnership for a Better Scotland* and *Putting our communities first*, Section 70 of the Children (Scotland) Act 1995 was amended by Section 135 of the Anti-Social Behaviour etc (Scotland) Act 2004, enabling Children's Hearings to use the power to place a movement restriction condition (MRC) on a child. The use of this disposal was not limited to young people referred on alleged offending grounds where they represented a significant risk to others, but also included those who were regarded as being a risk to themselves; on this basis it is possible that a child may be subject to electronic monitoring through a "tag" who has no history of offending behaviour, with welfare principles being the underlying justification (in the same way that secure accommodation can be used).

More recently in *Getting it right for every child* (Scottish Executive, 2005) the Children's Hearings system was considered not to have provided the help to children and young people that they needed when they needed it and that many were being drawn into the Children's Hearings system unnecessarily. This document also regarded the Children's Hearings system as not having been very good at dealing with more persistent or serious offenders; and in relation to interventions and

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resources panel members were frustrated when their decisions were not always acted upon.

In response to these issues, within *Getting it right for every child* the Scottish Executive (2005) placed greater emphasis on preventative educative programmes which would involve families through approaches such as family group conferencing and family mediation to address problems themselves. In addition, better use of assessments were recommended in order to make sure that complex and serious needs are properly identified and action plans are produced which detail the contribution that various agencies should make in order to address these needs. Prioritisation on the basis of risk and needs was also suggested in this document with greater resources to be allocated for those children and young people who presented with levels of risk and needs that raised serious concerns. The preventative measures described in *Getting it right for every child* (Scottish Executive, 2005) extended to agencies being more active in meeting the needs of the child and not referring them onto other service providers. The quality and format of interventions was also discussed, and this document argued for a greater role for mainstream agencies and for greater provision of more intensive and structured programmes for children and their parents who may require help in managing serious behavioural problems. In response to these issues the Scottish Executive indicates that they have already put some measures in place. Significantly, this document proposes re-writing the grounds for referral to the Reporter to be based on two tests: significant need and the likely need for compulsion. The issue of “significant need” in practice means that rather than the Reporter’s focus being on the grounds of referral, the focus is placed on the needs of the child that are presented within the referral. This new emphasis is more consistent with the Kilbrandon Report’s (1964) aim of identifying and addressing needs and is also consistent with the identification of criminogenic needs within the referrals of children and young people on offending grounds. In relation to the second test the “need for compulsion” the referral is considered both in terms of satisfying the criteria for a Hearing as previously, but in cases where compulsory measures are not required, emphasis is then placed on the Reporter referring the child’s case back to the community agencies (primarily Social Work) in order for them to fulfil their duties towards meeting the child’s needs.

Discussion of changes in policy

Overall, a review of the policy documentation over the past ten years illustrates a considerable shift in the emphasis from a welfare approach towards a more punitive juvenile justice model. Simultaneously there appears to have been greater interest in delivering services based on research into effective practice in conjunction with these punitive responses. This is particularly apparent around the period prior to the elections for the Scottish Parliament in 2003, where youth justice became a cornerstone of the politicians' manifestos. Following the elections, this shift towards punitiveness was particularly evident within "*A Partnership for a Better Scotland*" (Scottish Executive, 2003), which placed greater emphasis on justice approaches (such as Anti-Social Behaviour Orders and electronic tagging). Consequently, the Children's Hearings system is now described as an "integrated system", which seeks to acknowledge both the "needs and deeds" of children and young people that are referred to the Reporter rather than the previous "needs not deeds" system. The implications and effectiveness of the combinations of these diversionary and punishment based approaches are discussed in more detail in the following chapters.

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1.7. Summary of Edinburgh Study findings

The Edinburgh Study is a prospective, longitudinal study of a cohort of around 4,300 young people who all started secondary schools in Edinburgh on August 1998 (a discussion of theory and methodology of the Edinburgh study is given in chapter 4). The Edinburgh Study team, have produced a number of papers and reports investigating a range of issues within the data. These include: truancy, school exclusion and substance misuse; patterns of referral to the Children's Hearings systems for drugs or alcohol misuse; adolescent smoking, drinking and drug use; gang membership and teenage offending; family functioning and substance use; neighbourhood effects on delinquency and drug use; social inclusion and early desistance from offending; and school experience and delinquency. It is not possible to review all of the reports and articles arising from the study and consequently only findings that are especially relevant to the present study are discussed in the following sections.

One of the key aims of the Edinburgh study was to investigate the relationship between gender and delinquency as this subject has received little attention in other developmental criminology studies. In the digest report *Gender and Youth Offending* (2003) Smith and McAra found that within the cohort there were differences between boys and girls in levels of serious delinquency, but far less difference on a broader definition of delinquency that included more trivial behaviours. Delinquency in the cohort was observed to rise sharply between sweeps 1 to 3 and then decline steadily after this peak. The types of delinquency were found to differ between genders: girls were more often involved in thefts from their home, graffiti, and truancy; boys were considerably more likely to have carried a weapon, and offended by committing theft by housebreaking, theft from motor vehicle, robbery and committed acts of cruelty to animals. Smith and McAra (2003) conducted a number of regression analyses in order to develop explanatory models to predict both broad and serious delinquency. A range of factors were found to predict broad delinquency, including situational opportunities, peer influence, higher rates of crime victimisation, weakened tutelage and lower levels of moral beliefs. At this broad level of offending, the explanatory models were very similar between genders. These findings are relevant to the present study as the Children's Hearings system is the body where many of those apprehended for offending behaviours are referred by the police. The relationships between age, gender and offending behaviours are relevant to the present study as these factors relate to the decision making processes of gatekeepers within the system. In addition, the finding that the majority of the cohort desisted in their offending is particularly relevant given the Children's Hearings system operates on a diversionary based approach where the majority of children and young people referred do not become subject to compulsory measures. These points are explored in more detail in the following chapters.

In addition to the above findings, a key variable in the present study in relation to referral processes which is explored in the following chapters is the relationship between family structure, parenting style and offending. The style of parenting which the cohort members receive was reported in *Parenting and Delinquency* (Smith, 2004a) to be closely related to offending behaviours. In this report, variables related

to parenting and family functioning when the cohort members were 13 years of age were found to be predictive of delinquency at the age of 15 years. The most important factors, reported by Smith, related to: parental tracking and monitoring behaviour; the child's willingness to disclose information; consistency in parental style; and the avoidance of conflict and excessive punishment. Smith argues that these findings indicate a causal relationship between parenting style and the behaviour of teenagers at a later date. Smith links these findings to social learning theory and argues that children will repeat behaviours that are perceived to be rewarding in the short term. In addition, parenting style was found to interact with social context in that was argued to be more difficult for parents with poor resources, living in deprived neighbourhoods to be as effective in their parenting.

In *The Links Between Victimization and Offending*, Smith, (2004b) also found a significant relationship between measures of delinquency and victimisation. Smith reports more serious forms of victimisation, such as being assaulted with a weapon, were more strongly associated with delinquency than other less serious forms of victimisation studied. Repeated experiences of victimisation were also found to be more strongly predictive of delinquency. In addition to the link between victimisation and offending there was also evidence that involvement in delinquency predicted later experiences of victimisation. Smith (2004b) reports that the most significant factors in this relationship between victimisation and offending were involvement in "risky" activities and having delinquent friends, as both of these variables were present in situations where cohort members were likely to offend and be victimised. This link between offending and victimisation is relevant to the present study as the underlying similarities of young people presenting with offending behaviours or with care and protection needs is a key principle to philosophy of the Children's Hearings system. The links between offending, victimisation, and peer relationships feature within the decision making processes discussed in chapter 5.

The research digest report *Patterns of Referral to the Children's Hearings System for Drug or Alcohol Misuse* (McAra, 2005) indicates that only 10% of the cohort who

had a Children's Hearings system record had been referred to the Reporter with grounds relating to drug or alcohol abuse (as detailed in the *Children (Scotland) Act 1995* s.52. grounds (j)). Children who were known to the Hearings system in relation to substance misuse issues, and other children with a Hearings system record were significantly more likely to come from single parent family structures, where there were greater levels of deprivation in comparison to children with no record. Levels of self-reported substance abuse were significantly higher amongst those referred with grounds relating to substance abuse (particularly alcohol) than in comparison to those with a record on other grounds and those with no record. In addition, those children with substance abuse referrals also were found to have displayed high levels of disruptive behaviours, problematic relationships with parents and peers and truancy from school. A high proportion of these children had records with the Children's Hearings system that indicated early involvement and other referrals relating to offending or being beyond parental control.

Of those referred with substance abuse grounds, 36% progressed to a Hearing where most were placed on a Supervision Requirement (in 39% of cases this was within the family home). After being made subject to compulsory measures of care within a Hearing, children had limited access to specialist drug or alcohol interventions and 48% were referred again within the following year with substance misuse being a key issue within the referral. The supervision requirements appeared to have focussed on issues such as challenging behaviour; truancy; parental ability to control their child's behaviour and attempts to improve the relationship between parent and child. It was found that across the cohort, very few children who regularly abused substances were referred to the Children's Hearings system. Substance abuse levels were a poor predictor of being known to the system and other factors such as not living with two birth parents; level of social deprivation; and frequent contact with the police were significantly related to being referred. McAra (2005) argues that these findings support initiatives aimed at broadening the range of resources within communities that are not accessed through the police, schools or social work such as structured sports and leisure programmes. These findings are relevant to the present study as they relate to the relationship between referral on non-offending grounds to

the Reporter and issues such as family structure, socio-economic status and access to resources to address needs. These areas will be explored in chapters 5 and 6.

Further work using data from the Edinburgh study investigating the patterns of interactions between cohort members and the police was conducted by McAra and McVie (2005). Their paper *The usual suspects? Street-life, young people and the police* explored the cohort's experience of policing in Edinburgh and describes the police decision making processes in relation to cohort members who come to the attention of the police. McAra and McVie (2005) argue that the police targeted some young people who had previous 'form' (being known as an offender) and were 'available' for policing. Police were found to behave leniently, or not, on the basis a range of factors but appeared biased towards males, of low social class, from single parent families who live in deprived neighbourhoods. McAra and McVie (2005) conducted a number of regression analyses controlling for the effect of each of these variables and report that previous "form" was the most powerful predictor of later adversarial police contact, further warnings or charges in later sweeps, and persistent serious offending. This study also found that low social class was, independently of other factors, significantly related to further police contact. In the present study the findings of McAra and McVie (2005) are very relevant to the analyses of gatekeeping practices and decision making presented in chapter 6. The potential labelling effects of the police's use of a young person's "form" and the notion of a social class based bias are also explore in the chapter 7 and the qualitative findings in chapter 8.

The influence of social class and policing practice discussed above can be contrasted with the factors that were found to actually relate to offending, as reported in the research digest *Social Inclusion and Early Desistance* by Smith (2006). In this digest report Smith (2006) found no relationship between levels of economic deprivation and family structure to the continuation of offending behaviours; cohort members from intact families or higher social classes were found to desist at the same rate as others from different backgrounds. Smith (2006) argues that these findings are congruent with those of Sampson and Laub (1993) who also argue that social

structure and context influence the development of delinquent behaviours. The patterns of desistance observed are also similar to the typology advanced by Moffitt (1993) which argues that the majority of offending by young people is limited to adolescence and then most young people mature out of these behaviours. The finding that young people who are caught by the police are less likely to desist from offending are also similar to the findings by Farrington (1977), discussed later. Smith (2006) does not suggest, however, that the police or the Children's Hearings system should not intervene as some offenders have serious needs that are unlikely to recede as they mature, but increased interventions are argued to be unlikely to result in a reduction in offending given that the majority desist naturally. These findings relate closely to the present study in that the relationship between contact with the Children's Hearings system and perceptions of the significance of neighbourhood deprivation is a recurring theme in the following chapters. In addition the potential labelling effects of police and system contact are also explored in the following chapters.

Discussion of Edinburgh Study findings

The findings briefly presented here form a foundation that is built upon in the following chapters. The relationship between victimisation and offending discussed by Smith (2004) supports, to some extent, the argument within the Kilbrandon report that a combined welfare and justice system is appropriate for this population. The findings reported by McAra (2005) in relation to children referred due to substance use grounds highlight the interaction between offence and non-offence referrals and background characteristics of the children. The patterns of offending and desistance reported by Smith (2006) from data collected by the Edinburgh study are consistent with Moffitt's (1993) findings from Dunedin. There appears to be a group of young people who offend during their adolescence then desist without requiring any intervention consistent with Moffitt's (1993) adolescence-limited typology. In addition the significance of factors such as gender, socio-economic status, and family structure (explored by Smith 2004a) are investigated in chapter 5, within the context of "gatekeeping" practices of police and Reporters to the Children's Hearings system. Given that the Kilbrandon philosophy has a key ideal of avoiding

stigmatisation, the findings of McAra and McVie (2005) of policing practice appear to be contradictory to this aim. Within the literature more widely similar findings of police contact resulting in increased levels of *subsequent* charges and warnings are reported, which are consistent with labelling theory (e.g. Gold 1970; West and Farrington, 1977; Klemke, 1978).

1.8. Thesis structure

The aim of this introductory chapter was to present information that would provide a context for the following chapters. The content of these chapters is summarised as follows:

Chapter 2 presents a review of the literature on deterrence and labelling approaches. The pattern of offending and desistance over time found in longitudinal studies of young people will be discussed in relation to diversion and effective practice. This review then discusses research findings that relate to effective practices, including “what works” in relation to children and young people with offending behaviours.

Chapter 3 presents a review of literature specifically in relation to studies of the Children’s Hearings system. This review describes the processes by which children and young people become involved with the Children’s Hearings system. Data from studies investigating these processes the characteristics of children referred to the system are presented.

Chapter 4 presents the methodological basis of the Edinburgh Study, and describes the methods used within the quantitative and qualitative analyses given in the following chapters.

Chapter 5 presents data from the Edinburgh Study on the cohort’s referral patterns to the Children’s Hearings system. The underlying similarities of children presenting with offences and welfare referrals are investigated. This chapter then describes the advantages of the statistical process of regression analysis and presents findings using this technique to predict referrals to the Reporter.

Chapter 6 explores the decision making processes of the police and Reporters within the Children's Hearings system and investigates the characteristics of children and young people who placed on different forms of supervision requirements.

Chapter 7 builds on the findings presented in the previous chapter on gatekeeping practices. The effect of system contact is explored with a sample of cohort members who were closely matched to a sample who had no contact with the system. This chapter also investigates changes in self-concept following contact with the police and the Children's Hearings system.

Chapter 8 presents the findings from qualitative interviews with cohort members, their parents and a number of professionals relating to their perceptions of the Children's Hearings system. Perceptions of effectiveness and potential bias within in the system are discussed.

Chapter 9 draws together the findings from the earlier chapters and concludes the thesis by connecting the empirical findings with the literature.

Chapter 2. Review of relevant literature.

Introduction

As discussed in the previous chapter, Scotland's response to delinquency has moved to some extent away from the welfarist origins of the Hearings system in the 1960s towards a more punitive system prior to the turn of the millennium (Asquith and Docherty, 1999). In Scotland, it is not clear if this swing towards a more punitive approach is a consequence of increased levels of political focus on youth crime, increased amounts of media attention, or greater public support for policies that promise to "get tough on youth crime". The general public's opinion of juvenile justice practices was investigated in England and Wales by Roberts and Hough (2005). This study found that the public was generally not well informed about how the youth courts function, but they were not perceived as doing a good job; and the sentences given to young offenders were regarded as being too lenient in comparison to the punishments that were favoured by respondents (see also Mattinson and Mirrlees-Black, 2000). In addition, research into the public's opinion of juvenile justice indicates there is a general perception that the adult criminal courts would be more effective in providing punishments that are more certain, swift, and particularly more severe than juvenile courts (e.g. Hutton, 2005). This popular view of the effectiveness of punishment and deterrence based responses to youth crime has in some jurisdictions, especially in America, resulted in an increased incidence of transferring juvenile offenders to adult courts and adult prisons, in what has been called "adult time for adult crime" initiatives (e.g. Singer, 1996). In Scotland, more punitive measures such as the introduction of Anti-Social Behaviour Orders, Electronic Monitoring, and Youth Courts are resonant with these justice orientated approaches.

This recent shift in emphasis in Scotland is a consequence of the Children's Hearings system functioning to some extent as both a justice and welfare system for children and young people. The justice model, as defined by Alder and Wundersitz (1994), assumes that all individuals, including children, are reasoning agents who can be regarded as

being fully responsible for their actions and consequently can be held accountable before the law. Accordingly, the purpose of justice system approaches is to assess culpability and apportion (through due process) punishment in proportion (often termed “just deserts”) with the offence seriousness in order to deter future offending.

Welfare models, as defined by Alder and Wundersitz (1994), are associated with treatment rather than punishment as being the key objective of the system. Children and young people within the welfare model are not regarded as being rational agents and because of their immaturity they are considered to be products of the environments within which they live. Consequently their offending behaviours are attributed to dysfunctional elements in that environment. Using these definitions, the Children’s Hearings system functions as a welfare model that diverts young people from court and aims to provide interventions based on the child’s “best interests” (this area is discussed in more detail in chapter 3). In addition, however, the Children's Hearings system functions in a way that also considers the deeds of the individual, in relation to the seriousness of offences and potential harm to the public (with the exception of a small number of very serious offences which are processed by the courts).

The following sections present a summary of the theoretical foundations and arguments within the literature on deterrence and diversion approaches. In addition, the research examining the efficacy of these approaches in reducing rates of re-offending in young people will be presented and discussed. The patterns of offending and desistance over time found in longitudinal studies of young people are discussed in relation to diversion and effective practice. This review then discusses research into effective practice which has been found to reduce recidivism levels in children and young people.

2.1. Punishment and deterrence

The effect of legal sanctions administered through justice approaches on future offending behaviour is a subject which has a long history in criminology. In this section of the literature review the effectiveness of punishment and deterrence will be discussed

due to the relevance to the Children's Hearings system which rejected the aims of attempting to change young people's offending behaviours through punishment and deterrence based approaches.

The theoretical foundation of punishment's value in relation to retribution, incapacitation and deterrence is greatly influenced by the argument that people are rational actors who make decisions that will maximise their pleasure and minimise their pain. The history of this theoretical position can be traced back to the 18th century and the early classical theorists such as Cesare Beccaria (reprinted in 1963) and later in the work of Jeremy Bentham (reprinted in 1948). According to these deterrence approaches, individuals who experience certain, swift, and severe punishments will be more likely to reduce or refrain from future offending than those who are punished with less certainty, severity, and swiftness (e.g. Paternoster, 1989). The deterrence effect is argued to function at two levels: general deterrence and specific deterrence. The actual processes behind specific and general deterrence are not entirely clear and are a subject of some debate (e.g. Stafford and Warr 1993). The principle of general deterrence (e.g. Andenaes, 1966) focuses on future offending behaviours and seeks to prevent the general population from engaging in crime or deviance by impacting upon their rational decision making process. According to this theory, people will engage in criminal and deviant activities if they do not fear apprehension and punishment; accordingly law and enforcement should be designed and implemented in order to publicly project the message that offending behaviours will result in punishment. Specific deterrence (e.g. Nagin, 1998) focuses on punishing known individual offenders in order to reduce the likelihood of future re-offending. Specific deterrence is based on the notion that punishment is effective as it is not rational to make decisions that will result in further punishments. This rational choice framework of weighing up costs and benefits is argued to reduce rates of re-offending amongst those punished. If the punishment also includes a custodial period then this incapacitation is also argued to reduce the level of crime in the community simply due to the fact that the offender has been placed in custody.

In contrast to the utility within deterrence theories, the act of punishing an offender in order to achieve retribution also has a classical theoretical basis in the works of the philosopher Immanuel Kant (1790, re-published in 2002). According to this approach, the main consideration in the application of retributive models of justice is that the punishments are morally proportionate to the offence; a severe crime should be punished more than a minor crime. The effect of the punishment on deterring future offending is not regarded as being an aim within a “just deserts” model as the punishment is seen as an end in itself. The act of punishing an offender is argued as justifiable simply when an individual violates the rules of society. This classical view is found to be a feature of modern research into views on the punishment of offenders. For example, Carlsmith (2006) explored the significance of retribution, incapacitation and utility in the decision making and perceptions of punishments within a sample of students. This study found that although people indicated that they valued utilitarian aims, their decisions were affected primarily by the aim of achieving retribution rather than effects of incapacitation or deterrence. These findings are consistent with those discussed above in relation to the general public’s perception of the youth justice system being too lenient and not providing adequate punishments (e.g. Roberts and Hough, 2005).

Due to the present study’s focus on the effectiveness of interventions in reducing levels of offending, the following section will briefly present studies investigating the effect of punishment and deterrence on delinquent behaviours. The review will then contrast the punishment and deterrence approaches with literature on labelling theory and diversion approaches due to their relevance to the development of the Children’s Hearings system.

Research on deterrence based approaches

The contemporary application of deterrence based approaches in relation to juveniles offenders is widespread in society. In this section a studies which investigate the effect

of deterrence in relation to the use of custody as a punishment for young people will be discussed.

An example of a deterrence based intervention for young people is the “Scared Straight” programme, which is based on the notion that offending behaviours will be reduced in participants as a consequence of the deterrent effect of them visiting a prison and listening to presentations from offenders discussing prison life. Following a systematic review of the literature, nine studies were included in a meta-analysis that examined the effectiveness of this intervention in reducing offending levels in participants (Petrosino, Turpin-Petrosino and Buehler, 2003). The authors report that “Scared Straight” did not deter young people, but actually had the effect of *slightly* increasing delinquency when compared to those who had not received any intervention at all (Petrosino, *et al.*, 2003).

The use of shock incarceration with juveniles, often referred to as “boot camps”, which feature militaristic atmospheres and rigorous physical training, is further example of a deterrence based intervention that has been particularly popular in the United States. Wilson, MacKenzie and Mitchell (2005) conducted a systematic review of 43 studies from the literature in order to examine the effectiveness of this approach in reducing recidivism. The authors report that there were no overall differences observed in recidivism levels between those who had attended a boot camp and those who had experienced an alternative form of custody.

Similar findings are reported in a study that examined the specific deterrent effect on recidivism, of different lengths of custodial sentence. Gendreau and colleagues (Gendreau, Goggin, and Cullen, 1999) reviewed 23 studies and matched (on five risk factors) two groups of offenders who had spent an average of either 17 months in custody, or an average of 30 months in custody. When the groups’ levels of recidivism were compared it was found that the offenders who had been held in custody longer were 2% to 3% more likely to recidivate. They do however, indicate that this effect is not the same across all offenders and lower risk offenders are more likely than higher risk offenders to

be deterred by longer sentences. They argue that the debate on “what works” in order to reduce recidivism indicates that interventions that embody the principles of effective practice (discussed later in this review) are substantially more effective than deterrence based approaches (Gendreau, Goggin, and Cullen, 1999; Gendreau, Smith, and Goggin, 2001).

These studies have all reported findings that are contrary to the expected outcomes of deterrence theory. Positive outcomes have been reported in some deterrence studies that indicate that when individuals *perceive* that they will experience certain, swift, and severe punishments they are more likely to reduce levels of offending or desist entirely when compared to individuals who are punished with less certainty, severity, and swiftness (e.g. Paternoster, 1987; 1988). In practice, these conditions are not delivered by justice systems as many crimes are undetected and, if they do result in punishment, this might occur months after the offending behaviour had taken place (see McGuire, 1995). A review of the literature on the outcomes of studies into the effects of deterrence based approaches with delinquents is presented in the following section alongside studies of labelling theory.

2.2. Labelling Theory

Taking the theoretically opposite position to deterrence theory, discussed above, labelling theory has its origins in the work of Tannenbaum (1938), Becker (1963) and Lemert (1967). This literature is very relevant to the present investigation into the Children's Hearings system as although the Kilbrandon Report (1964) does not explicitly discuss any theoretical or research base for its diversionary orientation, it does mention the specific goal of avoiding stigmatisation: “*a stigma is attached in the public eye to conviction of a crime, which bears no necessary relationship to the harm done by the action itself or the actual responsibility of the person who did it.*” (p.27). The stigmatising effect of a conviction, according to labelling theory, would be a change in the societal reaction to the offender and a change in the offenders' view of themselves which may result in increased levels of recidivism. Definitions of labelling theory vary

considerably in the literature and it might be more appropriate to discuss “labelling theories” as some versions of the theory place emphasis on the social and structural effects of how a label affects opportunities in life (e.g. Becker, 1963); whereas other accounts of the theory concentrate primarily on how labels affect the individual’s self-concept (e.g. Tannenbaum, 1938).

Labelling theory, as proposed by Becker (1963), considers how certain behaviours and the people that exhibit these behaviours can become labelled as “deviant” within structural social processes. Becker proposed that powerful groups in society, such as criminal justice agencies, use the “labelling process” to define acceptable and deviant behaviours. He argues that a consequence of a person being apprehended and labelled publicly as a criminal is that they are placed in the social category of a public deviant who is then excluded from many aspects of mainstream society. The foundation for Becker’s theory is in “symbolic interactionism” which stresses the importance of the real or imagined reactions of others upon how we act and how we conceive of ourselves and that the meaning of behaviours is developed through interactions (Becker, 1963). According to Becker, actions are not inherently deviant but the various groups in society apply the label and meaning of deviant to certain behaviours through the processes of interaction and negotiation. The main argument of the symbolic interactionists is that the official application of these particular labels has profound consequences for the people labelled as criminal, as the label of criminal is regarded to be criminogenic.

According to Lemert (1951), individuals who participate in criminal behaviours acquire stigmatic labels and are consequently denied various opportunities such as employment due to the effect of the label. The effect of the label depends on factors such as the public visibility of the label, the manner and severity of application, negative feedback from others, identification and sanctioning, and also through the process of self-labelling. A distinction is drawn in the literature between formal and informal labels: formal labels are those that are obtained through contact with social control agencies;

informal labels are derived from contact with parents, teachers and peers who are aware of the delinquent behaviour (Lemert, 1967). The result of the labelling process, it is argued, is that desistance from crime will be more difficult once criminal activity has been initiated, particularly if the offender acquires an official record. Lemert (1967) in his discussion of the development of criminal labelling distinguishes between “primary” and “secondary” deviance. Primary deviance is a deviant act that has not been officially recognised and is therefore not publicly labelled. Secondary deviance, according to Lemert, arises through the official reaction to the deviant act through the process of public labelling by agencies such as schoolteachers and the police. Lemert argues that society’s reaction to deviance may amplify the effect and actually lead to secondary deviance. Lemert (1967) also argues that through a person’s deviant actions being officially labelled, people can come to regard the labelled person differently, who may then become more isolated and further resist adopting the consensus view. This label and public response to it, in turn, can limit access to locations and activities in the conventional environment, and through time leads to the labelled person changing their self-concept and fulfilling the role of the deviant identity, consequently engaging in more secondary deviance. In response to this perception of increased deviance, there is a greater exertion of social control in the form of more labelling, in a process which is described as being a “spiral of amplification” (Lemert, 1967).

The effect of the “deviancy amplification system”, originally proposed by Wilkins (1964), refers to the unintended outcome of social policies designed to prevent or reduce deviance and “moral panics” fuelled typically by the mass media. According to this theory, the amplification of deviance is the consequence of a spiral of repeated labelling: behaviours are initially labelled as deviant; information from the primary definers is relayed to society generally through the media; society then produces a negative reaction to the deviant behaviour, which then results in the belief in the deviant label and contributes to further deviant behaviours. This “self-fulfilling prophecy” was suggested by Willmott (1966) who argued that the deviant behaviour by working class boys was

highly visible and was therefore more likely to come to the attention of the police. In reaction to this, the police identified this group as “trouble” and would subsequently target them repeatedly for closer observation, resulting in them obtaining more evidence to confirm their perceptions that the labelled group is actually delinquent. Consistent with the view that labelling can influence social and structural relationships, Walker (1980) suggests that an increase in delinquency following a conviction may not simply be attributed to the effect of labelling causing a negative adjustment in the individual’s self-concept. Walker argues that judicial interventions may consequently increase rates of offending through factors such as increased contact with other delinquents. An additional explanation given by Walker (1980) for the increase in offending is that the act of appearing in court and the subsequent disposal results in a loss of the deterrent effect of the official sanction. The basis of this explanation is that the offender through directly experiencing the process as being less negative as they had considered it to be is less deterred by the threat of future sanctions.

The position of labelling theory in the literature has been highly contentious. Critics of labelling theory have argued that it is too ambiguous and does not permit empirically falsifiable propositions to be tested, consequently resulting in research findings that failed to produce consistent evidence of labelling effects (see Paternoster and Iovanni, 1989 for a review). The acrimony between researchers of differing theoretical backgrounds reached a point in the mid-1980s when labelling theory was “pronounced dead” (Gove, 1985). Since then, there has been a resurgent interest in labelling theory with further elaboration and expansion of the original theory to provide testable hypotheses. Paternoster and Iovanni (1989) in a review of the criticisms that have been levelled at labelling present the hypotheses from a social and structural perspective that “*status attributes are influential in determining who is labelled*” and “*labelling experiences are instrumental in producing problems of adjustment and in causing subsequent commitment to further deviance*” (p. 364). They are cautious to avoid presenting a deterministic interpretation of labelling *causing* secondary deviance but draw attention to mediating social factors in a manner that is consistent with social

learning theory (Bandura, 1977). Similarly, the negative effect of association with other delinquent peers has been discussed in relation to “differential association” (Sutherland and Cressey, 1970). Paternoster and Iovanni (1989) go on to argue that labelling theory is not as invalid as its critics have claimed, as frequently a “caricature” of the theory has been tested as opposed to a theory that encompasses the complexity of a number of labelling hypotheses.

A further elaboration of the theory that attempts to account for the lack of convergence in these findings is given by Sherman (1993) who argues that labelling theory and deterrence theory are limited, in that the labelling approach fails to account for observations of formal sanctions sometimes decreasing re-offending and equally deterrence theory fails to account for why sanctions sometimes appear to increase levels of offending behaviour. On this basis, Sherman argues that official punishments could reduce, increase, or have no effect on recidivism depending on a variety of factors related to the offender, their offence, and their social setting. For instance, Sherman (1993) states that “more socially bonded people are more deterrable,” and presents data indicating that older people, who generally have more social capital (bonding to their stake in conformity), are more effectively deterred by formal sanctions than younger people who are lacking social capital (see also Sampson and Laub, 1993). Furthermore if the sanction is viewed by the offender as being unfair, according to Sherman (1993), the possible deterrent effect may become weakened or eliminated and further offending will not be reduced and might possibly be increased as a consequence. The variety of responses to official sanctions and diversions discussed above has been accommodated into Sherman’s (1993) account of “defiance theory”. This theory argues that the future criminal behaviour of formally sanctioned individuals will be influenced by such things as the degree to which offenders perceive the sanctioning as legitimate, the strength of social bonds that offenders have with the sanctioning agent and community, and the extent to which offenders accept the sanctioning without becoming angry and feeling rejected.

Tyler (2006a; 2006b) further develops the relationship between the perceptions of an individual with an authority through the construct of “legitimacy”. Tyler (2006a) describes legitimacy as being a psychological property of an institution or social arrangement which leads to the perception that its actions are appropriate, fair and just. In relation to crime, if it is believed that justice agencies are legitimate authorities, then people will feel obliged to follow the rules and requirements made by those agencies. In the case of legitimate justice authorities, Tyler (2006a) argues that there will be a degree of acquiescence to the authority which is seen as “entitled” to be obeyed rather than obeyed due to any deterrent effect of punishment. However, if an agency is not regarded as legitimate, possibly due to being perceived as being unfair, then individuals are likely to regard the legal system as being unjust and will not feel obliged to act within the law. On the basis of perceived legitimacy it would be expected that people would respond to the police, courts and the legal framework in different ways. Further support for this relationship between perception and the effect of sanctions is reported by Paternoster, Brame, Bachman, and Sherman (1997) who have shown that people have a tendency to adhere to the law more when they believe a criminal sanction has been administered fairly. The outcome of the sanction is predicated on individual offender variables and is consistent with the Responsivity principle, which states that in order for interventions to be successful in reducing levels of offending they should meet the individual’s characteristics such as cognitive ability, maturity, gender, race and levels of motivation. This review will now present some key studies investigating labelling theory before the review moves on to studies of diversion and the notion of deviance amplification.

Studies of labelling theory

Due to the Children's Hearings system’s emphasis on avoiding “stigmatisation” research into the effects of labelling children and young people who have displayed delinquent behaviours is clearly very relevant to the present study. In this section, studies investigating the effects of labelling are presented with some emphasis being placed on the methodology employed within these studies. It is argued throughout this thesis that due to the methodological shortcomings of many studies findings of a deterrent effect or

labelling effect may be biased through inadequate control of confounding variables through sample selection or the lack of a closely defined control group (see also Paternoster and Iovanni, 1989).

One of the earliest studies into labelling found in the literature was published by Gold and Williams (1969). The authors matched juvenile offenders into pairs (an apprehended group and a un-apprehended group) on the basis of their self-reported delinquency in order to test the deviance amplification effect of labelling. The study found that in 57% of the pairs, the apprehended youth reported more subsequent delinquency than the un-apprehended youth (consistent with the deviance amplification effect). However, the apprehended youth in 29% of the pairs actually committed fewer offences than those who were not apprehended (consistent with a specific deterrent effect). In the remaining 14% of the pairs it was found that the two juvenile groups committed an equal number of offences. Overall, Gold and Williams (1969) suggest that these data support the hypothesis derived from labelling theory that there is an effect of deviance amplification. The small sample size employed limits the reported findings; originally, a total of 74 apprehended youths had been selected for the study, but due to difficulties in matching criteria this was reduced to 35. The study also lacked measures to control for the seriousness of reported prior offences, limiting the potential reliability of the matching.

In a further study into labelling effects, Gold (1970) used the self-report data from a group of 20 delinquent teenagers who claimed to have been apprehended by the police within the last three years. Gold then matched these official delinquents to non-official delinquents on the basis of age, gender and undetected offences from approximately the same time period, and the same number of undetected previous offences. The study reported that the apprehended teenagers claimed to have committed more offences following apprehension than the undetected group, supporting the predicted outcomes of labelling theory. As with the previous study by Gold and Williams' (1969) sample sizes limit confidence in the findings. Although the undetected previous offences were

considered, other factors which may have influenced the propensity to re-offend were not part of the matching criteria and may have biased the outcome.

Using longitudinal data from the Cambridge Study, and a larger sample size than Gold (1970), West and Farrington (1977), report a study using two groups matched on prior levels of self-reported delinquency, one group having had official contact in the form of convictions, the other group having had no convictions. Their results indicate that at follow-up the convicted group had become significantly worse, whereas the self-report only group reduced offending to a level close to the average of the sample as a whole. The authors argue that these results strongly suggest that the deterioration in behaviour of the convicted group is in line with the predictions of deviance amplification. The main limitation of the West and Farrington (1977) study is the possibility that other factors were not statistically controlled for in the matching process which could account for the findings. The reported effect of labelling might be attributed to the differences in overall criminal propensity between the two groups, which were not controlled for. However, a further study by Hagan and Palloni (1990) using West and Farrington's (1977) original data allowed a range of additional potentially confounding factors to be statistically controlled. Once these factors were considered, the authors found that a conviction before the age of 15 still had a significant effect on increasing subsequent offending behaviour in later age, as reported in the original study. This labelling effect, however, did not appear to persist over time as Farrington, Osborn and West (1978) completed a further follow-up analysis of the same two groups and found that they produced a similar pattern in relation to their convictions. It was suggested that the high delinquency of youths convicted at age 14 had significantly decreased by the age of 21, irrespective of whether there had been a conviction, custodial sentence or no official labelling at the age of 14 years. This finding would suggest that the effects of labelling may be temporal rather than static and this pattern of desistance found is consistent with other longitudinal studies of offending. Overall, West and Farrington's (1977) study was found to be supportive of labelling theory, however the authors did not make it clear if this "deviance amplification" had taken place through changes in the offenders' self-

concept, or through other people, such as the police, perceiving and interacting with them differently (socio-structural labelling). In the following study the effect which labelling has on and individual's self-concept was investigated.

Using self-report data on shoplifting from 1,189 high school students Klemke (1978) found that apprehension by store personnel and by parents was directly related to future shoplifting activity and the identification of oneself as a "troublemaker". In addition, youths who experienced police interventions were also found to have exhibited an increase in shoplifting in comparison to those who did not have police contact. These findings of increased subsequent shoplifting and the development of a deviant self-concept were argued to support deviance amplification through labelling and to counter deterrence based arguments. However, Klemke (1978) employed a poor measure of prior offending for his sample in a way that was similar to the Gold and Williams (1969) study reported earlier. The lack of control over a range of variables in these studies allows for the possibility that those who were apprehended were also more serious delinquents. Consequently those who were apprehended may have had a greater propensity to re-offend, irrespective of labelling events, and the lack of control over this factor could have biased the observed outcome. The study by Klemke (1978) is particularly relevant to this present examination of the Children's Hearings system as the perception of being a "troublemaker" through contact with agencies will be examined later in chapter 7.

Following Klemke's (1978) study, Morash (1982) also investigated labelling theory in terms of changes in self-concept amongst juveniles arrested and charged with committing minor "status offences". Morash found that the youth's did not consider that their labelling by the police had influenced perceptions held by their parents, peers and adult neighbours. In addition, the credibility of the source of the label was found to be important in relation to the effect of labelling. Morash (1982) found that parents and friends were reported to be relatively high in both credibility and significance, whereas the police were seen by the youths as not being credible and consequently no important

sources of labels. Generally, the least delinquent of the youths reported that they cared more about how they were perceived by adults (other than the police) and the most delinquent were found to care the least about how adults regarded them. These findings are supportive of the arguments discussed earlier on the potentially different effect of labelling on different people on the basis of individual's "stake in conformity" (Sampson and Laub, 1997) and their perceptions of the legitimacy of the source of the label (see Tyler, 2006a; 2006b; Sherman, 1993).

Morash (1982) conducted a second phase to this study and investigated the effect of labelling and perceived credibility on two types of court proceedings: formal and an informal counselling type hearing. Youths were randomly assigned to one of these two types of proceedings and data was collected in the same manner as before on the participant's perceptions of the credibility and significance of the person presiding over the hearing. Findings were similar to those reported for perceptions of the police. In comparing the perceptions of the participants of the person presiding over the proceedings, the more formal procedure was found to have a greater labelling effect than the informal procedure. In addition, the person presiding over the formal procedure was regarded to be less credible by the youths than the person presiding over the informal procedure. This finding is particularly relevant to the present study where the Children's Hearings system aims to avoid stigmatisation and to provide an informal setting for children and young people (e.g. Hallett *et al.*, 1998).

On the basis of these findings, Morash (1982) suggests that serious delinquents have no incentive to avoid negative labelling since they do not regard the sources as credible or significant and, consequently, they will not seek to avoid future negative labelling. In addition, Morash argues that the less serious delinquents adjust their self-image as a consequence of labelling by police, given that they also regard the perceptions of others such as their parents and friends as being more positive, significant and credible. Contrary to labelling theory, the findings reported in this study do not suggest that the offenders' self-concept was affected by the consequence of formal contacts with the

criminal justice system. Morash (1982) goes on to suggest that delinquents neutralise the negative labelling of others by reducing their perceptions of the labeller's credibility: "*The more negative the label the more likely it was discounted*" (p. 84). These arguments are very similar to Tyler's (2006a) in relation to the perceptions of the labelling source in terms of legitimacy. The study, however, has several methodological shortcomings that limit the reliability of the findings. There was no follow-up of actual levels of offending after the labelling event in order to elucidate deviance amplification effects. In addition there was no control group of matched delinquents who were not labelled, or a non-delinquent sample, that would have allowed a comparative view of the relationship between self-concept and self-reported offending in those not formally labelled. Klemke's (1978) study has the advantage over Morash's (1982) study in that a group of youths who were not apprehended was included in the comparisons.

Using a similar methodology to Gold (1970), Smith and Gartin (1989) conducted an investigation of labelling with a sample of young males who had at least one recorded police contact for a misdemeanour or felony offence. Within the analyses, the seriousness of the current offence and the extent of prior offending were controlled for. The authors report that the overall effect of being arrested was a reduction in future criminal behaviour, in comparison to those who were contacted but not arrested. Arrest was also found to be associated with increased rates of desistance among "novice" offenders. Yet, with more persistent "veteran" offenders who acquired more police contacts, the effect of arrest on future police contacts appeared to increase the duration of their offending criminal career, and also to extend the period of time until their next police contact. Overall, their findings support specific deterrence arguments: arrest was found to reduce further offending with first time offenders tending to end their criminal career; and "veteran" offenders showing a reduction in their frequency of contact with the police. The main criticism of this study is that it relied on official measures of police contacts which would very likely be an underestimation of the actual levels of offending within the sample. A selection bias might also have been created as official records were used to select a small sample of known offenders. Finally, the extent to which individual

offenders were formally processed by the criminal justice system would have varied greatly as some cases would have been dismissed by prosecutors while others would have been punished more severely.

Johnson, Simons and Conger (2004) investigated the effect of labelling through justice system involvement in a longitudinal study. The effects of potentially confounding variables were controlled using multivariate statistical methods (discussed in the next chapter) within their analyses. Johnson *et al.*, (2004) found results that were consistent with labelling theory and indicated that system involvement was positively related to increased recidivism. Their findings are explained in terms of social and structural changes as opposed to changes in self-concept following the labelling event as there were found to be greater levels of association with delinquent peers after involvement with the justice system. This study however, is limited in the extent to which it can generalise more widely to other populations due to the sample all being white males, living in a rural location with both parents having similar levels of socio-economic status.

The effect of social and structural changes after labelling was also examined in one of the most recent studies of labelling; Bernberg, Krohn and Rivera (2006) investigated the effects of official labelling on recidivism levels focusing on involvement with delinquent social networks as an intermediary process. Bernberg *et al.*, (2006) argue that one consequence of labelling is that it results in increased involvement with delinquent peers which then affects subsequent offending levels. Using panel data from The Rochester Youth Development Study a sample of 1,000 students were selected from schools when they were aged between 13.5 and 15 years and their involvement in deviant social groups and offending were assessed at three points in time. Logistic regression analyses were used to control for the effects of multiple variables that may confound the outcomes examined. This study reports that formal juvenile justice intervention increased serious offending through increased involvement with street gangs and with delinquent peers. These findings support the notion that official labelling “triggers” and significantly increases

criminal “embeddedness” within delinquent social networks. In addition, Bernberg *et al.*, (2006) found that official labelling through juvenile justice involvement was associated with increased levels of serious delinquency. These findings are consistent with those reported in earlier studies (e.g. Farrington, 1977) moreover the statistical analyses employed by Bernberg *et al.*, (2006; and also in Hagan and Palloni, 1990; Johnson *et al.*, 2004), which controlled for important potentially confounding variables (such as substance use, peer delinquency, race and gender) adds weight to the findings of these studies in comparison to many of the earlier studies.

Summary of labelling

According to the theoretical origins of labelling and deviance amplification, official contact with the criminal justice system has the paradoxical effect of increasing offending through changing the individual’s self-concept. This literature is relevant to this thesis as the Kilbrandon Report (1964) places great emphasis on avoiding stigmatisation of young people with delinquent behaviours (although labelling theory is never explicitly mentioned).

The theoretical emphasis within recent examinations of labelling has been placed on the social and structural shifts following a labelling event (Bernburg *et al.*, 2006; Paternoster and Iovanni, 1989; Sampson and Laub, 1997). The degree to which the individual is embedded within and bonded to a social context appears also to mediate the effects of the official sanction (socio-structural labelling). The negative effect on re-offending from both of these mediating mechanisms has been argued to result in deviance amplification. This theoretical perspective has been very influential in the creation of systems that divert young people away from official, formal criminal justice systems. Within the literature reviewed the more contemporary studies of labelling theory have tended to focus less on changes in self-concept and more on the structural and segregating processes that are a consequence of official reactions to delinquency.

The effect on self-concept (the perception of being a “troublemaker”) of police warnings and charges, and contact with the Children’s Hearings system are explored in chapter 7 using a matched sample of those with no system contact and a group that were referred on offending grounds to the system. The perception of labelling is also discussed in the qualitative findings presented in chapter 8.

2.3. Diversion

The previous section reviewed a range of key studies that examined deviance amplification effects through changes in self-concept or through changes in social and structural relationships following a labelling event. The response to these findings, in contrast to the deterrence approach, has been to establish diversionary approaches that aim to prevent further development of offending behaviours by minimising contact and intervention from official bodies within justice systems. The broad conceptual notion of diversion within the literature includes a number of different and confused definitions that relate to the provision of rehabilitative interventions (as in the meta-analysis by Whitehead and Lab (1989), discussed later in this chapter) or the diversion from contact with official and non-official agencies with the aim of reducing labelling and deviance amplification. The second definition, of reduced contact with agencies is used in the present study due to the similarities with the Children's Hearings system (discussed in the following chapter). The perceived stigmatising effect of the official processing of delinquents has been argued by some as justifying “radical non-intervention” approaches such as not arresting delinquent offenders (e.g. Schur, 1973). Gendreau and Ross (1987) discuss the large scale development of diversion schemes in the United States, while similar developments in diversion policy and practice in European countries are discussed by Asquith and Samuel (1994).

In England and Wales there was also an increased acceptance of the view that custodial disposals for children were expensive and counter productive in terms of achieving deterrence and rehabilitation (see Morris and Giller, 1987; Goldson, 1997). In addition,

practices consistent with labelling theory were also adopted as it was regarded that interventions with juvenile offenders could be potentially damaging (Thornton *et al.*, 1984). In particular, the introduction of the 1982 *Criminal Justice Act*, restricted the use of custody for young offenders and extended the range of non-custodial disposals (principally the use of Intermediate Treatment within probation), resulted in period of diversionary and welfare orientated practice which was described as the “new orthodoxy” (e.g. Rutherford, 1993). This period of juvenile justice was characterised by the welfare orientation and the principles of diversion (through increased use of police cautioning), decriminalisation and decarceration which resulted in the numbers of prosecutions against children in court and the use of custodial disposals falling dramatically. A group of social work academics (mainly based in the University of Lancaster) were especially associated with arguments consistent with a “minimum intervention” approach (e.g. Thorpe, Smith, Green and Paley, 1980). There are a number of historical commentaries on this period which provide detailed discussions of the political and legislative changes of the time (see for example Cavadino and Dignan, 2002; Newburn, 1998). However by the 1990s the use of diversionary practices had been attenuated as consequence of a shift in the political consensus in juvenile justice away from welfare and diversion towards a “punishment and responsibility” model (see Gelsthorpe and Morris, 1994). Goldson (2002) argues that following the Conservative government’s policies from the 1980s in England and Wales there has been a further swing towards a punishment model and erosion of welfare principles in juvenile justice as a consequence of the New Labour government policies.

The history of diversionary practices in Scotland has a similar inception to England and Wales through legislation arising from the 1964 Kilbrandon Report. This report resulted in Scotland’s formation of the Children’s Hearings system, which embodied the “minimum intervention”, or “no order” principle within the *Social Work (Scotland) Act 1968*. Following this act, in 1971, youth courts were replaced by Children’s Hearings which immediately diverted the vast majority of young people referred on alleged

offending grounds away from any formal measures. The history and functioning of the Children's Hearings system will be discussed later in this review of the literature.

Within the literature there are a variety of methodologies employed to investigate the effectiveness of diversion approaches. An experimental, matching design is frequently used, where participants in a diversion group are matched on the basis of a range of variables to an official sanctions group and their recidivism levels are compared. Due to the legal and ethical constraints of creating such groups studies frequently report difficulties in obtaining sufficiently large numbers. A further problem common in the literature is creating and matching a sufficiently well designed control group in order to investigate the effect of diversion (in the present study, the matching process is presented in chapter 4). If the matching process does not adequately control for variables that might influence both the probability of formal sanctions being imposed and the likelihood of future offending then there is the possibility that the outcome has been biased by a selection artefact (Smith and Paternoster, 1990). For example, if a system diverts low risk offenders and processes higher risk offenders, it might appear on the basis of greater levels of recidivism amongst high risk offenders that their processing caused the comparatively greater recidivism. The majority of studies within the literature regarding diversion and labelling are from the 1960s and 1970s, when the theory was regarded as being at its most popular point, prior to falling out of favour in the mid 1980s, and then experiencing a "revitalisation" in the 1990s (Paternoster and Iovanni, 1989). The following section will review some of the most prominent studies investigating the effects of diversion from formal legal processing and the use of punitive disposals.

In a British study of degrees of contact with the court by Berg, Consterdine, Hullin, McGuire, and Tyrer (1978) the effect of two different court disposals on adolescent truants was investigated. Samples of children were randomly assigned to the disposals of adjournment or supervision. Within the adjournment disposal they were required return to court at varying intervals based on how regularly the child had been attending school.

The supervision disposal involved a social worker or probation officer becoming responsible for the supervision of the child. The results indicate that the children, prior to initially appearing in court, had truanted from school an average of 75% of the time, over a three-month period. Following the first court appearance, it was found that in the subsequent six months, the adjourned group truanted 35% of the time in comparison to the supervised group who truanted 50% of the time. This result was found to be independent of the sex or age of the child. In addition to truancy data, Berg *et al.*, (1978) collected data on criminal convictions and found that the average number of offences prior to the initial appearance before the court were very similar, but after six months it was found that the supervised group had significantly more convictions than the adjourned group. Consistent with the expectations of deterrence effects, and contrary to predicted effects of diversion, these findings suggest that regular formal contact with the juvenile courts decreased both truancy and offending when compared to the less formal supervision disposal.

This study can, however, be criticised for its relatively short follow up time of six months, therefore limiting the analysis of the long-term implications of diversion. Unusually within the literature, this study was able to randomly assign young people to adjournment and supervision disposals. This process of randomisation however did not result in the groups being similar with respect to a range of characteristics. Berg *et al.*, (1978) reported that the groups had similar proportions of males and females; similar distribution of ages; similar sizes of schools; and similar proportions of children receiving free school meals. However children in the adjournment group were found to be more likely to have come from a broken home and were also more likely to come from areas with high immigrant populations (thought to be associated with high levels of neighbourhood deprivation). Importantly there were no data collected on levels of self-reported truancy or offending prior to group assignment, therefore the outcome could have also been influenced by these factors independently of the adjournment or supervision disposals.

Consistent with Berg *et al.*, (1978) a deterrent effect, contradicting expected outcomes of diversion approaches, is reported by Murray and Cox (1979) and McCord (1985). These two studies reported that offenders who taken to court or incarcerated recidivated less than those who were diverted from court and remained in the community. Murray and Cox (1979) suggest that these findings are indicative of a “suppression effect” due to the specific deterrence from increasingly restrictive sanctions. Custodial sanctions, they argue, are the most effective deterrent to chronic juvenile offending. The methodology used by Murray and Cox (1979) and McCord (1985) has been subject to some debate on the basis of a possible selection artefact which biased the outcome found within the study (see Tierney, 1983). Subjects were not randomly assigned to community or custodial disposals from court and it might be the case that those who were chosen for the community programs differed on important factors from the custodial group (as argued by Minor *et al.*, 1997).

One of the few randomised, longitudinal studies of the effects of diversion was conducted by Klein (1986). This study found as the level of processing of the individual case increased, the chances of re-arrest also increased. When comparing re-arrest rates from the four available disposal options, referral to agencies related to lower arrests than petitions to juvenile courts; and the release condition led to fewer arrests than referrals. Klein reports that these findings provide weak support for the efficacy of the diversion approaches and argues that these data support the use of diversions as greater “system insertion” produces higher official recidivism rates. Although being more methodologically robust than other studies in this area, there are some criticisms of Klein’s (1986) study particularly the lack of a large follow-up sample and the results concerning re-arrests could be attributed to police selection bias.

Research on diversion and deterrence from the mid 1980s tended to focus on the effects of a range of disposals (graduated sanctions) on recidivism levels. An example of research in this vein, following Klein’s (1986) experimental design, was conducted by Wooldredge (1988) who investigated the effectiveness of different (non-random)

juvenile court disposal options on levels of recidivism. Wooldredge also controlled for a number of factors at the individual and environmental level within the analyses that may have an influence on recidivism levels. Wooldredge's (1988) results suggest that a combination of probation supervision and community treatment was associated with the least recidivism in the sample. Unlike Klein's (1986) finding of greater system insertion leading to increasing levels of recidivism, Wooldredge found that 8 of 11 disposal options produced lower recidivism rates than the option to dismiss the case. In addition, supervision and community treatment were found to be effective in eliminating long-term recidivism. Longer periods of incarceration, on the other hand, were found to increase recidivism rates overall for those in this group. However, Wooldredge (1988) did not employ random assignment to disposal options and there remains the possibility of a selection bias which could have influenced the outcome.

The diversion and deterrence dichotomy was further investigated by Schneider and Ervin (1990). The authors found that the use of incarceration and regular probation resulted in significantly greater levels of recidivism, as opposed to the disposal option of restitution. In addition, offenders that had been punished more severely (based on the number of days held in custody) committed more subsequent offences. The authors interpret these findings as supporting deviance amplification effects, arguing that punishment oriented approaches have a negative effect on self-concept and result in increased rates of recidivism. These findings would appear to support the criminogenic effect of system insertion proposed by Klein, (1968) but again, due to the non-random assignment of offenders to disposal options there remains the possibility that the data could conceal a selection bias that influenced the outcomes. The results of the study were also found to vary between the different cities, raising further questions about the factors that may have influenced the observed outcomes.

The effect of diversion from "reform schools" and other institutions, following the radical closure by Jerome Miller of a number of juvenile institutions, became known as

the “Massachusetts Experiment” (e.g. Miller, 1991). In a 2-year follow-up study of 800 youths it was possible to compare the effect of custodial disposals versus community disposals in terms of charges for further offences. Consistent with the “deviance amplification” argument it was found that after 12 months approximately 66% of those who were released from the institution were charged with new offences, in comparison to 51% of youths who received a community intervention (Miller, 1991). Following the closure of institutions in Massachusetts, Miller was also actively involved in the closure of secure facilities in Pennsylvania (the Camp Hill Penitentiary) and later in Maryland (the Montrose Training School). The effects of these closures did not consistently support diversionary or deterrence based arguments as they were not evaluated using methods which allow firm conclusions to be drawn. However, Gottfredson and Barton (1993) compared a sample of youths who had been incarcerated in a Maryland “training school” which was closed down, with a similar group who had a high probability of being institutionalized in the same establishment, but were not since all admissions had stopped prior to it closing. This study also controlled for a range of variables (e.g. age at first referral, age at release from the school, prior offending record, and a ranking based on the seriousness of each individual’s most serious alleged crime) within the statistical analyses which may potentially confound the outcomes. Gottfredson and Barton (1993) report that, after a follow-up period of two and half years, those who were in the incarcerated sample had significantly fewer arrests for less serious offending than the community sample for both property crimes and crimes against the person. However, the self reported offending data did not show the same difference in recidivism between groups that was found in the official records. The finding that reoffending levels were higher in the non-institutionalised sample was argued to be indicative of a deterrent effect. The authors suggest, however, that these findings should be regarded with caution as the quality of the community programmes were regarded as less effective as they were in the early stages of implementation following the closure of the school.

In a similar study into the effect of diversion, Minor, Hartmann, and Terry (1997) followed up a sample of juveniles referred for the first time to court that were either diverted or processed through court. Minor *et al.*, (1997) found that there was a “minimal relationship” between the action taken by the court (“petitioning” resulting in being processed by the court or diversion) and the levels of recidivism. It was found, however, that individuals who were entering adulthood during the follow-up period were more likely to be charged in adult court (as may have been the case in the earlier study by Murray and Cox, 1979). This age difference was also observed for those who had been formally processed during their first court appearance in comparison to those who were diverted. The levels of recidivism generally were statistically associated with factors that were not part of the court process. Minor *et al.*, (1997) argue that offender characteristics were more significant than the use of diversion or formal processing disposals in affecting recidivism levels.

A recent and methodologically robust study conducted by Huizinga, Schumann, Ehret, and Elliott (2004) examined the effect of two different juvenile justice approaches: one with a lenient diversionary approach (in Bremen, Germany); compared with a punishment orientated system (in Denver, Colorado). The juvenile justice system in Bremen dismissed and diverted from court over 96% of cases referred; the majority received a letter from the prosecutor and custody was rarely used as a disposal. In Denver arrested offenders were “ticketed” and referred to juvenile court where they received some form of intermediate sanction or were taken into custody (in 10% to 20% of cases). The samples in both sites were high risk offenders with very similar levels of self-reported delinquency using the same measure. Within the study the effect of three levels of sanction (not arrested; dismissed or diverted; or more serious sanctions) were investigated. The authors report that the three levels of sanction generally had little effect on the levels of recidivism. In cases where there was an effect observed, it was found that “more serious sanctions” had a negative effect resulting in increasing recidivism levels. When looking at the effect of arrest alone, using matched pairs and controlling for a range of variables within multiple regression analyses, the authors

found that arrest generally had little effect on further delinquent behaviours. Again, it was the case that when an effect was observed due to arrest (with older offenders in Bremen) it was associated with increased levels of offending. Overall, this study found that the range of disposal options had no deterrent effect on subsequent offending, and more punitive sanctions appeared in a minority of cases to increase offending in a way that is consistent with labelling theory.

This study raises some minor methodological issues that arise largely from differences in the data collected at the two sites. Subtle differences between cities were also found to be problematic in the study reviewed earlier by Schneider and Ervin (1990) that used data derived from different cities. In order to circumvent this, Huizinga *et al.*, (2004) developed a number of new variables that enable the existing data to be recoded in a way that made them comparable across sites, but it is possible that some accuracy may have been compromised in the translation of variables. In addition, more serious sanctions were not used in Bremen, making their effect difficult to establish in the study.

Summary of diversion

The literature on the effects of diversion has tremendous resonance with the present study due to the Children's Hearings system aims of diverting children from various forms of official processing unless deemed necessary. The literature reviewed appears to present contradictory outcomes in relation to the effectiveness of diversion approaches within juvenile justice systems making overall conclusions ambiguous. Some studies support diversionary approaches where the use of less severe sanctions result in lower levels of recidivism (e.g. Farrington, 1977; Farrington, Osborn, and West, 1978; Klein, 1986; Wooldredge, 1988; Schneider and Ervin, 1990; Huizinga *et al.*, 2004; Bernberg *et al.*, 2006). Equally, several of the studies reviewed indicate that the most serious persistent offenders appear reducing their levels of recidivism following custodial disposals in a manner consistent with deterrence (e.g. Murray and Cox, 1979; McCord, 1985; Gottfredson and Barton, 1993). The study by Wooldredge (1988) does not allow for a simple conclusion to be drawn as it was found that interventions given as disposals

were more likely to encourage desistance than simply dismissing the case entirely. The most successful disposal in reducing recidivism was two year's of court supervision with a community treatment component, but when the intervention was a custodial disposal it was found to increase the levels of recidivism. The findings reported by Minor *et al.*, (1997) are particularly relevant within this discussion as the authors report a "minimal relationship" between recidivism levels and disposal.

These divergent findings could be attributed to characteristics of the sample, as opposed to the effect of deterrence or diversion, as they had not controlled for the individual's propensity to re-offend. Given that the majority of studies have incorporated samples of offenders who had committed relatively minor offences, the outcomes may be largely biased by the sample's level of risk, as higher risk offenders may have greater propensity to recidivate compared to lower risk offender (e.g. Smith and Gartin, 1989; Smith and Paternoster, 1990). The findings of Minor *et al.*, (1997) support this position in that they found that recidivism was predicted by a range of offender characteristics, rather than the disposal. The propensity to re-offend may have influenced the allocation of disposal option as found by Murray and Cox, (1979) and also to some extent by Klein (1986), despite attempts to randomise the allocation to conditions. The differences between many of these earlier studies in terms of the offender variables, and the disposals, mean that it is not possible to generalise findings between studies or to rely on the findings of any individual study due to the lack of control over important variables. The significance of the individual's propensity to re-offend and the relationship to the effectiveness of interventions is also discussed later in relation to effective practice.

In the absence of randomised allocation, the use of a matching design (where the participants in both groups are matched on the basis of key variables that relate to their propensity to offend) within a quasi-experimental approach allows for many of the confounding effects to be disentangled (e.g. Bishop *et al.*, 1996). In addition, in the more recent studies (Huizinga *et al.*, 2004; Bernberg *et al.*, 2006) it is possible to control statistically for a variety of variables using multivariate models, however these models

can also introduce selection biases if they fail to include variables that influence propensity to re-offend. The recent studies conducted by Bernberg *et al.*, (2006) and Huizinga *et al.*, (2004), which employ better statistical controls, support the notion that diversionary based approaches reduce recidivism more as a consequence of avoiding labelling effects, and additionally the greater “embeddedness” within delinquent networks. The effect of punishments or placements have been argued by Sampson and Laub (1997) as being implicated in the process of offenders “mortgaging their futures” as their “stake in conformity” is reduced and their rationale to refrain from offending is also reduced through an attenuation of social control levels that arise as a consequence of the intervention encouraging association with other offenders.

Overall, on the basis of the literature on diversion that has been reviewed it is not possible to draw firm conclusions. Studies of labelling, diversion and deterrence generally have failed to account for differing levels of risk (first offenders, seriousness of the offences etc) in the sample and also the degree of responsivity (age, maturity, cognitive development etc) that the individuals have in relation to the interventions. In addition there are little data on how legitimate and fair the sanctions are perceived to be (Tyler, 2006a; Sherman, 1993). The majority of the studies do find some increase or decrease in recidivism, and on this basis, it could be argued that something is influencing the outcomes and possibly that there is something “working” within the disposal. It is not possible to draw firm conclusions, but it appears, on the basis of recent studies that have employed better methodologies that there may be a labelling influence which can be observed to be present with certain offenders. In their review of the literature, which included some of the studies above, Paternoster and Iovanni (1989) commented that “*by failing to consider the requisite intervening effects, the bulk of these studies do not constitute a valid test of labeling theory*” (p. 360). This effect appears to mainly be based on socio-structural labelling where young people with offending behaviours are processed in a way that results in greater levels of contact with other offenders.

2.4. Desistance

In order to establish if any juvenile justice system's response (be it diversion, a "boot camp" or a cognitive behavioural groupwork programme) is effective in reducing recidivism the normal pattern of desistance from offending should be taken into consideration as a potentially confounding factor.

The well established "age-crime curve" (e.g. Smith, 2002) consistently shows an increase in levels of offending from early childhood that then declines in late adolescence and early adulthood. Similarly, Sampson and Laub (1993) examined patterns of offending over the life course of a cohort group and concluded by stating "*desistance from crime is the norm and most, if not all, serious delinquents desist from crime.*" (p. 18). Developing on this theory further, Sampson and Laub (1997) incorporated labelling theory into their model and argued that official sanctions form a "cumulative disadvantage" effect which results in increasing levels of stigmatisation and reduces the opportunity to explore positive life changes.

In a study of Scottish offenders, Jamieson, McIvor and Murray (1999) investigated persistence and desistance of three groups of young people (aged 14-15; 18-19 and 22-25) by interviewing a total of 75 desisters (43 males and 32 females) and 109 people who were still offending (59 male and 50 female). Jamieson *et al.*, (1999) reported that desistance was linked to maturation; where there was found to be the increased likelihood of the perception that offending was "pointless" or "wrong". The middle age group provided similar responses to the young group and linked desistance to increased maturity and the transition in to adulthood, with life events such as leaving the family home, entering a relationship, or attending college or university. For the oldest group, aged 22 to 25, desistance was linked to increased levels of family responsibilities, especially amongst young women with children, and also the conscious decision by some to make a lifestyle change (see also Graham and Bowling, 1995).

More recently within Scotland, data using a definition of a persistent young offender (children or young people with five offence referrals to the Children's Reporter within a six month period), indicated there were 1,388 individuals who could be defined as persistent young offenders (SCRA, 2006). This group represented 8% of children referred on offence grounds; 3% of the total number of all children referred to the Children's Hearings system; and 0.3% of all of the children age between 8 and 16 years in Scotland. These 1,388 persistent young offenders were found to account for 32.5% of all the offence referrals to the Reporter in over the review period of 2005 to 2006.

Similarly, in a review of young people with offending histories in America, Loeber and Farrington (1998) found a sub-group that they defined as "Serious and Violent Juvenile Offenders". These high-risk offenders were found in this study to be responsible for a disproportionately high level of crime and continued with this behaviour into adulthood. In a review of several studies, Farrington, Ohlin, and Wilson (1986) found that it was the most persistent 5% or 6% of offenders that were responsible for approximately 50% of known crimes. Further support for the offending pattern of life course persistent offender typology is found in the Home Office survey of 4848 people between the ages of 12 and 30 (Flood-Page, Campbell, Harrington and Miller, 2000). This survey found that 10% of offenders were responsible for nearly half the offences (using self-report rather than official figures).

These findings of desistance and persistence in offending behaviour discussed above are consistent with the pathway model of "adolescence limited" and "life course persistent" offenders posited by Moffitt (1993). Moffitt defines two distinct categories of young people on the basis of their offending behaviours over their life course. The adolescence limited offenders are regarded by Moffitt to be involved in antisocial behaviour during the period of their adolescence. The offending behaviours are considered to be situational in origin and consequently the overwhelming majority of this large group will desist over time. Moffitt argues that this group offend due to a "maturity gap" where they seek to enjoy many of the positive aspects of adult life and mimic the offending

behaviours of their peers. Moffitt (1993) also proposes a second group of young people who have an earlier onset of offending in their childhoods and continue to offend into adulthood. This small group of life course persistent offenders are considered to have a different aetiology to the adolescence limited group by having greater a greater prevalence of neuropsychological deficits, disrupted attachments and academic failure. Sampson and Laub (1993), report similar findings to Moffitt (1993) and indicate that the majority of adolescents committed minor offences then went on to desist as they matured.

These findings are relevant to the present study as the Children's Hearings system is the agency where young people apprehended for offences are referred by the police. On the basis of the findings discussed here, the majority of children and young people referred to the Reporter are likely to be adolescence limited offenders who are also very likely to desist without any formal intervention. However, a smaller proportion of those referred on offending grounds according to Moffitt's (1993) typologies are likely to continue to offend into adulthood, and also to represent the most persistent offenders (Scottish data indicates that 3% of children referred to the Reporter account for 32.5% of the offence referrals; SCRA, 2006). It is argued that the application of the "what works" principles (discussed later in this chapter) of risk would facilitate practitioners in the task of identifying the children and young people who are at the greatest levels of risk for continued offending behaviours. The risk principle would also facilitate the identification of children and young people who are more likely to be within Moffitt's (1993) adolescence limited grouping and who may be more appropriately diverted from the system. In addition, the needs principle would highlight areas where meaningful interventions could be provided which may ameliorate the likelihood of recidivism.

Summary of desistance

The Kilbrandon Report (1964) shares this perception of adolescence-limited offending, and describes offending behaviours as being “*predominantly an activity of the young*” (p. 43). The diversionary framework of the Children’s Hearings system supports the “minimum intervention”, or “no order” principle which functions as an overriding principle that guides Reporters’ decision making. This principle is congruent with the findings of the desistance research in that it requires the Reporter to consider if an intervention would be better for the child than making no order at all. The finding that, without the use of compulsory measures, an individual is likely to desist from offending (which would mainly be minor in nature) is also congruent with labelling theory which argues that an intervention might result in changes in self-concept, or in how others interact with the individual which then in turn may stimulate deviance amplification.

This natural pattern of desistance could be misinterpreted as an effect or causal outcome in many of the studies on deterrence, diversion and labelling discussed earlier. If the effectiveness of the Children’s Hearings system were to be examined without a matched control group that had no system contact, it is likely that a pattern of desistance may be observed and attributed to the effectiveness of the interventions provided under Supervision Requirements (this point is explored in chapter 7). Similarly, in studies of interventions within this literature review where there was no matched control group, the process of desistance could not be examined separately from the effect of the intervention and the findings are somewhat invalidated.

2.5. Review of the literature on effective practice

The “what works” debate on the effectiveness of correctional treatment originates from Martinson's literature review of 231 controlled outcomes studies in an article entitled ‘What Works? Questions and answers about prison reform.’ (Martinson, 1974). According to Martinson's evaluation of the literature from 1945 to 1967, studies generally were methodologically poor, were not sufficiently grounded in theory, and had

too few and infrequent follow-up periods. Martinson concluded that: “*With few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism*”. However, since the mid-1970s, the debate has progressed through the publication of more positive evidence in the form of several meta-analyses of the effectiveness of rehabilitative approaches. This review will summarise the forms that prevention approaches take, and the main findings from meta-analyses on effective practice, before briefly reviewing individual programmes and interventions.

Levels of prevention

The meta-analyses of Lipsey (1992) and others have concentrated largely on the effectiveness of interventions with young people who have already been convicted and in many cases held in custody. There has been a recent growth in the number of interventions that aim to prevent delinquent development, as opposed to reducing the risk of re-offending in people who are already identified as being offenders. Brantingham and Faust (1976) discuss a hierarchy of interventions that relate to different levels of preventative intervention work. The levels of primary, secondary and tertiary prevention developed by Brantingham and Faust (1976) are defined as follows:

- Primary prevention seeks to reduce the opportunities for crime without reference to the criminals themselves. The focus at this level is on the entire population at risk and the identification and amelioration of developmental criminogenic needs of children and families. Primary prevention also encompasses environmental factors such as in the forms of “target hardening” in relation to property offences (e.g. McGuire, 2000).
- Secondary prevention focuses on the prevention of criminality as opposed to the prevention of crimes in individuals who are considered to be at risk or “pre-delinquent” through behaviours such as truancy (Farrington, 1996). There is a

greater awareness of the developmental risk factors which are linked to future offending and it is argued that the focus should be more on dynamic situational factors as opposed to persistent traits, given that adolescents are in the flux of change and development. Approaches to secondary prevention should also focus on circumstances that increase the risk of offending. Secondary prevention also offers the opportunity to provide interventions for the overwhelming majority of youths who commit serious violent offences, but do not come to the attention of the criminal justice system (Loeber and Farrington, 1998). This early preventative treatment approach is part of the fundamental philosophy of the Children's Hearings system, discussed in the introductory chapter.

- Tertiary prevention aims to prevent known offenders, who have already come to the attention of justice agencies, from committing further crimes (Gendreau and Andrews, 1991). Tertiary interventions might also target offenders' criminogenic factors at key points, such as when they are at risk of forming attachments to criminal identity (e.g. when first associating with a delinquent peer group). The Children's Hearings system also aims to provide intervention to young people at this stage once they are referred on offending grounds. Tertiary interventions generally comprise the bulk of the "what works" literature.

In the following section meta-analytical studies of interventions (using the narrative reviews and statistical methods) at the tertiary and secondary levels are discussed. These studies are relevant to the present examination of the Children's Hearings system as they have the potential to provide interventions which could reduce the risk of re-offending in the event that they are targeted and implemented effectively.

“What works?”

The belief that rehabilitation measures were unsuccessful persisted throughout the 1970s and 1980s, despite a growing body of literature indicating significant and positive reductions in recidivism following interventions with offenders. Following from

Martinson, (1974) there were a number of early and more optimistic studies that reported positive findings that countered the “nothing works” argument. One of the first by Gendreau and Ross (1979) was a narrative review of 95 interventions (such as alcohol abuse, drug abuse and sexual deviation) and found that 86% of the outcomes were successful. Martinson (1979) in a further review of the available data then moved his position to suggest that some programmes were in fact effective in reducing recidivism levels. Following Martinson’s study (1979) Blackburn (1980) also conducted an evaluation of 40 psychological programmes for offenders from the 1970s and found that half of the studies reported significant reductions in recidivism at follow-up.

Towards the end of the 1980s a number of studies had revived interest in the value of rehabilitation. Overall, the findings of the reviews were positive, with the only exception being the findings of Whitehead and Lab (1989) suggesting that rehabilitation had a negative effect in reducing the levels of recidivism in young offenders. In relation to policy, this shift away from punishment models to a rehabilitation model is argued by Gendreau (1996) as being one of the most significant events in the modern policy of “corrections”. This shift has however also been regarded as extending beyond that of rehabilitative interventions and into a broader context of managerial approaches to controlling offenders (e.g. Garland, 2001).

One of the most important statistical meta-analyses (which included unpublished studies, and doctoral theses) of almost 400 studies from 1959, using over 40,000 juveniles aged between 12-21 years was conducted by Lipsey (1992). Lipsey examined the methodological aspects of each study (sample size, equivalence of groups, attrition, and outcome measures) and also the treatment aspects (subjects, dosage, treatment modality, treatment philosophy). Overall, research evaluating pre and post treatment outcomes with interventions for juvenile offenders indicates a 10% reduction in delinquency in the treatment groups. In addition, other effects have been reported as an outcome of the interventions (such as improved: attitudes, self-esteem, school attendance, grades, and job status). The range of improvement over these measures was from 12% to 30%

demonstrating that intervention did have a positive effect on these areas in addition to reducing levels of recidivism. Lipsey (1992) also reports that “harder” ratings such as measures of interpersonal adjustment, school participation and vocational accomplishment were of a similar effect size to those for delinquency effects. When “softer” psychological outcome measures such as attitudinal and personality change were measured, effect sizes were more than twice as high, but these themselves did not correlate highly with delinquency.

In a further statistical meta-analysis using more rigorous selection criteria (reducing the number of studies included to 200 programs) Lipsey and Wilson (1998) found that there was a positive, statistically significant outcome, equivalent to a 12% reduction in recidivism. The authors report that there is considerable variation amongst treatments in terms of their effectiveness. The most effective programs, on average, reduce the rate of subsequent offending by 46%, compared to controls. The least effective programs have the detrimental effect of increasing the rate of further offending by 18% relative to controls. Effectiveness of programmes was identified within the meta-analyses as relating to a number of characteristics of the programme and its delivery and also to factors that relate to the participants within the programme.

One of the most relevant and recent studies investigating effective practice was conducted by Latimer, Dowden and Morton-Bourgon (2003). This meta-analysis of the literature on interventions published between 1964 and 2002, included 74,518 young offenders (30,184 in the programme groups and 44,334 in control groups) who were all under the age of 18 years (the average age was 15.23 years) when they participated in the interventions. The data was derived from 195 studies that met the criteria for inclusion in the analysis (e.g. they measured recidivism and contained a control group). The authors found that in general, programmes with this population did have a positive effect and reported a 9% reduction in recidivism for those who had participated in interventions when compared to the control groups. This figure of a 9% reduction is similar to the 10% reduction reported by those Lipsey (1995) and Dowden and Andrews

(1999) who evaluated a similar population. Latimer *et al.*, (2003) add that a number of other variables such as how the programme was delivered, the age and risk level of the participants had a considerable effect on the outcomes (this area is discussed in the next section). Consistent with earlier studies Latimer *et al.*, (2003) also found that “wilderness programs” and “boot camps” resulted in no effect or negative effects on recidivism levels (these negative findings are also discussed later).

Since Martinson (1974), the position of the rehabilitation agenda now appears to be well summarised by the position of Antonowicz and Ross (1994) who argue that there is evidence to state that in relation to effectiveness: “*some* rehabilitation programs work with *some* offenders in *some* settings when applied by *some* staff.” (p. 1).

Risk, Needs and Responsivity

The qualified position of Antonowicz and Ross (1994) given above relating to the effectiveness of interventions has been further defined within the literature in this area. One factor that appears to differentiate those studies that report larger effect sizes from those that produce smaller effect sizes relates to the level of risk of the participants. Higher risk juveniles show the greatest reductions in delinquency than lower risk delinquents. The characteristics of the treatment approach have also been found to have strong relationship to treatment outcomes. Combining these observations from earlier narrative reviews, which were later corroborated using the statistical methods within meta-analyses, has allowed a set of principles of effective practice to be developed (Andrews *et al.*, 1990; Andrews, 2000). The most prominent of these principles being Risk, Need and Responsivity (amongst 18 principles which also include: individuality and diversity; offender engagement; high quality interpersonal relationships; and the use of personal discretion by staff). The Risk, Needs and Responsivity principles are briefly defined as follows:

- Risk principle: the allocation of the most resources and intensive interventions should be made to offenders who are at the highest risk for recidivism as weaker outcomes are associated with low risk participants (Andrews *et al.*, 1990). A

more recent meta-analysis indicated that this principle was even more relevant to interventions with female offenders and young offenders (Andrews and Dowden, 2006).

- Needs principle: argues that carefully designed interventions that target the specific characteristics and problems of offenders that can be changed in intervention (dynamic risk factors) and that are also predictive of future criminal activities (criminogenic need factors), such as antisocial attitudes and behaviour, and anger responses (see also Latimer *et al.*, 2003).
- Responsivity principle: interventions are implemented in a way that is responsive to the learning style of the offenders and delivered in a way that maximises change for the participating offenders and that uses therapeutic techniques known to work (Andrews *et al.*, 1990).

In relation to the first of these points above, there has been a rapid growth in the use of structured risk assessment tools to define risk levels in criminal justice settings and mixed views about their application (e.g. Feeley and Simon, 1994; Kemshall, Parton, Walsh, and Waterson, 1997; Kemshall 2002). These risk assessment tools are regarded as providing practitioners with a structure with which they can form comprehensive, consistent, transparent and defensible assessments. These risk assessments can be used to measure change in the individual over time (such as pre and post intervention) and by aggregating data over a number of assessments, information about the services that are most needed can be made, allowing for more efficient planning and resources allocation (Andrews and Bonta, 1995). Prior to such risk assessment tools assisting practitioners in their decision making, accuracy in tasks such as assessing the risk of recidivism was generally very poor and open to accusations of bias and discriminatory practice (e.g. Monahan and Klassen, 1982). Those critical of the use of structured risk assessment tools regard their use as a method of imposing an impersonal and managerial agenda rather than a means of meeting the needs of individual offenders (Feeley and Simon, 1994).

In relation to risk assessment with young people, the Youth Justice Board in England and Wales when it was established in 1998 commissioned the development of a risk and needs assessment tool for use with 10 to 17 year olds who had offended. The tool that was developed “ASSET” was seen as a means of producing a structured assessment of an individual’s risk of recidivism. The use of a structured tool was intended to increase consistency and fairness in assessment, but it was also emphasised that the purpose of the risk assessment tool was to aid, but not replace, practitioners’ professional judgements (Baker, 2005). Following the Youth Justice Board’s lead, a number of local authorities and youth justice teams in Scotland are also now using an adapted version of ASSET, or a similar risk assessment tool the Youth Level of Service Case Management Inventory (YLS/CMI; Hoge and Andrews, 1996) for children and young people referred to a Hearing on offending grounds. The use of risk and needs assessment tools in Scotland has largely been driven by *The National Standards for Scotland’s Youth Justice Services* (Scottish Executive, 2002) which was produced in order to address one of the points in the action plan intended to address youth crime and disorder (discussed in the introduction). The National Standards document states that by 2006, every young person referred to a Hearing on offence grounds should have a comprehensive assessment that includes an assessment of risk and needs using ASSET or the YLS/CMI by a social worker.

The accuracy of ASSET assessments as investigated by Baker *et al.*, (2002) using 24-month follow-up data from a sample of 2,233 young people with offending behaviours. Risk assessments were found to correctly predict at 69.4% accuracy the level of recidivism with this group. Accuracy was found to be maintained when predicting the frequency and seriousness of offences, and also was maintained in relation to less frequent populations such as female offenders, ethnic minorities, and younger offenders. The risk principle from “what works” has already been integrated into the gatekeeping practices of the Youth Justice Board and is used to prioritise resources towards those who would benefit the most from interventions therefore preventing net-widening.

In relation to the Needs principle, the ASSET tool requires the practitioner to consider a range of factors, which contribute to risk levels, under twelve headings. These areas of criminogenic need are: living arrangements; family and personal relationships; statutory education; employment, training and further education; neighbourhood; lifestyle; substance use; physical health; emotional and mental health; perception of self and others; thinking and behaviour; attitudes to offending; motivation; and positive factors. The professional's task, once they have gathered data in relation to these headings, is to score the level of need on a scale (of 0 to 4) and then produce an action plan that will address these needs for the child or young person. The use of these headings within the ASSET tool is supported by a meta-analysis investigating the most common criminogenic needs in a sample of over 15,000 juvenile offenders (Cottle, Lee and Heilbrun, 2001). The authors found four main categories of risk factors (many of which can also be considered to be dynamic criminogenic needs factors due to being amenable to intervention) that predicted juvenile reoffending. These factors were: family and social factors (for example, significant family problems; ineffective use of leisure time; delinquent peers); educational factors; substance use history; and mental health problems. Similarly Fergusson, Horwood and Nagin (2000) using data from a longitudinal sample reported a strong relationship between increased levels of offending and higher levels of social disadvantage, single parent family structure, low socio-economic status, and poor living standards.

Cottle *et al.*, (2001) argue that juvenile justice bodies should not be concerned solely with addressing needs that are directly related to recidivism, but should also seek to address needs that focus on the broader wellbeing of children and their families. Following this point, Ward and Brown (2004) argue that research with juvenile offenders consistently shows that young people in conflict with the law have multiple problems and experience high levels of need across a wide range of areas. They argue for a holistic approach that is consistent with ASSET's action planning that a child who

is offending, but who also has family problems or is truanting from school regularly, needs support in all of these areas.

The third key “what works” principle, Responsivity has also been investigated within the meta-analytical studies. Effective programmes have three significant influences: the modality of the treatment; the degree of researcher involvement in the design and implementation of treatment; and the amount of treatment delivered. Of these three, treatment modality was found to be the strongest single factor and the general finding of Lipsey and Wilson (1998) was that the more concrete, behavioural and skill-orientated programmes produced the best outcomes. Motivation and readiness to change have also been argued as being key responsivity factors (McMurrin, 2002) where conflict with the law may result in an increase in an individual’s motivation. The “Trans-theoretical Stages of Change” model fits particularly well with the responsivity of interventions at a tertiary level as the theory argues that behaviours are open to change depending on levels of motivation and insight (Prochaska and Di Clemente, 1984). Within this model, change is regarded as a process that can be conceptualised along a continuum of motivation stages: Pre-contemplation is the stage where the client is not yet considering the possibility of change; the Contemplation stage is one of ambivalence about changing and the initiation of new behaviours; Preparation is characterized by the client’s intention to change; Action is where the client is active in the process of creating changes in their behaviours; Maintenance is where the client strives to maintain and consolidate new behaviours; and Relapse is the stage when an individual re-engages in the undesired behaviour and/or stops the desired behaviour (see Prochaska and DiClemente, 1982). Within the context of persistent offending by children and young people the process of desistance (or for example a reduction in substance use, or truancy) will involve a young person perhaps being initially within the pre-contemplation level of motivation, once referred to the Hearing and placed on a Supervision Requirement, he or she may then through a combination of factors (such as a negative parental response or other perceived “costs” of their actions) shift to the next motivational stage of contemplation where they will consider changing their behaviours.

This model has demonstrated its effectiveness with a range of client groups presenting with a range of problematic behaviours (particularly substance abuse) and it has demonstrated effectiveness with adolescents and adults in probation settings (e.g. Harper and Hardy, 2002).

The responsivity principle focuses on the delivery of interventions that are tailored to the participant's learning styles in such a way that they find the material relevant and engaging. A separate, but key issue relates to characteristics of the delivery of the intervention which has also been found to be significantly related to the outcomes obtained (and form a separate "what works" principle). Hollin (1995) argues that the adherence to the core concepts of the programme is essential otherwise the therapeutic aims can be lost in substandard delivery. This loss of programme integrity was cited as being one of the reasons for lack of any positive effect on recidivism in comparison to matched controls for the Cognitive Skills Programme which was very rapidly rolled out across custodial and community settings in England and Wales (Falshaw, Friendship, Travers and Nugent, 2003).

An additional set of findings from the meta-analyses is a growing understanding of "what doesn't work" (e.g. Latimer *et al.*, 2003). Lipsey (1992) found that amongst the controlled intervention studies reviewed, 29% of them showed negative effects. It is also thought that the method of meta-analysis itself may skew the findings on outcomes as meta-analyses draw largely on published studies which are less likely to contain findings that show negative or negligible effects (further criticisms of "what works" are discussed later in this chapter). However, negative effects have been reported for a range of interventions which have brought young people with offending behaviours together within groups (e.g. O'Donnell, 1992). In a summary that includes descriptions of what doesn't work (Sherman, Gottfredson, MacKenzie, Eck, Reuter, and Bushway, 1998) the following were found have no positive effect on re-offending levels in young people: drug prevention classes focused on fear and other emotional appeals, including self-

esteem; school-based leisure-time enrichment programs; summer jobs or subsidized work programs; arrests of juveniles for minor offences; “boot camps” using traditional military basic training; “Scared Straight” programs involving visits to adult prisons; rehabilitation programs that use vague, unstructured counselling approaches; and “wilderness survival” programs for juvenile offenders using challenging experiences in rural settings. The findings in relation to these intervention types have been found to produce, for the most part, no positive effects and few negative effects.

One of the most influential studies reporting negative effects over a long-time period is based on data drawn from the Cambridge Somerville Youth Study (McCord, 1992). This study closely matched pairs on the basis of a range of factors relevant to offending behaviour (including: age, neighbourhood crime levels, home stability, quality of parental discipline, and participant’s levels of aggression). Following matching (where the groups were found to be very similar on a range of characteristics, including the risk of recidivism) the study randomly assigned participants to an intervention and a control group. The intervention was tailored to each individual and their family, but most received academic tutoring, medical treatment and mentoring. The intervention consisted of an average of two visits each month to their home and they were encouraged to participate in local community groups, sporting events, and many were helped in finding employment. The intervention started when the boys were on average 10.5 years of age and ended closely after they reached 16 years of age.

These groups of boys were then followed-up over 40 years, and data were collected on them when they were middle aged adults. When these groups were compared a number of alarming findings emerged. The general finding was that, in the majority of pairs, there was no effect of the intervention and both groups of boys remained similar. However, there was a statistically significant negative effect found in the treatment group and there were no positive effects found from the intervention (even in those individuals who reported that they perceived the intervention to have been helpful). The negative effects found indicated that when compared with the matched controls, the

intervention group were more likely to have been convicted of “serious street crimes”; those who died were found to have died an average of five years younger; and they were more likely to have received a medical diagnosis as alcoholic, schizophrenic, or manic-depressive (McCord, 1992). It is argued that the boys in the intervention group had formed strong social bonds with each other which encouraged and maintained their offending behaviours and also a range of other harmful behaviours.

The process of children and young people who have offending behaviours forming groups or “gangs” has been argued through the process of differential association to have the consequence of increasing offending (Sutherland and Cressey, 1970). This argument is supported by findings such as those reported by Elliott and Menard (1996) who found that once a child became a member of a delinquent group there was an increased level of association with deviant peers, and subsequently an escalation in serious offending. These findings in conjunction with those of McCord’s (1992; 2003) strongly indicate that interventions with children and young people should be limited to circumstances when there is a solid justification that the intervention is likely to be beneficial. This argument is entirely consistent with the “minimum intervention” policy of the Children's Hearings system and the principles of effective practice.

Criticisms of “what works”

The meta-analytical approach has been criticised due to the positive bias in using only published data, which may filter out studies that do not produce positive results (although some such as Lipsey (1992) and Latimer *et al.*, (2003) also included unpublished data). The use of official recidivism as the key outcome measure has also been criticised due to the large unreported levels of offending within samples (Losel, 1995). In addition, due to the large scale of such analyses, very heterogeneous samples of “delinquents” have been included (e.g. official juvenile offenders, self-report delinquents, children identified as “at risk” of offending). A further, and related problem, is the difference in the follow-up periods within recidivism studies which are

generally less than one year. This may create a misleading positive effect which is not maintained over time due to inadequate relapse prevention within the programme (Lipsey, 1992). Consequently, there are a range of problems in relation to the generalisation of findings from studies across groups of offenders and intervention types due to what effectively amounts to making comparisons between “apples and pears”. In the following sections, a number of interventions, some of which have been subject to meta-analytical reviews, are presented due to their relevance to the aims of the Children's Hearings system in providing early and effective interventions for children and young people.

2.6. Evaluation of specific interventions

One intervention approach that fits with the secondary prevention level, briefly described above, and is subject to a wealth of longitudinal data is the High/Scope Perry Preschool Program (Schweinhart *et al.*, 2005). The Perry Preschool Program provides young children from disadvantaged backgrounds with a nursery education service designed to improve their school performance. The programme has a duration of two years during which time the children receive 2.5 hours each day, 5 days a week, for seven months of the year. The aims of the intervention, more specifically, are to advance the children's intellectual, social and physical development which in later life should help improve employment opportunities.

One evaluation of this programme which started in the 1960s with a sample of 120 children has been followed up within a longitudinal study. The sample were drawn from disadvantaged neighbourhoods and individually matched, then randomly allocated to the programme or the control group. Results from the cohort, who are now in their 40s, indicate that the programme was significantly associated with the participants having significantly fewer arrests at age 19; fewer custodial sentences; having better qualifications; better employment and higher earnings than the control group. The authors estimate that for each dollar that was spent on the original programme thirteen

dollars were saved due to the reduction in services that the intervention group required (Schweinhart *et al.*, 2005).

The effect on a sample of 18 home visitation programmes on groups of children (including the Perry Programme) was investigated by Sherman *et al.*, (1997). In all of the studies, children were visited by a range of professionals including nurses and social workers, who provided families with support and parenting advice. The evaluation indicated that there was a positive effect on development generally, with two studies within the analysis showing particularly strong effects in the long-term. The first of these two was the Syracuse Family Development Programme which provided prenatal and postnatal advice and support to low income families. The study reported that by the age of 15 years, only 6% of children receiving the service had been convicted in comparison to 22% of the control group (Lally *et al.*, 1988).

A range of family focused interventions from Britain and North America were the subject of two large meta-analyses by Farrington and Welsh (1999, 2003). Their earlier review (Farrington and Welsh, 1999) included evaluations of primary prevention programmes using family based interventions in instances where children were displaying disruptive behaviors. They found that programmes that included parental education were particularly effective, especially when provided in the form of home visits, day care or within parenting classes. The authors also report that some of the programmes within the meta-analysis were ineffective due to reasons such as a lack of parental participation, poor attendance and a lack of commitment from the young people. Farrington and Welsh's more recent meta-analysis (2003) centered on programmes where the family was the focus of intervention. Further supporting the earlier findings of the effectiveness of family based interventions (especially parenting programmes) this study reported that the most effective practice was evident in programmes that were delivered in settings other than schools, and programmes that incorporated cognitive-behavioral approaches. More specifically, they found that programmes that encouraged the development of positive, pro-social, adult role models whilst enhancing parental

engagement were the most effective.

In a similar vein to the Perry Programme, two intervention approaches that are currently being delivered across Scotland and the rest of the UK are “Sure Start” and “Communities That Care”. The aim of Sure Start is to support families of pre-school children who are growing up in disadvantaged neighbourhoods and who are considered to be at a risk of developing anti-social behaviours. A recent evaluation, however, has failed to demonstrate consistent support for the programme, particularly amongst the higher risk children from the most disadvantaged families (Abrams, 2005). It appears that two factors are relevant to this lack of success: the first being that the service provision was lacking in evidence based practice; the second problem was that the families in most need of the service were more likely to “drop out” from the intervention. The Communities That Care intervention which has been implemented across numerous locations in Scotland, England and Wales delivers services that are based on empirical “what works” findings. However, in a recent evaluation of three UK sites that were running the intervention it was not possible to draw conclusive findings on effectiveness due to problems in the implementation (Crow *et al.*, 2004). However, the effectiveness of the intervention’s component parts have a clear research base (Harachi *et al.*, 2003) that do not appear to have been adequately transferred into practice.

In contrast to the above study, the transfer of the Multi-Systemic Therapy programme design into practice has been evaluated in a range of contexts and appears to have made significant contribution to addressing the needs of young people presenting with offending behaviours (Henggeler and Borduin, 1995; Henggeler, 2000). Multi-Systemic Therapy (MST) is a short-term intervention approach that is based on social, ecological and family systems theories, and targets a variety of factors found at the levels of the individual, family, school, peer, neighbourhood, and community that have been found to be linked to serious antisocial behaviour. The MST approach is designed to address the

needs of male and female persistent offenders aged from 12 to 17 years who are regarded as being at a high risk of out-of-home placement. Henggeler and Borduin (1995) argue that since delinquency is multi-determined, effective interventions should consequently consider the range of social and ecological systems in which the adolescents are embedded. This approach advocated within MST has a number of similarities to that described earlier within the Kilbrandon Report in 1964 (p.16): *“the usefulness, as a practical basis of approach to the problem of juvenile delinquency, of regarding the child as an individual within a system of family relationships in a particular context.”* In many respects, at the theoretical level, the MST approach would appear to be highly congruent with the Kilbrandon philosophy of intervention (discussed in the introduction).

In practice, Henggeler and Borduin (1995) describe the intervention as time limited (typically 4 to 6 months) that focuses on the young person’s family and other social systems including schools and peer groups. Primarily the goal of MST is described as empowering the parents of the child with skills that would allow them to address issues relating to raising their children and to empower the youths to cope better with problems related to their families, peers, schooling, and within their neighbourhood. The intervention is delivered by a range of qualified and trained professionals who have small caseloads and are available to the families on a very regular basis. Interventions address positive changes in the areas of enhancing communication skills, parenting skills, family relations, peer relations, school performance, and enhancing connections within other social networks. The intervention model is described as “multi-faceted” and is designed to be pragmatic and draws from areas such as structural family therapy and cognitive behavioural therapy approaches. Following a comprehensive assessment the treatment goals are established with the professionals in consultation with the family members. The intervention is usually delivered in the family home and the family are assigned tasks that meet the goals under the regular monitoring of the professionals. Results from a range of studies indicate that, in the long-term, MST reduced rates of re-arrests;

reduced the number of out of home placements; facilitated improvements in levels of family functioning and resulted in decreased rates of mental health problems in serious offenders (Henggeler and Borduin, 1995).

In a recent study by Ogden and Hagen (2006) the effectiveness of MST was compared with “regular services” in a sample of 75 Norwegian adolescents who were followed up for a period of 2 years. The participants were randomly assigned to MST or regular child welfare service intervention groups. The authors collected data from the youths, their carers and teachers and the analysis indicated that the MST intervention was more effective than the regular intervention in reducing the number of out of home placements and resulted in a significant reduction in delinquent behavioural problems within the sample.

A meta-analytical study of 11 MST trials with samples of delinquents was reported by Curtis, Ronan and Borduin (2004). In total 708 young people across the trials were included in the meta-analysis and it was found that following the intervention the young people and families in the MST group were functioning better than the majority of those who had received other interventions. Curtis *et al.*, (2004) also reported an average reduction of 55% in the numbers of arrests and number of days in custody. Consistent with the “what works” treatment integrity principle, more qualified staff were found to produce better outcomes. A further meta-analysis conducted by Littell Popa and Forsythe (2005) does not however support the findings reported by Curtis *et al.*, (2004). Littell *et al.*, (2005) limited the inclusion criteria within the analysis to only the most methodologically sound studies, which resulted in a smaller number meeting inclusion criteria in comparison to other similar meta-analyses. Littell *et al.*, (2005) found that there were no significant differences between the MST groups when compared to the usual services provision in relation to measures such as the use of out of home placements, arrests and convictions. Littell *et al.*, (2005) note that across the published studies, which were found to vary in quality, there was a general trend

supporting MST but that this effect size was not consistent enough to argue that the approach had advantages over other interventions studied. A further and important finding was that although this meta-analysis failed to find a positive significant effect, it also did not find that MST had a negative effect on the participants.

Offending behaviour programmes

At the tertiary level there are a number of “correctional” programmes that are designed to address the criminogenic needs of people already identified as offenders. Programmes at this tertiary prevention level are frequently groupwork based and delivered by prison or probation staff, and are perhaps more commonly thought of in relation to “what works”. The most common targets for intervention are deficits in aspects of offenders’ cognitive style, such as impulsivity and poor problem solving which research has shown to be prevalent amongst this population (Antonowicz and Ross, 1994). As discussed earlier there is a considerable body of literature to support the use of interventions of this kind with offenders. In relation to juveniles specifically, for example, Losel’s (1996) meta-analysis of this form of intervention with juvenile offenders demonstrated a reduction in recidivism of 10% to 12%. More recently, Latimer *et al.*, (2003) reported that their evaluation of programs (which primarily involved participants under the age of 16 years) demonstrated higher reductions in recidivism than among older participants (for the 12 to 15 years age group the average effect was a 13% reduction in recidivism in comparison to 7% for 16 and 17 year olds). This early intervention effect of younger participants responding more favourably to interventions than older participants is also supported in other meta-analyses (Dowden, 1998; Latimer, 2001).

The use of “what works” interventions in particular are not without their critics. Smith (2005), in a discussion of the effectiveness of juvenile justice systems, including the Children’s Hearings system, argues that the overall modest treatment effects of the “what works” literature should not be used to support the widening of juvenile justice system’s remit. He argues that juvenile justice systems tend not to deliver interventions

to the standards that the meta-analyses are based on, and consequently the observed effects of these programmes should not be taken to mean that in practice if more young people were embedded into the system that better results would be achieved. Smith argues that the research supporting lenient and less punitive juvenile justice systems (such as the comparative study of two systems by Huizinga *et al.*, (2004), discussed earlier) allows for natural desistance. Smith (2005) argues that extending programmes to “adolescent limited” offenders would limit the effectiveness of resources to target the more serious “life course persistent” offenders.

In his critique of the application of the “what works” findings, Smith (2005) appears to be making an argument that has similarities to the application of the Risk principle. As discussed earlier, the research in this area indicates that effective practice entails providing interventions to address the criminogenic needs of high risk offenders in order to achieve best results. It might be the case, as Smith suggests, that juvenile justice systems might attempt to extend their remit through arguments based on the “what works” findings, but these arguments would not reflect “what works” in its application.

Restorative Justice

Restorative Justice is an intervention at the tertiary level of prevention as it is used with offenders, particularly young offenders, after they have been officially identified as having committed an offence. It should be stressed that a reduction in recidivism is not the sole aim of the restorative justice approaches, which also seek to actively involve the victim, the offender, and the community in the process of repairing the harm caused by offending behaviours. The general aims of restorative justice models include: holding the young offender accountable while enhancing their welfare; diversion from court; the use of detention as a last resort; protection of children’s rights; participation in decision making by young people and their families; strengthening of family bonds; victim involvement; consensual decision making; and cultural appropriateness. The theoretical background for the similar approach of re-integrative shaming is discussed by Braithwaite (1989). Braithwaite, building on labelling theory, argues that offending can

be addressed if an offender can be induced to experience a sense of remorse and shame for their behaviour, within a context that re-integrates them back within the community. In arguing for the positive effects of re-integrative shaming, Braithwaite highlights two aspects of the process: firstly that there is a deterrent effect, particularly if the source of the shaming is a person with whom the individual has a valued relationship; and secondly, which is argued to be more important, that the re-integrative shaming process communicates that certain behaviours are wrong, thus encouraging a change in attitudes. Braithwaite argues that criminal justice systems succeed in shaming the offenders, but fail to re-integrate them, and might increase offending as a consequence through labelling. Similarly, Sherman and Strang (2007) argue that the theoretical basis for “conventional” criminal justice doctrine is that are aware of what behaviours are permitted, and that the deterrent effect of punishment is required to reduce the likelihood of them committing further offences. However, they argue that the restorative justice approach is based on punishment, but persuasion in order to enhance moral and voluntary obedience to the law. This argument relates closely to Tyler’s theory of “legitimacy” (2006a) and Sherman’s “defiance” theory (1993) discussed earlier in this chapter.

A recent statistically based meta-analysis of restorative justice programmes assessed outcome measures across four areas: victim satisfaction, offender satisfaction, restitution compliance, and recidivism (Latimer, Dowden and Muise, 2001). This study reported that of the 35 restorative justice programmes reviewed there were significant positive impacts on victim satisfaction; but no significant effects on offender satisfaction. The findings also indicated that participation in restorative justice programmes had a significant impact on the likelihood of completing a restitution agreement. With regard to the “hardest” measure of effectiveness, the programmes reduction of recidivism, the meta-analysis showed overall a 7% reduction in offending due to restorative justice intervention. Although this figure is smaller than the figure of around a 10% reduction reported by “what works” interventions (e.g. Lipsey and Wilson, 1998) the resources required to conduct a restorative justice case conference typically would be far less

(time, money, staff training) and would support the cost-effectiveness of the approach. In addition, the restorative approach also has the advantage of having a beneficial effect for the victim of the offence (Latimer *et al.*, 2001). It should be noted however, that the offenders who participate in restorative processes do so on a voluntary basis, and as such they are a self-selecting population. This distinction is important as other factors, such as motivation to stop offending (argued earlier to be a key responsibility factor), may account for some of the effect size observed (e.g. McMurrin, 2002). One Australian study employed a random assignment methodology and reported a 38% reduction in violent offending by young people who had been assigned to the Reintegrative Shaming condition (see Sherman, Strang and Woods, 2000). The authors reported that young people diverted from court for other offence types, such as drink driving offences, and aboriginal offenders did not achieve positive outcomes; however violent offenders specifically did achieve very favourable reductions.

The literature on restorative justice approaches is large and growing rapidly as the use of the approach is applied in more locations around the world. More recently, Sherman and Strang (2007) provide further support for the use of restorative justice approaches in a review (which did not employ the statistical use of meta-analysis) drawing on 36 studies from England, Australia and North America. Studies selected for inclusion had demonstrated rigorous methodologies, with many using randomised controlled trials, allowing for comparisons between restorative justice and “conventional” criminal justice approaches to be made. Overall, it was found that the use of restorative justice substantially reduced recidivism levels (but not for all offenders) and in particular was found to be more effective than the use of prison for adults, and equally effective as prison in younger offenders. In addition to this main finding Sherman and Strang (2007) also report that when compared with criminal justice services the use of restorative justice: provided both victims and offenders with more satisfaction with justice; considerably increased the use of diversion from courts and consequently reduced costs; and reduced the reported levels of trauma symptoms and desire for revenge amongst

victims. Consistent with the arguments presented earlier in relation to the Risk principle (Andrews *et al.*, 1990), Sherman and Strang (2007) also report that more serious and higher risk offenders benefited more from participation in restorative justice than lower risk offenders.

Currently, in England and Wales, and more recently in Scotland, the police have been given the responsibility of delivering restorative cautions to young offenders. In this process the police request that all those affected by the offence, including the victim, to attend. The Home Office evaluation of the Thames Valley Police restorative cautions by Hoyle *et al* (2002) found that there was insufficient evidence to suggest that this process was more effective in reducing recidivism over the traditional cautioning process. In Scotland the use of restorative cautioning by police has been evaluated by Dutton and Whyte (2006) who report positive outcomes from the early outcome data. Their early findings indicate high levels of satisfaction amongst young people, victims and professionals who have participated in the intervention. Further assessment of this intervention is required, however, before any other conclusions can be drawn.

Spencer and McIvor (2000) provide a review of the literature on restorative justice approaches in the United Kingdom, in comparison to the different models of family group conferencing in Australia and New Zealand. They discuss the potential for using family group conferences as an alternative model to the Children's Hearings system as a mechanism to manage the offending behaviours of young people. More recently in Scotland an objective within the *National Standards for Scotland's Youth Justice Services* (2002) states that "every victim of a young offender referred to the reporter on offence grounds will have the opportunity to engage in a [restorative justice] scheme, where appropriate."

On this issue of adopting practice from other systems, Muncie (2002) explores further the implications for the youth justice system in England and Wales of the application of what he terms as the "what works agenda". Muncie (2002) argues that due to the focus

on the “what works” approach there is insufficient attention paid to the practices of Australasia in the use of restorative justice approaches. He goes on to argue that the “what works” research does not consider the socio-economic “determining” context of offenders’ backgrounds and argues that “what works” in one context may not work in others due to differences in culture. Muncie (2002) concludes by suggesting that rather than adhering to the “what works” principles, society should seek to adopt a system that “*appreciates the normality of youthful transgressions and adheres to some preferred basic principles of respect, protection, informality and rights.*” It appears that many of Muncie’s arguments are not reflected in the literature relating to changes within the Children’s Hearings system or “what works”. He discusses that differences in culture and context as not being considered when interventions are adopted, however this consideration is one of the key principles of effective practice (Andrews and Bonta, 1998; discussed earlier). The use of restorative justice approaches within the Children’s Hearings system was discussed prior to Muncie (2002) by Spencer and McIvor, (2000; discussed earlier) and also the recommendation to expand the use of restorative justice and “what works” interventions within the Children’s Hearings system were made with in *National Standards for Scotland's Youth Justice Services* (2002).

2.7. Evaluation of Scottish programmes

In this section some of the interventions that have been delivered in Scotland that were intended to address the needs of young people with offending behaviours will be discussed in relation to the “what works” findings. A range of interventions are currently being delivered by a number of agencies; however, due to constraints in working practices the majority of these have not been evaluated and consequently are not described in the following section.

The “CueTen Project” (Lobley and Smith, 1999) was established 1995 and aimed to provide an intervention for persistent juvenile offenders aged 14 to 16 years who were in Fife region. The main aim of “CueTen” was to deliver a 26-week programme that developed employment-related skills and encouraged persistent juvenile offenders into

work and further training. The evaluation of the programme included 86 young people (73 young men and 13 young women) 80% of whom had been charged with crimes of dishonesty, 55% with miscellaneous offences (mostly minor assaults and public order offences) and 53% with offences of fire-raising and vandalism.

The programme was found to have a high drop-out rate with 55% of participants completing the first block of 13 weeks, and only 40% completing the entire programme. Twenty individuals (23%) were excluded from the project for violence, drug use, or serious disruptive behaviour and another 26 stopped attending for other reasons described mainly as being associated with difficulties in their home lives. Those who completed the programme tended to have been charged less frequently during the previous year. Only one of the 12 young people with more than 15 charges in the previous year completed the programme; 13 of the 24 who completed the programme had five or fewer charges in this period. The offending records of the group who completed the programme showed more improvement in the year after starting at CueTen than the records of the group who failed to complete. A comparison group of 39 individuals were matched on the basis of age and gender with the CueTen group and were reported to have had “similar” levels of offending and referrals to the Reporter on offence grounds. The differences in levels of recidivism between the groups of young people who completed, did not complete and the control groups were not statistically significant. There were, however, indications that the subsequent offences committed by the group who completed the programme were less serious than those committed by the other two groups. The evaluation found that CueTen did not deliver an overall cost-saving to the criminal justice or child care systems during the three years covered by the evaluation. The authors argue that this however does not mean that it was less cost-effective than other interventions (Lobley and Smith, 1999).

The risk principle from “what works” appears not to have been applied as there was no mention made of a risk assessment process and the evaluation indicates that a large proportion of the participants had committed less serious offences. Some of the

participants might have been at a low risk of re-offending and may have desisted through time without requiring any form of intervention. The high attrition rate of the programme also appeared to have resulted in participants with a greater number of offences being less likely to complete the programme as it was found that those with the fewest charges were the most likely to complete the programmes. Consequently, it might be the case that the programme did not effectively target higher risk offenders, and also mixed together young people with different levels of criminogenic needs (with the potential for negative effects as discussed earlier).

The needs principle appears ostensibly to have been achieved by the programme's delivery of vocational skills training to young people with offending behaviours (Latimer, *et al.*, 2003). Addressing criminogenic needs in this area is supported by the "what works" literature generally, although it is not clear the extent to which the individual young people who participated in this programme actually had broader needs, it appears that the majority of participants had histories of poor school attendance. There appears to have been some consideration of how the facilitators engaged and motivated the participants and the staff appeared to adjust their delivery to meet the learning styles of the participants. The participant's motivation from the outset in many cases appeared to be poor and this responsivity issue may be related to the drop-out rate observed. The evaluation also mentions some programme integrity issues and describes a "gulf between the programme as initially presented on paper and the programme delivered in practice," and also indicates that staff had no experience of working with young people from such disrupted backgrounds as the participants.

The outcomes of this intervention may have been better if the participants been assessed more thoroughly and selected for the programme. It is not clear whether some of the participants were at a low risk of re-offending (even though they were identified as "persistent offenders") and were unlikely to benefit from the group. If young people at a low level of risk were not included this might have reduced the overall numbers of participants, allowing more resources to be delivered to moderate and high risk

participants who would have more to gain. A further point in relation to this intervention and the findings of effective practice relates to the skill levels of the staff and the quality of the materials that they were working with. The outcomes of the intervention may possibly have been better in the event that these two issues had been resolved prior to commencing the intervention. The finding that the participants (and comparison groups) decreased their levels of offending over the duration of the evaluation is consistent with the literature on desistance discussed earlier (e.g. Sampson and Laub, 1993) and is not necessarily related to the effect of the intervention provided.

A further evaluation of a Scottish intervention for young people with offending behaviours was conducted by Lobley, Smith and Stern (2001). The Freagarrach Project, delivered by Barnado's aimed to target 12 to 16 year olds who had ten or more episodes of offending. The programme offered three main types of intervention described as: advocacy and liaison, in which staff worked with other agencies with the aim of finding or enhancing educational services for participants; practical support for young people attending or being re-integrated into a school or day unit; and work on the cognitive and behavioural aspects of participants experience of and response to education.

Information within the evaluation indicates that "what works" principles were considered at various stages throughout the programme. The referral and selection criteria employed appeared to be based on the risk principle and the staff appeared to target resources accordingly. The programme content was noted to be based on criminogenic needs and the delivery style was multi-modal and responsive. Staff delivering the intervention were considered within the evaluation to be appropriately trained and supported (Lobley *et al.*, 2001). The intervention included 106 young people (94 male and 12 females) who completed the programme and 95 were followed-up for evaluation purposes over four years.

The qualitative findings indicate that the participants expressed very positive views of the project and its staff. The evaluation was hampered by problems accessing re-

offending data and also the lack of an available control group. This study actually used the same group of 39 young people that formed the control group in the evaluation of CueTen, discussed above, to draw comparisons. There was found to be significantly fewer young people who had participated in the intervention who received a custodial sentence in the follow-up period than in the comparison group. The evaluators argued that this finding indicated that the Freagarrach programme may have produced a lower risk of custody. However, the lack of proper controls means that this finding should be considered as tentative. Less positively, there was found to be little impact on employment from participation in the programme (Lobley *et al.*, 2001).

The lack of more encouraging findings from this study appears to discredit many of the “what works” findings which have been associated with positive outcomes. For instance, the activities of the staff in engaging with schools to obtain additional resources appears to be congruent with the practice of multi-systemic therapy (Henggeler, 2000) and also with some of the more recent findings from the meta-analysis by Latimer, *et al.*, (2003). Further examination of the programme and its application of the principles of effective practice suggest that some of the work did not actually follow recommendations within “what works”. In relation to criminogenic needs, it is not clear the extent to which the intervention was actually necessary in some cases, as some children included within the programme were actually within mainstream school at the time with “reasonable regularity”. In addition, the intervention (when participants were willing to engage in offence related work) also included some work that explored “interesting leisure pursuits”; victim awareness and empathy work; and visiting local prisons, which was intended to educate participants about “the realities” of the adult system. As discussed earlier these areas have not been found within the literature to be conducive to reductions in recidivism (e.g. Latimer, *et al.*, 2003; Petrosino, *et al.*, 2003). The points raised here appear parallel to Smith’s (2005) criticism of the net-widening effect of interventions under the heading of “what works” which in effect may not contribute significantly to desistance.

More encouraging findings were reported by Jamieson (2000) in relation to The Intensive Probation Unit (IPU) delivered by NCH in Inverclyde. The IPU is described as a community based alternative to custody, aimed at 16 to 21 year olds who are at a high risk of receiving a custodial sentence based on their seriousness and history of offending. The intervention was delivered through modular groupwork following the recommendations of effective practice. The interventions were aimed at addressing criminogenic needs such as violence and substance use. The evaluation period covered 16 months and it was found that of those regarded as suitable for the IPU, 41% were given a probation order with the condition that they attend the intervention and 55% were given a custodial sentence (the remaining 4% were given other disposals). Although a matched control group was not available within this evaluation, the IPU group was found to have committed a greater number of offences and had more court appearances than the custody group. The group that received custody was, however, found to have had a greater number of previous custodial terms. It is argued within the study that these two groups were similar in terms of their level of seriousness. After a follow-up period of around 18 months on average it was found that there was a 24% reduction in convictions in the IPU group compared with the group that received custody.

A longer term evaluation was not conducted, but it appeared that the intervention significantly reduced recidivism in comparison to the custody group. On the basis of these findings reported by Jamieson (2000) it appears that this intervention with high risk offenders, based on what works principles was successful, at least in the short-term of the follow-up period in reducing recidivism in comparison to a similar group who were given custodial terms. It is possible that the effect of motivation could account for some of this apparent effect size as participants were assessed as being suitable for the programme or not (28% of potential IPU participants were found to be unsuitable). Due to the methodology employed within this study it is not possible to control for the effects of motivation or other potentially confounding variables.

The Matrix Project led by Barnado's was established with the aim of reducing the risk of offending and anti-social behaviour among vulnerable eight to eleven years old. The evaluation of this project by McIvor and Moodie (2002) indicated that the project was based on the current literature on effective practice and had a number of similarities to the Multi-Systemic Therapy approach, discussed earlier. The evaluation included data in relation to 23 children (16 boys, 7 girls) from 19 families who had attended the project on the basis of levels of risk and needs. Services were provided to the child and family that aimed at reducing risk factors and enhancing protective factors.

The intervention was delivered on average for a period of 12 months (with a range of 5 to 20 months) through a number of methods including counselling, cognitive behavioural work, advocacy, and solution focused work. These sessions were delivered to groups of children, with the family as a unit and with individuals in the project's building, the homes of the children, their school and other locations in the community. Inter-agency work appears to have been stressed within the project and social workers and teachers were integrated into the process. Families were also encouraged to take advantage of other resources in the community such as mental health services and alcohol services (McIvor and Moodie, 2002).

In terms of the project's effectiveness, there were limited data available due to the small numbers of participants (17 cases who had completed the intervention), the lack of a control group and also a long-term follow up period. McIvor and Moodie (2002) found that comparison of risk and protective factors pre and post intervention indicated that the project had positively affected offending and anti-social behaviour, the child's physical health, parental management and support, and school attainment and behaviour at school. Children in the project were found to have offended less since receiving the intervention, and qualitative information obtained also indicated that there was a reduction in offending. In addition the evaluation found that a number of protective factors had been enhanced, including a positive home environment, good home-school

links and positive peer influence. Parental attitudes and parenting skills appeared to not have been changed by the project. McIvor and Moodie (2002) report that it was more difficult to assess whether the project had succeeded in keeping children in mainstream education or preventing them from being accommodated as the findings in this area were mixed. Overall the qualitative findings in relation to the Matrix project's effectiveness were generally positive.

This evaluation appeared to be cautiously optimistic about the effectiveness of the intervention. Further evaluation was recommended with larger sample sizes and longer follow-up periods. On the surface the Matrix Project appeared to have been delivered in a way that was consistent with the literature on effective practice, but the degree to which these were embodied in the interventions, particularly with the children, is not clear.

Supervision of offenders

In addition to the provision of specific planned interventions as discussed above, the processes involved in providing supervision have also been researched within the literature on effective practice. Rex (1999) conducted interviews with 21 probation officers and 60 probationers. She noted that of those offenders who desisted there was a change in their interaction with their supervisor, which was described as active and participative. It was thought that the mechanism for this change, in some cases, was the adoption of the probation officer as a role model who was also seen to reinforce pro-social behaviours. The probationers who desisted also reported having a sense of loyalty and accountability to their probation officers based on the support and encouragement they had received. In addition, there were improvements in reasoning and decision making and the strengthening of social ties found in the successful probationers.

The findings by Rex (1999) have a number of similarities to the "Pro-social modelling" approach developed by Trotter (1993; 1999). The approach described by Trotter has four central principles:

- Role clarification, which involves frequent discussion of roles, boundaries and expectations, negotiable and non-negotiable limits to confidentiality and interventions;
- Pro-social modelling and re-enforcement, involves the identification and modelling of behaviours that are to be rewarded while discouraging negative behaviours;
- Problem solving, involving exploring problems, goal setting, contracting and regular monitoring;
- Relationship development, invoking the worker as being open and honest and empathic. The worker should also be able to challenge the offender in a non-blaming and optimistic manner. Good practice in this area involves the worker being able to articulate the client's feelings, using appropriate humour and self-disclosure.

Amongst the above principles, pro-social modelling was most consistently found to be correlated with significant reductions in re-offending and imprisonment. The model was reported to be most effective with young, high-risk, violent and drug taking offenders. These findings are also consistent with the Responsivity principle within the “what works” literature which argues that these skills should be demonstrated within programme delivery (McGuire, 2003) particularly with clients who are lacking in motivation and reluctant to address their criminogenic needs (McMurran, 2002).

Farrall (2002), in a study of 199 probationers, found that desistance could be attributed to specific interventions by the Probation Officer in only a few cases, although help in finding work and mending family relationships appeared particularly important. Desistance appears to relate more clearly to the probationers' motives and to the social and personal contexts in which various obstacles to desistance were addressed. Farrall does not conclude that probation does not work directly, but that it works in an indirect way. He argues that the implementation of the interventions needs to pay greater attention to the social context and the relationships that surround the individual probationer. He argues that many interventions based on psychological principles can raise human capital (e.g. enhanced cognitive skills or improved employability) but they

cannot generate the social capital that is derived from relationships, participation and inclusion. Farrall concludes by arguing that it is not enough to build the capacity for change, as change depends on the opportunity to exercise these capacities. To this end, Farrall argues that the “what works” debate should not simply concentrate on criminogenic factors but on desistance related factors (this however, is also one of the principles argued by Andrews, (2000) and also argued by Ward and Brown, 2004).

2.8. Discussion

The policy changes to the Children’s Hearings system (outlined in chapter 1) have increased the range of options available to Hearings, many of which can be considered to be *criminalising* in their orientation and representing a shift away from the welfare base towards a more punitive model in line with developments in England and Wales. Prior to the elections to the Scottish Parliament in 2003 there appears to have been a substantial swing towards more punitive practices within youth justice in Scotland. Although the general conclusions of the studies reviewed earlier in this chapter are nebulous due to a range of methodological issues (Paternoster and Iovanni, 1989), it can be argued that there is insufficient evidence to clearly support making many of these more punitive changes to the Children’s Hearings system.

The Scottish Executive’s move to increase the number of secure residential places across Scotland would appear to be supported by the findings of Gottfredson and Barton (1993) and Wooldredge (1988) who found support for deterrence based approaches reducing recidivism. Again, there are contradictory results found in these studies and no strong evidence is available to justify the changes made, in terms of reducing recidivism. Within secure environments, there has been a recent increase in the availability of “what works” type programmes, which could potentially provide an effective intervention for this high-risk group. However, given that a secure placement removes a young person’s liberty (at great expense to local authorities) it would seem that resources might be more cost-effectively used by the provision of community based prevention programmes. The disposal of a Movement Restriction Condition (within a package of services provided in

the pilot Intensive Support and Monitoring Service) has been implemented in conjunction with various forms of interventions, many of which are purportedly of a “what works” nature. The effectiveness of this package is currently being assessed, but the use of electronic monitoring has previously been identified as not being an effective measure (Sherman *et al.*, 1998). The inception of the Fast Track Hearings is also interesting in relation to the literature on labelling. Only those young people who were labelled “persistent offenders” were subject to this different form of processing. Of note in the evaluation of the fast track (Hill *et al.*, 2005) was the observation that levels of recidivism in the areas running the pilot had increased substantially more than the comparison areas. This finding echoes that of earlier work such as that by Gold and Williams (1969) and West and Farrington (1977), who found increased recidivism following labelling, but is also very relevant to more recent studies of how the police operate (this will be discussed in the following chapter in relation to findings from the Edinburgh Study).

It is argued here that the application of effective practice, particularly the “what works” principles would improve the functioning of the Children's Hearings system and remain consistent with the Kilbrandon philosophy. The use of structured risk assessment tools (such as ASSET or YLS/CMI) for all young people referred on offending grounds could help identify, in a way that reduces the potential for bias, the minority of young people who may require additional resources through compulsory measures to address their needs (Baker *et al.*, 2002). The risk principle, it is argued, is largely consistent with the “no order” principle in relation to the issue of acting in the best interests of the child. Structured risk assessment tools also facilitate practitioners in the identification of criminogenic needs from a range of areas in the individual's life which then could be addressed through more effective interventions. The inclusion of these factors within assessments reflects a holistic view that is congruent with the Kilbrandon Report's (1964) argument that children referred on offending grounds have a range of underlying needs that are shared with children referred on non-offending grounds. The Kilbrandon Report (1964) also specifically mentions the welfare approach having the advantage of

making “alteration of treatment”, allowing changes in interventions to be made over time that reflect changes in the individual’s levels of needs or responsivity to interventions.

The models of secondary prevention such as the Perry Pre-School Programme (Schweinhart *et al.*, 2005) appear to be consistent with Kilbrandon’s aim of early intervention to prevent further delinquency by providing resources to children and families identified as having a range of needs. The MST approach (Henggeler and Borduin, 1995) appears to offer an effective intervention for young people that will also regard “*the child as an individual within a system of family relationships in a particular context.*” (Kilbrandon Report, 1964, p.16). In addition, it is argued here that the principles of the pro-social modelling approach could also be incorporated within the practice of social workers delivering supervision requirements. The use of restorative justice and re-integrative shaming approaches also appear to be consistent with the Hearings system’s aim of avoiding stigmatising or labelling children and young people (Spencer and McIvor, 2000). The use of programmes that follow the “what works” principles are also argued here to offer improvements over existing practice in the effectiveness of the Children's Hearings system and in meeting the needs of children and young people.

The application of “what works” principles in this context should mean that programmes are only delivered to young people who have the most to gain from them, reducing the potential for net-widening or iatrogenic effects (e.g. McCord, 2003). The needs principle should mean that interventions are targeted and focused on issues that are likely to have a meaningful and positive effect on the lives of the participants. These interventions should not be considered to be “one size fits all” and responsivity factors that relate to the individual should be considered and incorporated into the delivery. On the issue of resources, it is argued that a range of effective interventions should be made available to children and young people on a voluntary basis, without the requirement of compulsory measures through Hearings to obtain these resources.

In contrast to the above points, many of the recent policy changes from the Scottish Executive (discussed in chapter 1) have created new responses to offending behaviours such as Anti-Social Behaviour Orders and the Movement Restriction Condition. It is argued that these measures alone are unlikely to result in any positive changes in criminogenic or welfare needs, and are more focused on offending in a manner that is more consistent with a justice model. The literature reviewed on punishment and deterrence approaches indicates that these measures have in the past not demonstrated significant reductions in recidivism. Within a welfarist or rehabilitative framework the risk of recidivism can be regarded as being the product of a range of criminogenic needs, which if addressed can reduce the likelihood of further offending. The risk principle from the “what works” literature serves to advise on the most effective allocation of resources, while the needs principle serves to advise on areas of intervention that are likely to be the most effective. It is argued that in order for the Children's Hearings system to meet the needs of the minority of children and young people who present with a risk of persistent and serious offending that their non-offence grounds referrals (which in many cases represent criminogenic needs) are identified as early as possible and addressed through better quality interventions.

There are few published evaluations of interventions for young people in Scotland available to comment on in much detail. There are, however, a number of interventions that would describe themselves as being congruent with “what works” although aspects of their delivery appear to contradict this claim. The use of the term “what works” and others such as “cognitive behavioural” appear to be used by some agencies who are not actually delivering interventions to these standards. The Scottish Executive’s accreditation criteria and more recently “approval framework” are intended to reflect the “what works” principles actually being translated into effective practice (Scottish Executive, 2004). However, in the absence of evaluation or any independent accreditation or approval of interventions it is not possible to argue that many of the programmes do actually indicate effective practice and could be considered to “work” or not. In addition, there is the further problem of interventions that have been accredited in

the past, then been “rolled out” and delivered in a way that is inconsistent with programme integrity (as reported by Falshaw *et al.*, 2003; and Abrams, 2005). The assertion of Antonowicz and Ross (1994, p. 1) that “*some* rehabilitation programs work with *some* offenders in *some* settings when applied by *some* staff,” is very relevant within the context of interventions delivered across Scotland.

In the following chapter the processes involved at various stages of the functioning of the Children's Hearings system will be discussed. A review of relevant literature is presented in addition to data from a number of studies which build on the argument that the Children's Hearings system could function more effectively (in relation to young people presenting on offending grounds) by integrating elements of effective practice into decision making and in advising on effective interventions delivered by other agencies.

Chapter 3

Review of research into the Children's Hearings system

Introduction

This chapter aims to present a review of literature which investigates the processes and outcomes of the Children's Hearings system. This review begins by describing the process of referral to Reporters, Reporters' decision making and their disposal options. The functioning of Hearings and Panel Member's disposal options are then described. This review then presents data from a number of small studies which mainly focus on referral patterns, followed by a summary of a series of larger studies which have examined the system more comprehensively.

3.1. Referrals to the Reporter

Referrals to the Reporter come from five main sources: the police; social work departments; education; the health services; and from parents. The most common source of all referrals are the police who were the source of 87% of all the referrals to the Reporter (over the annual review period of 2005 to 2006) with social work making up 6.6%, and education making 4.6% of the total (SCRA, 2006).

The grounds of the referral to the Reporter are defined in the *Children (Scotland) Act 1995 s.52* (all of the referral grounds within section 52. are given in appendix A). Briefly, these grounds relate to a range of care and protection concerns (the child's use of alcohol or drugs; the child living in the same house as a Schedule 1 offender; lack of parental care; and the child falling into bad associations or exposed to moral danger). In addition referral grounds also encompass other behaviours such as truancy and offending. Data from the Scottish Children's Reporter Administration (SCRA, 2006) indicates that over the past 10 years the number of children referred to the Reporter has doubled to the highest ever figure of 53,883 children (representing 6% of Scotland's children). The reason for this increase in referrals is largely a consequence of non-offence (care and protection referrals) grounds, which made up 40,931 referrals over the reporting period of 2005 to 2006. Over the same period

more children were referred to the Reporter on grounds of lack of parental care (17,801 children) than were referred on offending grounds (17,624 children).

While the police have the highest rate of referral to the Reporter, not all incidents are referred, particularly in relation to less serious offending behaviours. The process of warning and charging children and young people varies across police forces in Scotland (although a standardised approach has been recommended within *Scotland's Action Programme to Reduce Youth Crime*; Scottish Executive, 2002). Each force currently has its own system for administering and recording police warnings to juveniles. In some areas all detected juvenile offences will be referred to the Reporter, but in most areas only a small proportion are referred and children and young people will receive an informal warning for minor offences, particularly for first-time offenders.

In Edinburgh, at the time of data collection, the decision making practice of the police in relation to young people following their apprehension for offences involved a high degree of discretion on the behalf of the officers who would apprehend the child on the street and from the Juvenile Liaison Officer (a police officer who has the role of deciding which cases to refer to the Reporter) framed as offending grounds (in addition, non-offending grounds are frequently made by the police). Officers on the street had the option of issuing a verbal warning when they apprehend a child in relation to an offence. If the officer decided to charge the young person, this would have taken place in the presence of their parents or carers within the police station or within the child's family home. In cases where the child was charged with an offence and admitted guilt, the Juvenile Liaison Officer could also decide to have issues a written warning (for the first offence if it is minor) and a second warning could have been given in the form of a meeting with the child and their parents or guardians. If the child had already received two warnings, or where the offence was considered to be serious, and cases where the child did not admit guilt (irrespective of the seriousness of the alleged offence), the Juvenile Liaison Officer would refer the case to the Reporter.

Upon receipt of a referral the Reporter is required (under *The Children (Scotland) Act 1995*) to consider the following points in reaching a decision on whether to progress to a Hearing or not:

- the welfare of the child as the paramount consideration (unless members of the public need to be protected from serious harm);
- no compulsory intervention should be made unless it would be better for the child than no compulsory intervention at all;
- and that children should be given an opportunity to express a view and, if they do so, consideration should be given to the child's views.

Before reaching a decision, Reporters request information about the child and their circumstances from a range of agencies including Social Work, Education and Health. Taking this information and the above factors into consideration, the main courses of action open to the Reporter (as described in the *Children (Scotland) Act 1995*) on receipt of a referral are as follows:

- To decide that a Children's Hearing does not require to be arranged. This decision may be based on the Reporter considering that there are not sufficient grounds for compulsory measures of supervision, or sufficient evidence to proceed. In many cases, the Reporter may use this disposal when satisfied that action is already being taken to meet the child's needs.
- Reporters also have the option to issue a warning to the child or young person as to their future behaviour. This decision is frequently recorded as "No Further Action", which effectively indicates that there is no need for compulsory measures rather than implying that nothing should be done. If this decision is made then notification of it is sent in the form of a letter to the child, a "relevant person" (the child's parent or guardian), and to the person who made the referral.
- In the event that the Reporter decides that a Children's Hearing is not required the case can be referred for "Advice and Guidance" to the relevant

Social Work department (also known as a voluntary supervision referral). Typically, this would take place when the parents appear co-operative and are attempting to address the problem themselves, or where a plan of action was suggested by a social worker and accepted by the family.

- To refer to a Hearing. This takes place in cases where it appears to the Reporter that: “compulsory measures of supervision are necessary in respect of the child” and leads to a Children’s Hearing being arranged.

The most recent data available from the Scottish Children’s Reporter Administration (SCRA) on Reporters’ decision making on referrals indicates that around 11% of all referrals result in a Hearing being arranged. In cases where the Reporter had taken no further action, 53% were due to there being no indication of a need for compulsory measures; and in approximately 17% of these referrals there was felt to be insufficient evidence to proceed with the case (SCRA, 2006).

Not all alleged offences committed by children and young people are referred solely to the Children’s Hearings system, a small proportion (1.6% of referrals in 2005 to 2006; SCRA, 2006) are reported jointly to the Reporter and the Procurator Fiscal. In these cases the police also refer to the Procurator Fiscal for reasons such as: the seriousness of the offence; where the (alleged) offender was aged 16 or over but under the supervision of the Children’s Hearings system; where a child is alleged to have committed an offence with an adult; and where the offence is a road traffic offence and the child is older than 15 and liable for disqualification. In addition, very serious offences such as murder, serious assaults and rape are usually directed to Court if the Procurator Fiscal decides that a prosecution is in the public interest. In cases where a child or young person has been prosecuted the Court may (and in some cases must) refer the case to a Hearing for advice on managing the case. The Court then, in consideration of this advice from the Hearing, has the option of referring the case back to the Hearing for disposal.

3.2. Children's Hearings and Supervision Requirements

A Children's Hearing begins by determining the age of the child, as legally juvenile offenders are aged 8 or over, and younger than 18; non-offending grounds, such as issues of lack of parental care, can apply to children from birth. The grounds for referral are then explained to the child or young person and if the grounds are accepted by the child and the child's parents or guardian (referred to as "relevant persons") the Hearing may proceed. If grounds are not accepted (or the child does not understand the grounds), then the case may be referred to a Sheriff for adjudication (also known as a "proof hearing"), or the referral grounds to the Hearing will be discharged. If the Sheriff finds the grounds to be proven, the case is returned to the Children's Hearing for further consideration and disposal. In the annual review period of 2005 to 2006, 89% of the offence grounds referred to a Sheriff for adjudication were found to be proven (SCRA, 2006).

Once grounds have been accepted by the child and their parents, or proven by the Sheriff, the Panel Members may decide that compulsory measures are required and place a Supervision Requirement upon the child. If a Supervision Requirement is made it may specify where the child is to live (in cases where the place of residence is not within the family home, such as a residential school), impose conditions limiting association with specified persons, require the child to undergo a medical examination or treatment, or require that a review Hearing is held within a specified time period. Panel Members have the additional options of continuing a case to a future Hearing in order to allow time for further information to be obtained, or the option to discharge the case if a Supervision Requirement is considered unnecessary.

A Supervision Requirement can remain in force for an individual until they reach the age of 18 years which, as specified in *The Children (Scotland) Act 1995*, means that they can also be diverted from Sheriff Courts on offending grounds. If an individual is appearing in Court for summary proceedings, the Court has the option to remit the case for a person aged between 16 and less than 17 ½ years of age to the Children's Hearings system for advice or disposal. Similarly, a legal mechanism has been provided that allows the Procurators Fiscal and the Children's Reporters to agree

whether young people 'jointly referred' should be prosecuted in Court or dealt with in the Children's Hearings system. In practice however, diversion of this age group tends to occur infrequently; in 2005, only 182 people were remitted to the Children's Hearings system for advice or disposal (SCRA, 2006).

3.3. Research studies of children and referrals

The gatekeeping practice of the police in relation to referral to the Reporter was investigated by Asquith and Samuel (1994). The authors report findings that indicated a general pattern of greater leniency towards females. They found that 10.1% of boys and 19.4% of girls were given a warning; 77.1% of boys and 68.9% of girls were referred to the Reporter, 12.8% of boys and 11.6% of girls referred to the Procurator Fiscal. Overall, Asquith and Samuel found that girls were almost twice as likely to receive a warning as males when matched by offence types (1994). However, the more severe the offence, the more similar the referral pattern became, possibly because police have less discretion in who they refer to the Procurator Fiscal.

In a recent study conducted by Gault (2003) the patterns of offence referrals to the Reporter for children and young people in Glasgow were investigated. The study reports that there were 2,113 offence referrals during the study period December 2000 to February 2001, and that this rate was consistent with annual referrals of 8,000 to 9,000, which is similar to previous years (e.g. 8,498 in 1999). The police were the main source of offence referrals and contributed to 92% of the total. The remaining 8% of referrals on offending grounds to Reporters came from the Procurators Fiscal. Gault (2003) reports that 85% of the referred alleged offences were committed by males and that the peak age for offending was 15 years of age, with very few (4%) under the age of 12 referred for offending. Gault (2003) notes that this peak age figure may reflect that the Children's Hearings system tends not to receive referrals for people after the age of 16 as many enter the adult criminal justice system

In relation to the actual offences, the most common referral was found to be Breach of the Peace, making 28% of the total. Thefts (other than Theft by Housebreaking and Theft by Opening Lockfast Place) made up 11% of the total. Referrals under the *Criminal Law (Consolidation) (Scotland) Act (1995)* made up a further 11% and were offences mainly of carrying an offensive weapon or criminal damage. Young people referred for Assault and Vandalism contributed, respectively, to 11% and 7% of the total number of offence referrals. The general picture of referrals on alleged offence grounds were for minor thefts, assaults and disorderly behaviour. However, during the period of the study a number of serious offences were reported including Robbery (22 cases), Serious Assault (6 cases), Abduction (4 cases), and Rape (3 cases). Using a definition of “persistent offender” (defined as any child or young person referred to the Reporter for an offence on 3 or more occasions in 6 months), a sample of 171 children and young people was obtained. Gault (2003) further analysed the pattern of offending of this persistent offender group by dividing the sample into three categories: the “20 +” group, who were those individuals that had been referred on offence grounds 20 times or more; those that had been referred on offence grounds between 10 and 19 times (10-19 group); and those that had been referred less than 10 times. When investigating the characteristics of the 49 young people who had been referred more than 20 times to the Reporter, Gault found that 65% had originally been referred on non-offence grounds (41% of these were care and protection grounds). In addition, 94% of this group were male and had an average age of 15.5. The average age of first referral was 8.2 years and first offence referral had taken place at an average age of 10.9 years. Of this persistent offender group, 73% had been referred in relation to drug or alcohol abuse; 67% for truancy and 94% were subject to a Supervision Requirement (with 51% required to stay in residential accommodation). Finally, 71% were at some stage the subject of a case that was jointly referred to the Procurator Fiscal and Reporter.

The persistent offender group that had been referred between 10 to 19 times were composed of 43 individuals who were 84% male, with an average of 15 years. Of this group 64% were originally referred on non-offence grounds (47% of these were care and protection orders). The average age of first referral was found to be 8.7

years, with the average age of first offence referral at 11.9 years. Of this group, 56% had referrals on grounds of drug/alcohol abuse, 58% had been referred for truancy. Supervision Requirements had been placed on 58% of this group, with 26% in residential care of some form. In total, 9% had been jointly referred to the Procurator Fiscal and the Reporter. Gault (2003) draws a number of comparisons between the 20 + group and the 10-19 group of persistent offenders. He reports that in both groups, the majority had been first referred on non-offence grounds consistent with the “family risk factors” assessment (Farrington, 1996). Within the 20 + group, around one in five were referred as being beyond parental control in contrast to the 10-19 group where this figure was one in ten. Comparing the groups again it was found that the average age of first offence referral was lower in the 20 + group at 10.9 years, whilst in the 10-19 group the first offence referral age was 11.9 years. Gault (2003) argues that this finding corresponds with Farrington’s (1996) finding that a young age at first referral is a risk factor that is significantly associated with persistent offending. Gault (2003) also notes that the 20 + group, when compared with the 10-19 group, were almost twice as likely to be placed in residential accommodation and were seven times more likely to have been jointly referred to the Procurator Fiscal and Reporter.

The care histories of persistent offenders in the 20 + group was further analysed and reported by Gault’s (2003) study. He obtained 15 (of a possible 20) sets of case files in order to collect data on care and protection issues. One of the main findings in this area of investigation was that one third of the group were initially referred to the Reporter in relation to being the victims of physical abuse by their parents or carers. One third was referred due to issues relating to lack of parental care. The remainder of this 20 + group were referred to the Reporter for a number of reasons such as alleged sexual abuse and serious physical assault.

Gault (2003, p.3) reports that “almost without exception” the case files of the children in this group had experienced unstable and disrupted family relationships. At the time of the referral 11 of the 15 children in this group were living with their single birth mother (lone parent) but with some “erratic” contact with their fathers.

Within this group 8 of the 15 had on file background reports that detail the existence of domestic violence at some point in the family home and parental substance abuse was present in the majority of cases. The finding that persistent offenders had already been identified as being in need of care and protection and been referred to the Reporter at an early age, is argued as being significant. Gault (2003) argues that these findings provide empirical support for one of the underlying principles of the Children's Hearings system: that young people who come to official attention for different reasons often share similar backgrounds of adversity. He suggests that the Children's Hearings system should continue to work on the basis of providing an "integrated" approach to addressing the "needs and deeds" of young people.

The conclusions of Gault (2003) are further investigated in the study by Waterhouse, McGhee and Loucks (2004) who report their findings of a number of comparisons of the backgrounds of children referred to the Children's Hearings system in order to investigate the rationale presented by the Kilbrandon Report of a single system approach. Using data from the referral records of 482 children, the authors report that two-thirds of the sample had been referred on both offence and non-offence grounds; the remaining third were referred only on non-offending (care and protection) grounds, or with offence grounds only.

Waterhouse *et al.*, (2004) also investigated characteristics of two sub-samples within the referral groups. One group of 110 children, identified as the "villains" had a history of only being referred on offending grounds; the other group of 63 children, the "victims", had only ever been referred on care and protection grounds. When these two groups were compared with each other, the authors report that victims were significantly more likely than villains to come from single parent families and to be receiving state benefits. Victims were found to be much more likely than villains to have Supervision Requirements imposed on them and were more likely to have been recorded on the child protection register. There were no significant differences found between the groups on ethnicity, housing and health status, and both groups had similar numbers of total number of prior referrals and similar lengths of time spent under supervision.

On the basis of these findings the authors argue that, whilst there are great similarities in the social backgrounds of children referred to the Reporters (as found by Gault, 2003), some children have referral patterns which suggest that a more focused intervention may be required. Waterhouse *et al.*, (2004) suggest that for these children, more specialised interventions may be required to address more specifically their needs in relation to abuse or neglect, and offending behaviours within the system (e.g. McGuire, 1995). The studies of Gault (2003) and Waterhouse *et al.*, (2004) highlight that within the groups of children and young people with multiple referrals, those most in need are known to the system from an early age.

The final gatekeeping stage of the process, Panel Members' decision making, was investigated by Martin, Fox and Murray (1981). This study is unusual in that it focused on the decision making of Panel Members, however its relevance to the contemporary functioning of the Children's Hearings system is questionable due to its age. Martin *et al.*, (1981) report that there were clear differences between how offence and non-offence referrals were managed. Nearly half of all offence Hearings was dismissed, but a higher proportion of non-offence referrals were retained and went to Hearings. Non-offence cases tended to be referred, especially truancy, and only one truancy referral in nine was found to lead to the Reporter's disposal of no further action. It was also found that one third of first offenders (offence referrals) came before a Hearing and that repeat offenders were far more likely to have Hearings. In relation to seriousness, an offence of damage to property was more likely to lead to referral rather than theft (in first offenders). Housebreaking and violence were more likely to lead to referral (but in first offenders, still only half reach a Hearing).

The influence of previous history was found to be striking; for any type of offence, the probability of coming before a Hearing is substantially increased if there is a history of prior referral on offending grounds. Only a quarter of children referred for a single offence are dealt with by a Children's Hearing. The authors argue that those referred on offence grounds (which made up a large proportion of referrals) are particularly subject to discretionary decision making processes (Martin *et al.*, 1981).

A bias in referral patterns was suggested in the finding that children from single parent families were more likely to be brought before a Hearing. In relation to risk assessment, Martin *et al.*, (1981) suggest that known behavioural problems at school and irregular attendance (but not level of educational attainment) predicted referrals to the Reporter.

3.4. Larger evaluations of the Children's Hearings system

In this section of the review a series of three related studies that examine several aspects of the Children's Hearings system's functioning are presented. The first of these studies by Hallett and Murray, with Jamieson and Veitch (1998) is based on findings derived from observing 60 Hearings and from 181 qualitative interviews with people including children, their parents and a range of professionals (including Reporters, social workers, police and teachers). Within one phase of this study Hallett *et al.*, (1998) investigated through interviews the decision making processes of 54 Reporters in relation to a sample of 130 referrals. They found that Reporters were able to make their initial decisions on the basis of the information that was contained within the referral in addition to other information usually from social work teams and schools. Reporters described their consideration as being based on the level of co-operation from the families and issues related to schooling. In addition, Reporters indicated that they also included information relevant to the child such as current social work input, the child's age, potential levels of risk to the child, and issues related to the child's family functioning. A history of prior offence grounds referrals was also a key consideration in relation to decision making for an offence referral. Overall, the Reporters indicated that their decision making had been straightforward in 75% of the referrals considered. Decisions to refer the case to the local authority for "advice and guidance" were described by Reporters as more difficult than decisions to refer the case to a Hearing or to take "No Further Action".

The time taken to process these referrals was found by Hallett *et al.*, (1998) to be quite varied with Reporters reaching a decision within one month for 32% referrals; 28% taking between one and two months; and 39% in more than two months. Offence grounds referrals resulted in quicker decision making (71% within two

months) than care and protection grounds (43% within two months). Part of the decision making delays were a consequence of delays in information being provided to the Reporters.

Within Hearings, it was found that in 63% of cases the disposal given by Panel Members was a non-residential supervision requirement. The decisions of the Panel were found to be unanimous in 89% of Hearings, and in 84% of cases this decision was also in line with the recommendations made by the social worker. Hallett *et al.*, (1998) report qualitative findings that professionals were confident in the Children's Hearings system's ability to respond to "first-time" or "minor" levels of offending, but were less confident with the ability to meet the needs of more serious levels of offending. One of the main issues that related to this perception was the shortage of resources. This was felt to be the case particularly in relation to young people who were persistently offending or truanting. In particular, the lack of available placements in residential schools and secure units was also commented on within interviews. The other factor that was considered to contribute to a lack of confidence in working with serious offenders was thought to be derived from the system's welfare orientation. Hallett *et al.*, (1998) found that there was a reluctance to address offence grounds referrals when the young person was not co-operative. The lack of a punitive response was considered to contribute to persistent offenders holding the system in "utter contempt". In addition, there was the perception that older children with offence grounds "were not always perceived to take the system sufficiently seriously". Parents of children referred perceived the system to be fair and that it might have served to reduce misbehaviour and offending. Alternative disposal options were suggested for persistent offenders such as mediation, compulsory attendance at alcohol or drugs awareness courses or intensive counselling. The welfare philosophy was found in the qualitative data reported by Hallett *et al.*, (1998) to also be one of the system's strengths. The Children's Hearings were regarded as playing a valuable role in delaying the entry of young people into the adult criminal justice system. This was considered to represent an opportunity to limit the effects of deviance amplification and reduce costs. In addition the informality of the system, and the encouragement of children and their families to participate, was thought to have helped them to have their views heard.

In a further evaluation of the system, Waterhouse, McGhee, Loucks, Whyte and Kay, (1999) investigated the interaction of the Children's Hearings system on a cohort of children who were referred to the Reporter in the first two weeks of February 1995. This sample of 1,155 children was followed-up for a period of two years from the date of their first referral. The cohort was composed of 66.5% males and 33.5% females and the majority of children were aged between 12 and 15 years. Waterhouse *et al.*, (1999) report that this cohort sample was broadly representative of all referrals to Reporters throughout Scotland in the year of the study. Within this sample of children and young people referred, Waterhouse *et al.*, (1999) report that just under three quarters were living within the same home as one, or both parents and that 46% of the children's families were single parents (higher than in the general population). Local Authority housing was the most common form of accommodation; only 5% of the children lived in owner-occupier property (extremely low compared with Scottish households in 1991). It was also found that just over one third of the children had at least one experience of being in care living away from home. Family income was found in over half of the cohort's families to be based on state benefits. Before the start of the study, 71% of the cohort (822 children) already had extensive prior involvement in the Children's Hearings system with an average of 8 referrals per child. Waterhouse *et al.*, (1999) report that younger girls were more likely than younger boys to be referred on the grounds of lack of parental care and older boys were more likely to be referred for offending grounds. In addition, children referred on offending grounds were significantly ($p < .01$) more likely to have been referred previously, with their first referral between the ages of 5 to 11 years. Three common factors within the referral grounds were observed: Parents' difficulties (such as alcohol abuse); Childcare concerns (problems in the parent-child relationship); Children in difficulty (behavioural and emotional problems). Referral to the Reporter at a young age was a significant risk factor that indicated an increased likelihood of more intensive involvement from the Children's Hearings system.

After follow-up it was found that children under supervision were referred at a younger age and had a higher number and variety of referral grounds. Almost 75% of children had been referred on offending grounds prior to the start of the study period

with an average of over ten prior referrals and an average age of 10.2 years at first referral. By the end of the follow-up period, 31% of the children who were originally referred were subject to a supervision requirement and were mainly boys between the ages of 12 and 15. The average age of supervision termination was 16 years 6 months. The composition of the 40% (465) who were referred to the Reporter on offending grounds were found to be predominantly male (4/5 of the group) and aged between 14 and 15 (2/3 of the group). Few youths aged 16 or over were referred on offending grounds, which indicated the sharp demarcation point of the child and adult systems. After two years, 22% (256) of the cohort reached the age of 16 and could be identified and tracked into the Scottish Criminal Records Office system. It was found that 130 of the 256 young people (mainly males) had been convicted by an adult criminal court, mainly a summary court. Of this group, one third received community disposals nearly half were fined, and just under a quarter (31 people) had been held in custody before the age of 18. Most of the offences perpetrated by cohort members were non-violent and over half were property related.

The Waterhouse *et al.*, (1999) study indicates that children referred on offending grounds are often identified early with non-offending grounds referrals. Being referred at an early age and having a high number of referrals was found to be predictive of greater involvement with the Hearings system. In addition, children who were referred to the Reporter and the Procurator Fiscal may be at an elevated risk for future custody and also at a greater need of compulsory measures of care in order to address their offending behaviours. Waterhouse *et al.*, (1999) also highlight that little is known about the outcomes of the effectiveness of supervision with young people.

In order to supplement the findings of the Waterhouse *et al.*, (1999) study a further study was conducted by Whyte *et al.*, (1999) with the intention of gaining a better understand of the characteristics of the 113 cohort members who were jointly reported to the Reporter and the Procurator Fiscal by following them up after a period of two years. This group comprised of 101 males and 12 females who were from 13 to 17 years of age, with two-thirds of them being 15 and 16 years old. All of

this sample were found to have long histories within the Children's Hearings system in relation to offence grounds referrals and as a group were recorded to have 1,870 offences against them. These offences were mainly in relation to "dishonesty", motor vehicle offences, and "other" offences of which a large proportion were in relation to drugs. Only 4% of the offences were recorded as being non-sexual crimes of violence. In addition to their prolific offending histories this sample were also known to the Children's Hearings system in relation to referrals made on care and protection grounds (in over a third of cases), particularly in relation to them being the victims of abuse.

Whyte *et al.*, (1999) found that this group had grown up in very adversarial and deprived backgrounds in comparison to other Scottish children. School records, in 71% of cases, were found to contain information about the child being disruptive or disinterested in schooling and having a poor attendance record. Around three quarters of this group who had left school were unemployed and reliant upon state benefits as their source of income. Within this sample of 113, 18% were recorded as having serious drug or alcohol problems and 20% were regarded as suffering from some form of psychiatric condition at the time of the survey. Consistent with other studies that report a relationship between parental criminality (e.g. Farrington, 1989), 24% of this sample were also recorded as having parents who had a history of offending. These background factors are commented on by Whyte *et al.*, (1999) as being consistent with the patterns that are observed in other studies and are consistent with the Kilbrandon philosophy that young people with offending behaviour problems also have a wide range of social, educational and welfare needs.

After two years it was found that 79% of the 113 had "graduated" into the adult criminal justice system and had at least one recorded conviction. Their offences were generally not serious in nature and had been dealt with in the Summary Court; disposals included community based supervision from Social Work in 57% of cases and fines ranging from £30 to £100 and compensation orders of £32 to £300. However three of the cohort had appeared in the High Court and two in the Sheriff Court. Custodial disposals had been given to 34% of the sample, and Whyte *et al.*,

(1999) comment that between half and three quarters of the offences that resulted in the first custodial sentences dated from around the time that their Supervision Requirement from the Children's Hearings system had been terminated. The authors report that within the files there was little record of the nature and quality of the interventions and supervision that was provided to this group and conclusions as to how effective it was were therefore not drawn. Information within the files did suggest that the most common reason for recommending the termination of a Supervision Requirement was in relation to a lack of co-operation. Given the powers within the legislation to remit cases back to the Children's Hearings system for disposal this option was exercised in only 12 of the cases. Whyte *et al.*, (1999) argue that this group of young people, who presented with a range of social risk factors in addition to their persistent offending behaviours, were in effect being discharged early from the Children's Hearings system and transferred to the Criminal Justice System. The authors draw attention to the fact that this "waiver" type process does not reflect the welfare basis of the system in relation to this group of disadvantaged young people.

Persistent Offenders and Fast Track Hearings

As discussed in chapter 1, the Scottish Executive within *It's a Criminal Waste: Stop Youth Crime Now!* (2000), proposed to address persistent youth offending by establishing a well-resourced "fast-track" system of Hearings for persistent offenders under the age of 16. The evaluation of the fast-track Hearings by Hill, Walker, Moodie, Wallace, Bannister, Khan, McIvor, Kendrick (2005) compared the pilot fast-track sites with similar areas in order to evaluate the effectiveness of the process. Those young people who were labelled "persistent offenders" were considerably more likely to have histories of residential care than other offenders. It was found that persistent offenders were processed through the Hearings systems more quickly (such as shorter time periods between referral and Hearings) in the Fast Track areas were than the comparison areas. More significantly however Hill *et al.*, (2005) report that in the comparison sites there was a smaller increase (of 8% from 2001/2 to 2002/3) in offence grounds referrals when compared to the Fast Track areas (42% increase over the same time period). These findings could be regarded as indicative

of negative effects that are a consequence of the “persistent offender” label or differences in processing through the fast track system. Hill *et al.*, (2005) however, stress that the differences in offending rates in this study may be a consequence of the comparison areas not being precisely matched and that a number of differences emerged which may have implications for the findings observed.

A further study, *On the Right Track: A Study of Children and Young People in the Fast Track Pilot* (SCRA, 2006) describes the backgrounds and circumstances of persistent young offenders within the fast track system. These children and young people were found to come from backgrounds characterised by various forms of disadvantage. One in three were found to live in a single parent family structure (and one in four living in some form of residential care) and 72% of this group had also been referred on a non-offence (care and protection) grounds. In addition 56% of this group exhibited problematic substance misuse; 93% had problems in relation to their education; and 73% had experienced problems with parental or family relationships. These findings taken together indicate that within the group of children and young people referred to the Reporter on offending grounds there are a minority who present with a greater number and frequency of these referrals. This group also appears to present with greater needs in relation to non-offending issues.

Evaluation of the Hamilton Sheriff Youth Court Pilot

The minority of young people who are serious and persistent offenders have been found to present with a range of non-offending needs (e.g. Whyte *et al.*, 1999). This group who are often on the periphery of the Hearings System due to their age and offending levels are very similar to the population who were included in the study of the Youth Court. The recommendations made by the Scottish Executive within *Scotland’s Action Programme to Reduce Youth Crime* (2002), as discussed in chapter 1, produced in **June 2003** the first Youth Court which had **the remit of addressing the population of persistent offenders who were aged between 16 and 17 years in the Hamilton Sheriff Court area. McIvor, Malloch, Brown, Murray, Eley, Piacentini and Walters (2004) produced an interim report based on their evaluation of the Court’s first six months of operation. The authors found that during the period between June and December 2003, there were 147 referrals for 120 people who had been charged**

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with offences on three separate occasions within the past six months. Of those referred, most were between 16 and 17 years of age, and only one was 15 years old; of the 120 referred, 95% of them were male.

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The authors conducted a number of interviews with Sheriffs who regarded the disposal option of electronically monitored curfews as an alternative to custody in positive terms. In response to the issue of “net widening” the Sheriffs interviewed did not regard it to be the case that the Youth Court pilot resulted in young people appearing in the Sheriff Court who would not otherwise have done so prior to the pilot. The evaluation indicated that the pilot was considered to be working well; specifically there was felt to be a range of improvements including: greater clarity of role amongst agencies involved; cases being “fast-tracked” through the court and the “rolling up” of charges under one appearance; and the development and provision of community programmes for the young offenders involved. On the issue of recidivism levels there were some positive findings that indicated that in the short-term there was a reduction in re-offending. The small numbers of young people and the short-time frame prevented the authors conducting a more comprehensive analysis.

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3.5. Discussion

From the findings of the system in its earlier period of operation such as Martin *et al.*, (1981), to more recent studies by Waterhouse *et al.*, (1999), Gault (2003), and Waterhouse *et al.*, (2004) there are a number of consistent factors in relation to the young people who attend Hearings. Children from economically deprived backgrounds and from single parent families appear to be disproportionately referred to Reporters and to become subject to Supervision Requirements. The literature on the relationship between socio-economic status and offending indicates that there is a complex interaction of variables. Rutter, Giller and Hagell (1998, p.202) suggest that “the weight of the evidence suggests that social disadvantage and poverty are involved as distal factors in the causal processes that lead to anti-social behaviour.” Although socio-economic status may function as a risk “marker” that is correlated with other variables, which are causally related to delinquent development, this does not obviate its importance.

Support has been consistently found for the Kilbrandon Report's recommendation that one system address the needs of offenders and non-offenders due to their similar backgrounds. The Children's Hearings system is often oversimplified as addressing the "needs *not* deeds" of the child, however, this is not supported in current practice or within *The Children (Scotland) Act 1995*. Within decision making the child's welfare is considered paramount, unless members of the public require to be protected from serious harm. A further extension of this is that whilst the child's needs are regarded as the benchmark for intervention this should not be taken to mean that their deeds should be ignored, as this would also not be in the child's best interests.

The findings discussed above of the backgrounds of the sample of young people included in the fast track pilot (SCRA, 2006) found a range of criminogenic needs and risk factors (substance misuse in 56% of cases; education problems in 93%; and 73% had problems with family relationships) were present amongst persistent offenders. On this basis, persistent offenders could be seen to represent some of the most vulnerable and "needy" children and young people within the Children's Hearings system. However, these perceptions of risk and need do not appear to be reflected in practice as this minority group appear to be moved into the adult justice system sooner than necessary (Whyte *et al.*, 1999). In addition, the sample of young people who attended the Youth Court also appear to present with similar levels of needs (McIvor *et al.*, 2004) which could be addressed within the framework of a welfare model as opposed to a punitive justice model, as argued within the Kilbrandon Report (1964). The research reviewed here would suggest that there is a failure to address the needs of persistent offenders and prevent their progression into the adult criminal justice system (Hallett *et al.*, 1998; Waterhouse and McGhee, 2000).

The effectiveness of the Children's Hearings system, however, appears to be compromised when young people referred on offending grounds are inserted into the system to varying degrees with the intention of providing interventions. The welfare foundation of the Children's Hearings system, appears to focus on social and

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environmental issues (such as coming from a low socio-economic-status and single parent family background) and lacks attention to dynamic criminogenic needs that have been identified in the literature on effective practice. The finding that young people who are referred on offending grounds are largely very similar to those referred on care and protection grounds appears largely to be true; however, this observation describes the aetiology of these issues for children, not the most effective manner in which to provide interventions that are in their best interests. A child referred because she has witnessed domestic violence may come from an identical background as a child who is a regular truant from school, but clearly these children are likely to have very different intervention needs and should be given services that are appropriate. The argument developed by Waterhouse *et al.*, (2004) is that within the system there are a minority of young people who present as “villains” and “victims” who have different degrees of need. In relation to persistent offenders specifically the Children’s Hearings system through Supervision Requirements could be more effective in addressing these needs, whilst still not requiring a separate system for offenders and non-offenders (as contended by the Kilbrandon Report).

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A central argument to this thesis is that when a child is referred on non-offending grounds these should be considered firstly as being welfare needs, but also in many cases, they are also indicative of dynamic criminogenic needs (such as poor parental supervision, substance use and “falling into bad associations”). This is not to argue that “what works” type interventions should be given to all children referred, as the majority of young people desist without coming to the attention of the Reporters or receiving any intervention. The decision to allocate specialist resources would be facilitated by the Children’s Hearings system by placing greater emphasis on the risk principle from the effective practice literature. This is congruent with the recommendations made in the Kilbrandon Report which describe a focus on the provision of “treatments” for individuals not on the basis of their “offence which, in the eyes of the law, is comparatively minor, but which has causes which require long-term treatment” (p. 29). The risk principle within this context also supports the argument that young people who may have been referred for very minor offences can

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also present with a high risk of re-offending due to a wide range of criminogenic needs that are found in non-offence referrals.

Risk assessment tools (such as ASSET and YLS/CMI) require the consideration of a number of criminogenic needs (both static and dynamic) that are relevant to a holistic assessment of the individual. These assessments highlight areas of need and also contribute to an overall risk rating. This combination of a level of risk and identification of dynamic criminogenic needs could be used to advise on resource allocation, and help to direct intervention in a manner that is relevant for each individual. Equally, the absence of criminogenic needs would result in a low risk rating, which could be used to justify diversion following the “no order principle” (if the main issues of concern relates to offending and not care and protection) for a large number of children and young people referred on offending grounds. The correct use of structured risk assessments would reduce the potential of net widening and restrict the number of children and young people entering the system on offending grounds who do not present as having high needs in this area. Moreover, due to the discretionary nature of many of the gatekeeping practices within the Children's Hearings system a structured assessment process would provide a degree of consistency and transparency in practice across Scotland.

The smaller number of children who are placed on Supervision Requirements (in relation to their offending) and who present with a high risk of recidivism, should be provided with the opportunity to participate in interventions that aim to address their criminogenic needs, in an effective way, taking into consideration responsivity factors of maturity, learning style, ethnicity, motivation and gender. McCord's (1992) finding of the negative effects of intervention are resonant with findings supporting structural labelling theory (Bernberg *et al.*, 2006) which indicate that some interventions embed young people deeper into delinquent networks and result in deviance amplification. Given this potential of negative effects, good quality assessments of risk and criminogenic need, which are then used to refer children and young people to well delivered and responsive interventions would appear essential within a welfare system incorporating the minimum intervention principle. Furthermore,

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Chapter 4.

Methodology.

Introduction

This chapter aims to present the methodology used within the data collection by and the analyses of the quantitative and qualitative data presented in the following chapters. Building on the critique of the literature reviewed in chapter 2, the following section will describe how the use of longitudinal data has been analysed in a way to control for the potential confounding effects of characteristics of the sample. Later in this chapter the methods used to gather qualitative data from a sample of cohort members, their parents and professionals is described.

4.1. The Edinburgh Study

This section will briefly introduce the Edinburgh Study of Youth Transitions and Crime (referred to within this thesis as the ESYTC, or the Edinburgh study) as the data collected by the Edinburgh Study is the source of the quantitative data used throughout this thesis. The Edinburgh Study is a prospective, longitudinal study of a cohort of around 4,300 young people who all started secondary schools in Edinburgh on August 1998 (see Smith and McVie, 2003 for a discussion on theory and methodology of the Edinburgh study). All of Edinburgh's 23 state funded mainstream secondary schools, 8 of the 14 privately funded independent schools and 9 of the 12 special educational schools participated in the study.

The Edinburgh study aims to generate findings that are comparable to other contemporary longitudinal studies such as those being conducted in Dunedin, Chicago, Pittsburgh, Rochester, and Denver. The Edinburgh study does not aim to develop explanatory theories on the childhood origins of offending, but aims to explore the mediating factors involved in the translation of "inclinations" into more serious and problematic levels of offending. The Edinburgh study also aims to explore areas such as: the resilience of young people and the processes of desistance; the role of gender within the very different patterns of offending behaviour between males and females; and the effect on offending of interactions with formal agencies of control. Within these investigations, the Edinburgh study uses an ecological framework and aims to

integrate and describe the interactions between the domains of risk and protective factors at the level of the individual, with data collected from the children's residential neighbourhoods and their broader social contexts.

Self report questionnaires were completed by cohort members in annual "sweeps" over six years. The questionnaires included a wide range of questions relating to the previous twelve months; this reference period does not apply to sweep one, where data was collected with "ever" as the time period rather than the past year in order to provide a continuous picture of their development. Topics included within the questionnaires were: levels of self-reported offending and substance use; victimisation and adult harassment; peer relationships, gang membership; leisure activities including hanging around; family structure and parenting styles; school experience; neighbourhood dynamics; and personality variables such as impulsivity and self-esteem. The cohort's response rate across sweeps for the self report questionnaires in comparison to similar longitudinal studies is very high: Sweep 1, 96.2% (N = 4300); Sweep 2, 95.6% (N = 4299); Sweep 3, 95.2% (N = 4296); Sweep 4, 92.6% (N = 4144); Sweep 5, 89.1% (N = 3856); Sweep 6, 80.5% (N = 3531).

In addition to the questionnaires given to the cohort members, from sweeps 1 to 6 additional information was collected from a number of other sources including: a survey of parents in sweep 4; data from School, Social Work records (with sweeps 1 to 4 available at the time of writing); Children's Hearings records (covering the whole age range that the system applies to); a teachers survey in sweep 2; and offending data up to the age of 16 from police and Scottish Criminal records up to the age of 19. The quantitative data used in later analyses relate to data collected from cohort members and from the Children's Hearings system over the period from 1998 to 2005 (the author was involved in the collection of a substantial proportion of this data).

The main advantage of this method of data collection is that the longitudinal design can provide detailed information about the development of offending over time, including periods of onset and desistance; and patterns of offending including prevalence, frequency and seriousness. In addition, by linking self-reported data to

other objective sources of information it is possible to evaluate the effects of contact with official agencies such as the youth justice system (see Farrington 2006, for a review). By measuring repeated observations of the same individuals over time, rather than at a single time within a cross-sectional study, longitudinal data allows correlated findings to be disentangled through their temporal relationships; and this enables the developmental sequences of events to be identified. Randomized control trials are arguably the best method of investigating causality and longitudinal methods, on this basis, have less power than experimental studies.

The quasi-experimental method, which is not based on random assignment of individuals to the variable being studied (which in this case is offending), does however still permit investigations into the effect of a range of factors but it is not possible to eliminate the effects of confounding variables. The combination of randomization with prospective data collection within “longitudinal-experimental” studies combines both of these methodological advantages (for example the Cambridge-Somerville study, McCord, 1990; and the Perry Pre-school Programme, Schweinhart *et al.*, 2005). However, within criminological research it is not always possible for ethical and legal reasons to randomly assign individuals to conditions in order to investigate their effects longitudinally (for instance the effects of custody lengths on recidivism). The disadvantage of the quasi-experimental longitudinal method, over randomised controlled trials, of a lack control over potentially confounding variables can be circumvented by the use of multivariate analyses where individuals within the analyses act as their own controls. This process of disentangling potentially confounding variables using regression models is described later in the following section. The quasi-experimental process of closely matching individuals in the intervention group to similar individuals in the control group will then be described before the methods used to collect the qualitative data are presented.

4.2. Multivariate statistical analysis

The lack of control over potentially confounding variables, as discussed in chapter 2, can result in findings that do not allow for unequivocal conclusions do be argued.

Multivariate analysis, such as the regression method, allows for each of the potentially confounding variables to be examined for their individual relationship to the outcome. Within regression analyses, the variance in the outcome (such as receiving a conviction or not, after the age of 18 years) can be examined in relation to each individual predictor variable (such as having a conviction at the age of 15, having parents with convictions etc) which are entered into the model, independently of the other factors (for a detailed discussion on regression analysis see Field, 2005).

An example of this potential effect of variables confounding the outcome is the study by West and Farrington (1977) which was discussed in chapter 2. The authors matched two groups on the basis of their scores on a scale of self-reported delinquency and compared longitudinally those who had convictions with those without convictions. West and Farrington (1977) did not control for other factors which may have influenced their finding that having been convicted increased the likelihood of having further convictions. It may have been the case that number of unmeasured factors could have accounted for this outcome and that there was no labelling effect present. However, a later study by Hagan and Palloni (1990), using West and Farrington's (1977) original data, controlled for a range of potentially confounding factors (such as parental supervision style and delinquency ratings from peers) within a regression model and supported the original findings.

In order to prevent problems of confounding variables obscuring outcomes, this thesis draws on two forms of multivariate analyses (binary regression and ordinal regression) within the quantitative chapters. Binary regression allows an examination of the effects of a range of variables on a binary, or dichotomous, outcome (for example, it is possible to independently examine the effects of a number of previous charges, gender, and frequency of alcohol use, on the outcome variable of being referred to the Reporter, or not referred to the Reporter). When using ordinal regression the outcome variable can be ordered in Likert type scales (for example the ordinal outcome of seriousness of offending: low, medium, high, being predicted by a range of independent variables). Ordinal and binary regressions do not require the data to be normally distributed, which makes them particularly useful for the

analyses conducted here as the majority of the data have a strong negative skew (see Field, 2005).

The interpretation of the regression results reported in the following analyses rely on a range of values that are given as output from the statistics software. The standardised Beta values given in the following analyses show the relative importance of each predictor variable assessed. Similarly, the Exp(B) values (which is the exponential value of Beta) give the change in relative odds of a particular event being found if the value of the outcome variable changes category (whilst controlling for the other predictor variables) in relation to the outcome of the model (for example the odds of being arrested (outcome) are increased by being male (predictor) by 3:1). The Cox & Snell R square and Nagelkerke R square figures, given later, are related statistics which summarize how much of the variability within the data has been successfully explained by the factors in the model. These figures can be interpreted like the R square values given in a multiple regression, or in a Pearson correlation in that a higher figure reflects a greater percentage of variance accounted for. The Nagelkerke R square figure is the more useful of the two and has a range of 0 to a maximum of value of 1 (unlike the Cox & Snell R square values which are normally smaller).

Although more robust than many parametric statistics, regression models do require that a range of assumptions are met. The first of these relates to the sample size, and an approximate guide that is recommended is that there are around a minimum of 15 participants for each predictor variable used in the regression model (Stevens, 1996). A further assumption is that the variables do not show multi-collinearity, in that the predictor variables are not derived from other versions or forms of the predictor variables that are included in the model. In all cases where regression analyses are used in this thesis these assumptions have been tested and met.

The statistical analyses conducted within this thesis used version 14.0 of the Statistical Package for the Social Sciences (SPSS). Using this software it is possible to use different methods of obtaining the most accurate regression models. The

“forward stepwise” or “backward stepwise” methods automatically incorporate a likelihood ratio test that determines which variables to retain in the model on the basis of their significance in relation to the outcome. In addition, when creating models in order to examine variables more closely, the “Enter” method can be used as it allows for a precise step-by-step examination of each variable’s contribution to be made, before variables are manually removed, or retained.

4.3. Matching using propensity scores

As discussed earlier, within quasi-experimental designs where it is not possible to randomly assign participants to study conditions, case control matching can be used to investigate the effect of an intervention when compared with a control group who did not receive the intervention. However, the process of attempting to closely match cases over a number of variables (especially in relation to continuous variables) can result in there being no suitable individual in the control group available to match to (Rosenbaum and Rubin, 1983). The propensity score matching method was first described by Rosenbaum and Rubin, (1983) and its use has mainly been limited to research within the field of economics (Heckman, Ichimura, Smith, and Todd, 1998; Dehejia and Wahba, 1999). The propensity score matching method has two advantages over quasi-experimental approaches: firstly the effect of the intervention can be estimated non-parametrically; secondly it resolves the issue of there being a lack of overlap in variables between the intervention and control groups (frequently referred to in the literature as the “common support problem”) which can produce a bias in outcomes. The process of matching attempts to overcome the problem of a lack of randomised allocation to the experimental and control group conditions by mimicking the properties of the randomisation process. The findings of Rosenbaum and Rubin (1983) show that a propensity score, derived from a regression analysis containing all of the matching variables, functions in a way which means that matching conventionally using the full set of variables is not necessary.

There are several methods of matching cases on propensity scores described in the literature and “calliper matching” was selected as it reduces the likelihood of poor matches being made (see Heckman *et al.*, 1998). The process of calliper matching

entailed comparing the sample that had been referred with the sample that had not been referred on their propensity scores. Matching was conducted on a case by case basis applying a calliper “propensity range” in order to match as closely as possible to the next “nearest neighbour” (in many cases propensity scores were identical) within a narrow tolerance range of scores of less than 0.1 of a difference (Smith and Todd, 2005). In cases where the propensity scores between groups fell outwith the calliper range no match was made. Effectively the process of calliper matching imposes a quality control criterion on the process.

4.4. Qualitative methodology

Interview data were collected from a sample of cohort members, their parents and professionals (all interviews were conducted by the author of the present study). In order to further explore and augment some of the findings produced by the quantitative analysis in order to develop “thick descriptions” (Geertz, 1973) of the functioning of the Children's Hearings system. Yin (1994) makes the argument that this qualitative methodology is intended to produce findings that elaborate and develop the theory and do not need to represent the sample more generally; therefore cases do not have to be typical, and extreme cases can also be included on the basis of what they add to the development and description of the processes. This case study methodology advocated by Yin (1993, 1994) has been used in a number of research studies carried out with programmes for high risk youth. Yin argues that the multiple case study design can be conceptualised as repeated examination of separate entities that allow the testing of theory which, can be replicated through additional cases producing convergent findings.

The research aims of the qualitative case study component were:

- to understand the experience of the system from the perspective of the offenders, their parents and caseworkers;
- qualitatively describe and analyse the individual factors that have resulted in a young person being referred to the Children's Hearings system;
- and to develop a narrative account of the impact of the Children's Hearings system on each individual's delinquent development.

In the present study, interviews with individuals from the cohort were essential in order to understand the impact of the Children's Hearings system from their perspectives and within their social contexts. These interviews gathered data on experiences derived from interactions with the system and allowed the collection of detailed narrative data on background factors related to events such as developmental pathways, offending, supervision, desistance and potential intervention points for each individual. Methodologically, cases were selected on the basis that they were similar on a number of independent variables (e.g. levels of offending) but differed on the key dependent variable (degree of contact with the Children's Hearings system) in order to explore the factors involved that best predicted this outcomes.

Case selection criteria

The case selection process was theory driven and was not intended to create a representation of the entire cohort since this macro-level is covered within the quantitative work presented in the previous chapters. The purpose of the qualitative data collected and presented here was to explore observations from the quantitative findings and develop explanations to account for these observations. In order to obtain a richer and wider perspective on the Children's Hearings system a number of cohort members' parents were interviewed and these formed the "parents group". In addition, a number of professionals were interviewed in order to collect information on the system from their perspective. These individuals were selected on the basis of having a good depth of experience and an extensive relationship with the Children's Hearings system.

The sample of cohort members was selected from the Edinburgh Study database of active cohort members. Attention was focused particularly on those who had responded within the most recent sweeps of data collection (sweeps 5 and 6) and who been referred at some stage to the Children's Hearings system with offence grounds. Two lists of names were produced, one of which reflected typical patterns

of referral and disposal and the other included those who displayed more extreme and serious offending patterns.

The first group of potential interviewees was a sample of cohort members who had presented as persistent offenders having, attended numerous Hearings for offence grounds referrals and had been subject to the full range of disposals available to the Panel Members. This group of persistent offenders had been deeply inserted within the system, having had a long history of contact from an early age and been placed in children's homes, residential schools and secure units. The interviewees were selected randomly from the small number of those most serious and persistent offenders within the whole cohort.

The second sample population was selected on the basis that their referral pattern and contact with the Children's Hearings system were more typical and similar to the majority of the cohort that were referred on offending grounds. Cohort members in this sample had offended in relatively minor ways, had attended one or two Hearings and were not deeply involved with the system. Most commonly, these young people had been placed on a Supervision Requirement without conditions (i.e. within their parental home).

Contacting the interviewees

The cohort members in the samples described above were contacted initially by letter, informing them of the proposed interviews and giving them the opportunity to either schedule an interview at a time and date that was convenient for them, or to withdraw from this element of the research. This method of contact yielded no responses, and a number of the letters were returned to the sending address as the interviewee's address was no longer valid. Cohort members were then contacted using the telephone numbers that they had given to the Edinburgh Study at the most recent sweeps of fieldwork for the purpose of re-contacting them in the future. Telephone contact, using land-line or mobile telephone numbers proved to be much more successful, and the majority of those contacted agreed to participate in an interview. Cohort members who could not be contacted by telephone were visited in

at their last known home address, but many of these addresses were no longer occupied by the cohort member or their families. This was particularly the case for the sample of persistent and serious offenders who were much more likely to have moved away since the last contact. Many of these addresses were no longer occupied by the cohort member or their family. Initially, it appeared that obtaining interviews with some of the more serious and persistent offenders would not be possible. However, a number of this group were found to be serving custodial sentences in a Young Offender's Institution and interviews were arranged and conducted in that location.

Elements of a "grounded theory" approach were adopted for the collection and analysis of the qualitative data (Glaser and Strauss, 1967). A semi-structured interview (see appendix D) was prepared with the focus of the questions being related to the interviewee's perceptions of the Children's Hearings system with regards to their offending behaviours. Due to the selection criteria used the majority of the cohort members interviewed (who were referred to the Children's Hearings system and/or attended Hearings) had been referred on offending grounds, although non-offence grounds were also frequently referred to the Reporter (particularly, grounds of being beyond parental control, or truancy). A further list of questions intended for the semi-structured interviews (see appendix D) with professionals was prepared and this also focused primarily on the issues surrounding offending and how the various agencies involved responded.

Conducting the interviews

The interviews were conducted in a variety of settings, decided primarily on the basis of the convenience for the interviewee. These included the cohort members' and parents' homes, prison interview rooms, and the professional's place of work. Interviewees were given a description of the purpose of the interview and their anonymity in presented material was assured. Once the interviewee had given their consent to be interviewed for the purposes of this research the interviews were recorded on audio-tape and then later transcribed verbatim. Two of the professional interviewees did consent to be interviewed, but refused to be recorded on audio-tape

as they were not comfortable with the assurance of confidentiality; these interviews were written in the form of long-hand notes during the interview process.

Interviews were conducted towards the end of 2004 and start of 2005 when the cohort members were aged approximately 18 years of age and were no longer within the Children's Hearings system. The interviews followed a semi-structured plan, which was not too rigidly adhered to allowing the interviewee to focus on what they considered to be most relevant to their experience. The semi-structured plan was used primarily as an *aide-memoir* in order to ensure that the interview covered the range of issues of interest. The grounded theory method adopted allowed for an inductive and ongoing interplay between data collection and theory development. Consequently, the interview structure shifted slightly in order to further explore new issues as the data collection progressed. The shift in data collection occurred primarily due to a desire to include more questions around the issues of deterrence and punishment, as these appeared to be largely how the system was perceived by the cohort members.

Once cohort members had been interviewed, one of their parents or carers was also interviewed (so long as the cohort member and the parent gave consent for this) in order to gain broader perspectives of the Children's Hearings system within the family context. Frequently, the parent had other children who were also involved with the system and their perspectives were often richer as a consequence. Three cohort members specifically requested that the interviewer did not attempt to contact their parents in order to conduct further interviews. This was mainly due to issues of conflict in their relationship with their parents and consequently these additional interviews were not conducted. Findings from the analysis of interviews are presented in chapter 8 under a number of thematic headings.

In the following chapter, quantitative findings on referral patterns and gatekeeping practices will be presented. A binary logistic regression predicting referral on any grounds to the Reporter across all sweeps will be presented towards the end of this

chapter. In chapter 7 the effectiveness of the Children's Hearings system is investigated using the propensity score matching method described above.

Chapter 5.

Initial analyses into the cohort and the Children's Hearings system.

Introduction

The previous chapters discussed the literature relating to studies of diversion, deterrence, effective interventions and the processes within the Children's Hearings system. Taking these studies as the context for the present evaluation (using the methodology described in chapter 4) this chapter presents data from the Edinburgh Study on the cohort's referral patterns to the Children's Hearings system. This chapter also aims to investigate one of the Kilbrandon Report's key arguments, that the circumstances of children presenting with offences and welfare concerns show underlying similarities. Cohort members with multiple offence and non-offence grounds are compared in order to examine differences within groups. This chapter then describes the advantages of the statistical process of regression analyses and presents findings using this technique in relation to predicting referrals to the Reporter.

5.1. The cohort's interaction with the Children's Hearings system

In this section, descriptive statistics will be presented on a range of variables that influence whether young people are referred to the Children's Hearings system. The data collection on the Children's Hearings system included detailed information on: Police charges; information on Social Work involvement with the child and offence focused interventions; grounds of referral and the reasons made for deciding to hold a Hearing. In the following section data were derived from seven collection sweeps from the Children's Hearings records and six sweeps of questionnaire data collected from the cohort members. The following analyses will focus on the patterns of interaction (no contact; referral; and being placed on a Supervision Requirement) between the cohort members and the Children's Hearings system across the seven data collection sweeps that cover the age range of referral to the Children's Hearings system. These data describe the incidence of referrals and the relationships between these patterns and the characteristics of the cohort in relation to their gender, family structures and measures of socio-economic status.

Referrals to the Reporter.

The vast majority (81.1%) of the 4597 cohort members had no contact with the Children's Hearings system at any point. A smaller proportion (18.9%) of 873 cohort members (492 males, 381 females) was referred to the Reporter at some point over the seven sweeps. In figure 1, the incidence of referrals (on all grounds) over seven sweeps are presented.

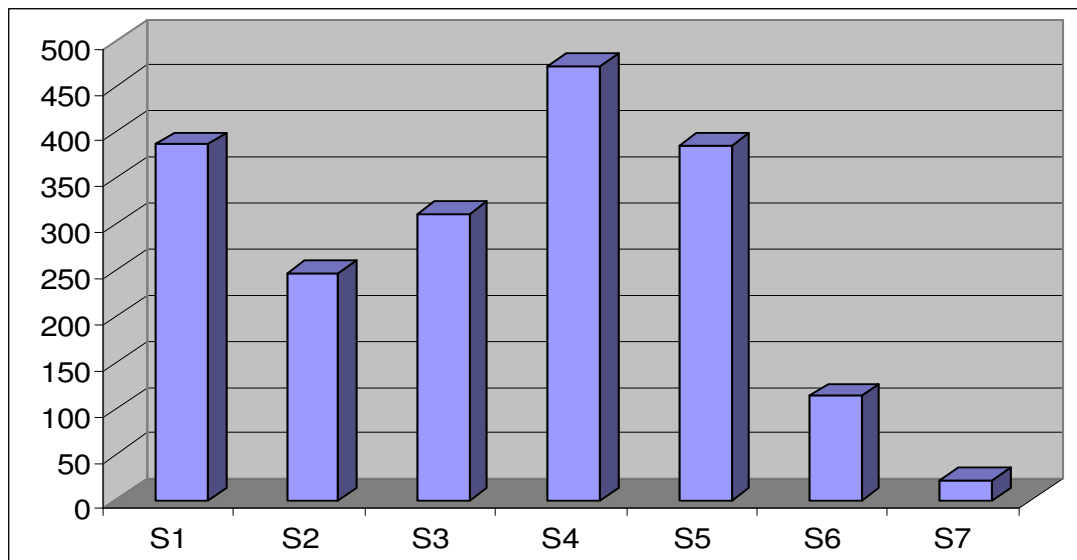


Figure 1: Total number of referrals across sweeps 1 to 7 (n = 873).

The comparison of sweep 1 data with the other sweeps is problematic due to sweep 1 encompasses a longer time period than the other sweeps in which data were collected annually. There is an increase in the number of referrals made to the Reporter from sweep 2 that peaks at sweep 4. There is a fall in the number of referrals from 5 that becomes more pronounced in sweeps 6 and 7 when the cohort matures out of the Children's Hearings system.

Grouping of referrals by grounds

In order to further explore the referrals patterns, the grounds of referral were broken down into groupings of: offence only referrals, non-offence only referrals and combined referrals. The combined referrals grouping relate to individuals who were referred to the Reporter on both offending and non-offending grounds together in the same sweep. These data are presented in the following figure (Figure 2).

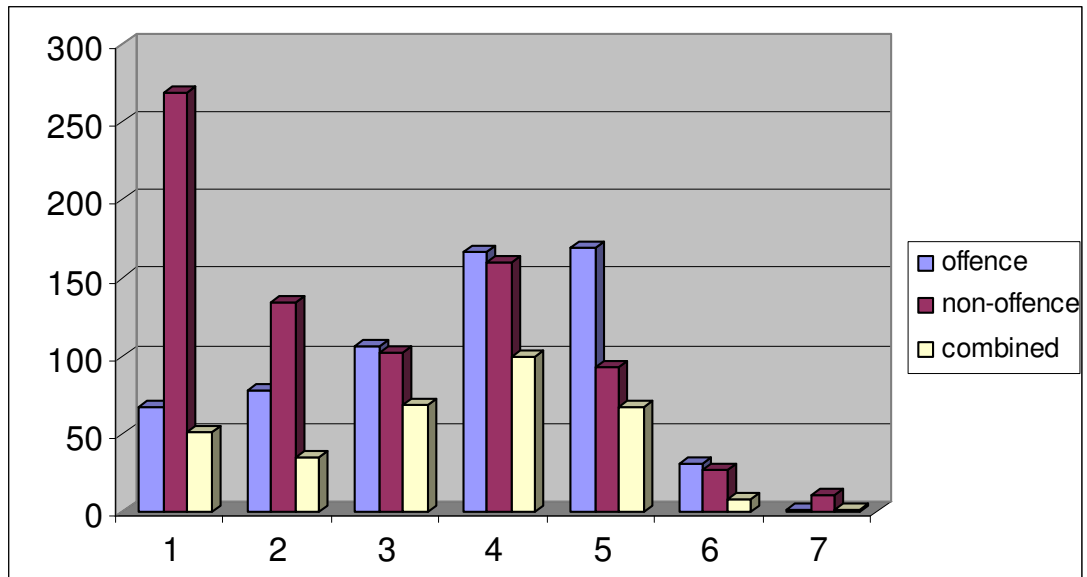


Figure 2: Cohort members referred to the Reporter by grounds groupings over sweeps (n = 873).

The above figure shows the relationship between the groupings of referrals and the age of the cohort. Overall, non-offence referrals decreased from sweep 1 and offence grounds referrals increased from sweep 1 to sweep 5. Offence only referrals can be seen to dramatically drop after sweep 5 as the cohort is approximately 15 to 16 years old and offences at this age (especially for those not already on a Supervision Requirement) would not be directed to the Children's Hearings system.

Gender and Referrals

When the referral data are broken down into gender of the cohort member referred the pattern shown in the following figure emerges (figure 3). The figure above shows that at every sweep there were more males referred (when all grounds are considered) to the Children's Hearings system than females.

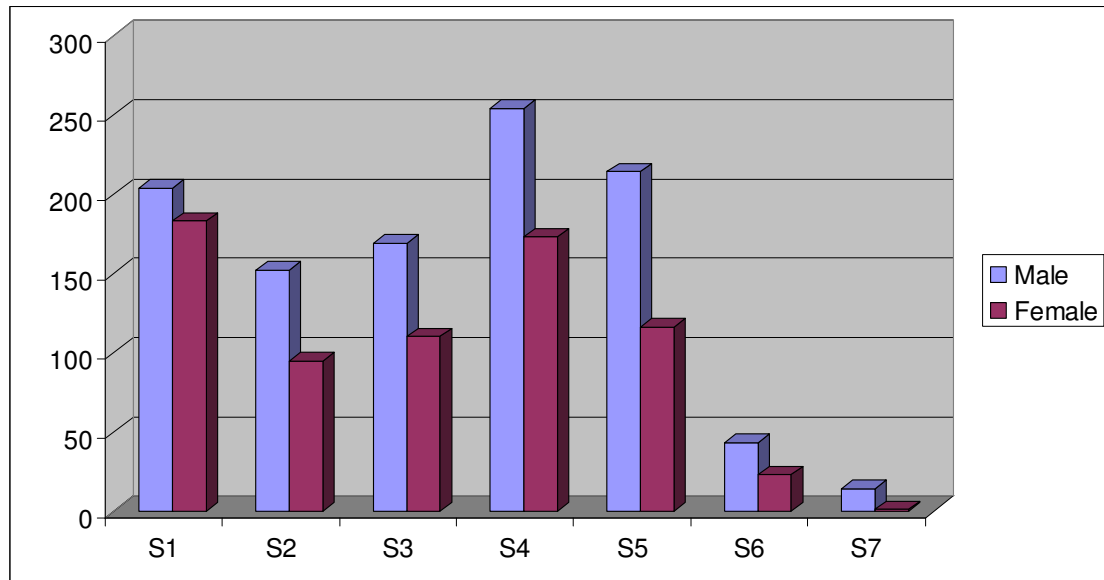


Figure 3: Cohort members referred (all grounds) to the Reporter by Gender across sweeps 1 to 7 (n = 873).

The above figure shows that in every sweep there were more males referred to the Reporter than females. In order to establish if this pattern was significant a series of Pearson chi-square tests were used to investigate this pattern across the whole cohort (n = 4597) and the results are given in the following table (Table 1).

Table 1: Cohort members referred to Children's Hearings system (all grounds) by gender (n = 4597).

		Referred (n = 873)	Never referred (n = 3724)	Sig.
Sweep 1	% Male	52.71	50.78	n.s. p = 0.47
	% Female	47.29	49.22	
Sweep 2	% Male	61.54	50.34	p < 0.001
	% Female	38.46	49.66	
Sweep 3	% Male	59.49	50.33	p < 0.001
	% Female	40.51	49.67	
Sweep 4	% Male	58.47	50.08	p < 0.001
	% Female	41.53	49.92	
Sweep 5	% Male	61.40	49.99	p < 0.0005
	% Female	38.60	50.01	
Sweep 6	% Male	59.29	50.74	p = 0.02
	% Female	40.71	49.26	
Sweep 7	% Male	90.91	50.75	*
	% Female	9.09	49.25	

* Numbers in cell < than 5.

The results of the chi-square tests indicate that there was a significant association was found between gender and referral across sweeps 2 to 6. Over these sweeps there were more males than females referred. In sweep 1, the result was non-significant and although there were more males than females referred the proportions were found to be quite similar. In sweep 7, there were insufficient numbers of cohort members in order to perform the chi-square analysis (only 20 males and 2 females were referred in this sweep); however there were more males than females referred in this sweep. A similar pattern of more males being referred than females was found in an earlier study of the Children's Hearings system by Waterhouse *et al.*, (1999). In the following section, the relationship between gender and referrals on offence grounds are examined.

Gender and offence referrals

When all offence referrals are considered separately from other referral grounds over the seven sweeps the relationship between gender and offence grounds referrals can be investigated. Over the sweeps there was an incidence of referral on offending grounds of 953 occasions over this time period. These referrals relate to 526 cohort members (60.25% of the total number referred) who had been referred to the Reporter with offending grounds. The following table shows the prevalence of cohort members who were referred on offending grounds at each sweep (see Figure 4).

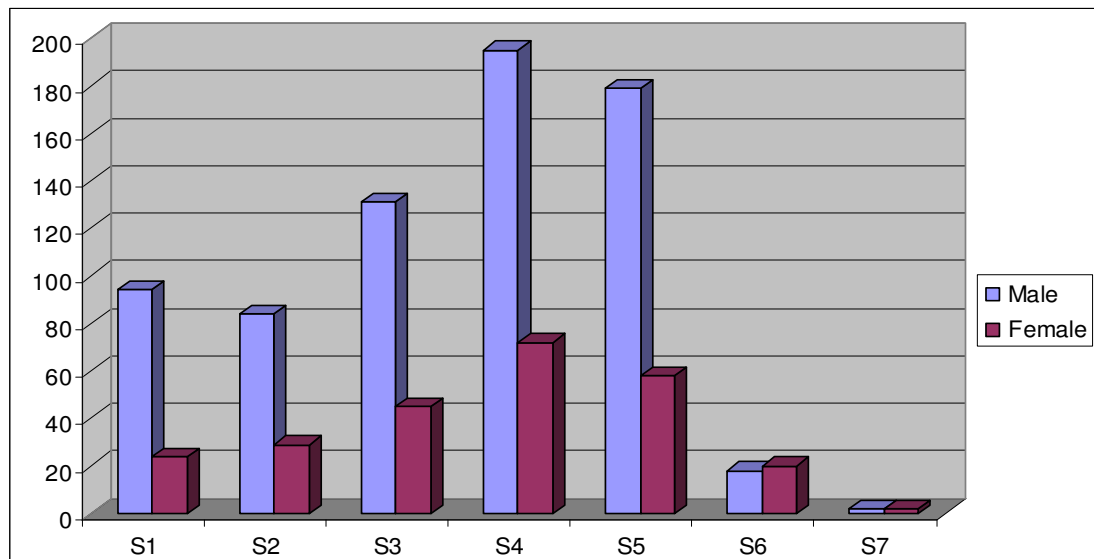


Figure 4: Cohort members referred with offence grounds by gender over sweeps (n = 526).

Across the cohort the incidence of referrals on offence grounds can be seen to reach their peak in sweep 4, then drop in sweep 5 and decline sharply in sweeps 6 and 7 when the cohort members were over the age of 16 and charges for offences were largely dealt with by the adult criminal justice system. In sweep 6 there is a shift in the pattern of referrals from being predominantly males being referred to slightly more females being referred. One possible reason for this shift may be that the police perceive the offending behaviours of females and males in this age group differently and choose to divert more females from Court.

The relationship between gender and offence grounds referrals at each sweep is shown in the following table (Table 2). The significance of the association was tested using Pearson chi-square.

Table 2: Gender and referral on offence grounds (n = 4597).

		Off Ref (n = 526)	No referrals (n = 4071)	Sig.
Sweep 1	% Male	79.66	50.19	p < 0.0005
	% Female	20.34	49.81	
Sweep 2	% Male	74.34	50.36	p < 0.0005
	% Female	25.66	49.64	
Sweep 3	% Male	74.43	50.01	p < 0.0005
	% Female	25.57	49.99	
Sweep 4	% Male	73.03	49.58	p < 0.0005
	% Female	26.97	50.42	
Sweep 5	% Male	75.53	49.61	p < 0.0005
	% Female	24.47	50.39	
Sweep 6	% Male	47.37	50.98	n.s. p = 0.65
	% Female	52.63	49.02	
Sweep 7	% Male	50.00	50.95	*
	% Female	50.00	49.05	
* Numbers in cell < than 5.				

Across sweeps 1 to 5 there were significantly more males referred on offence grounds than females. The analysis of sweep 7 data using a Chi-square test was not possible due to the small numbers of cohort members (2 males and 2 females). Clearly, being referred on offence grounds to the Reporter is more associated with males than females. This finding is consistent with other studies that indicate that

being male is one of the strongest risk factors for juvenile offending (e.g. Rutter *et al.*, 1998; Moffitt, Caspi, Rutter, and Silva, 2001). As with the previous graphs showing offence referrals, the decrease following sweep 5 should not be taken to simply represent a decrease in offending, but also a decrease in offence grounds referrals to the Children's Hearings system.

Offence grounds referrals and family structure

In relation to referrals to the Children's Hearings system a simple binary measure of the referred child's family structure (living with both birth parents, and living with one or no birth parents; see Appendix B for a definition of this variable). When this definition of family structure is applied to the whole cohort (reduced to 4277 individuals due to missing data on family structure for 320) the majority of cohort members (73.2%; 3131 individuals) lived with both parents. Cohort members who were *not* living with both birth parents made up 26.8% of the total (1146 individuals).

When examining the sample that was referred with offence grounds to the Reporter in relation to their family structure (n = 445, due to missing data for 81 cases) the following pattern emerges (Figure 5).

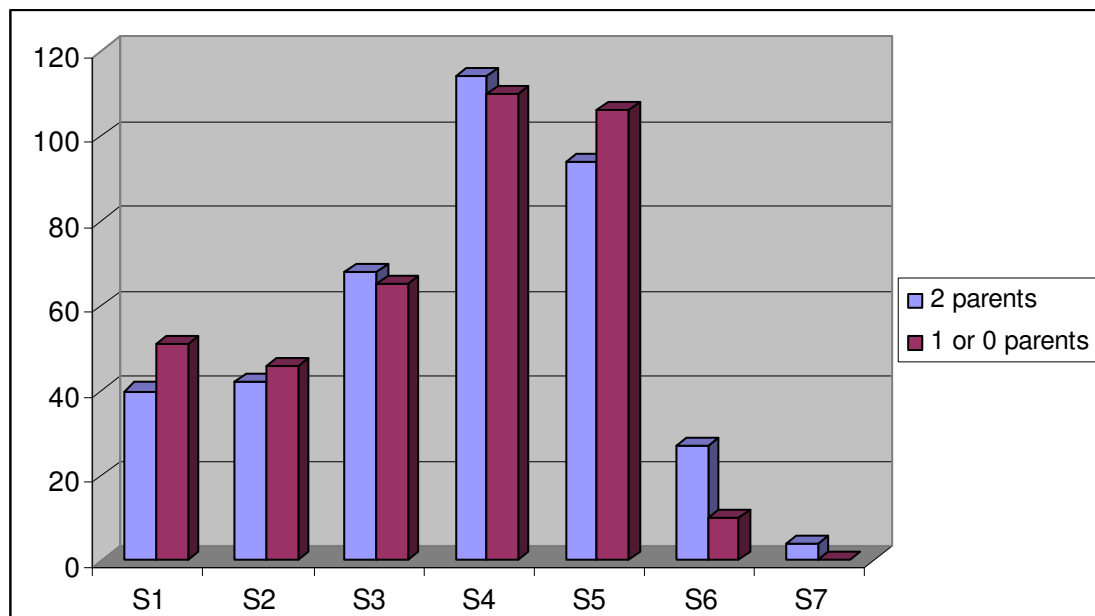


Figure 5: Cohort members with offence referrals by family structure (n = 445)

Given that approximately one in four cohort members come from a family where both parents are not present, they are clearly over-represented in the proportions shown in the above figure for those referred on offence grounds compared to the cohort as a whole. Similar findings were recently reported by SCRA where it was found that amongst those referred in the review period of 2005 to 2006, 46% were living within in a single parent family structure and only 31% lived with both birth parents (SCRA, 2006).

In order to examine if there was a significant association between family structure (2 parents; or 1 or 0 parents) and referral on offence grounds (referred on offence grounds compared with having never been referred) Pearson Chi-square analyses were conducted. The following table gives the results of these tests for the whole cohort (n = 4277, due to missing family structure data).

Table 3: Family structure and referral on offence grounds (n = 4277).

		Off Ref (n = 445)	No off ref (n = 3832)	Sig.
Sweep 1	% 2 parents	43.96	73.84	p < 0.0005
	% 1 or 0 parents	56.04	26.16	
Sweep 2	% 2 parents	47.73	73.74	p < 0.0005
	% 1 or 0 parents	52.27	26.26	
Sweep 3	% 2 parents	51.13	73.91	p < 0.0005
	% 1 or 0 parents	48.87	26.09	
Sweep 4	% 2 parents	50.89	74.44	p < 0.0005
	% 1 or 0 parents	49.11	25.56	
Sweep 5	% 2 parents	47.00	74.49	p < 0.0005
	% 1 or 0 parents	53.00	25.51	
Sweep 6	% 2 parents	72.97	73.21	n.s. p = 0.97
	% 1 or 0 parents	27.03	26.79	
Sweep 7	% 2 parents	100.00	73.18	*
	% 1 or 0 parents	0.00	26.82	
* Numbers in cell < than 5.				

Across the cohort the majority of children were living with both parents, which makes the above finding that the majority of children referred on offence grounds were not living with both parents particularly striking. On this basis, coming from a family background where both parents are not present appears to be significantly associated with being referred to the Children's Hearings system over sweeps 1 to 5.

In sweep 6, the family backgrounds of those referred were more similar to those who were not referred (resulting in there being no significant difference found). In sweep 7, all of those referred on offending grounds came from families where both parents were present (there were insufficient numbers to perform this analysis). These findings appear to indicate a reversal in the trend observed over the earlier sweeps. It is possible that this trend may reflect gatekeeping practices that result in some young people being retained within the Children's Hearings system at a point when they would be old enough for their offences to have been dealt with in Court. This apparent shift in practice is discussed later.

Offence grounds referrals economic disadvantage.

In this section the relationships between the cohort members' Socio-Economic Status (SES) background and contact with the Children's Hearings system will be discussed using a simple measure of Socio-Economic Status, based on the cohort member's parent's employment (Manual and unemployed, or non-manual). Using the variable based on the parents' Socio-Economic Status (which was produced by combining information over sweeps 1 to 4 in order to reduce missing data and increase the accuracy of the rating, see Appendix B for a description of this variable) it was found that 53.6% of the cohort were in the non-manual grouping. The following figure shows a clear overrepresentation of children from backgrounds where their parents are manual workers or unemployed (Figure 6).

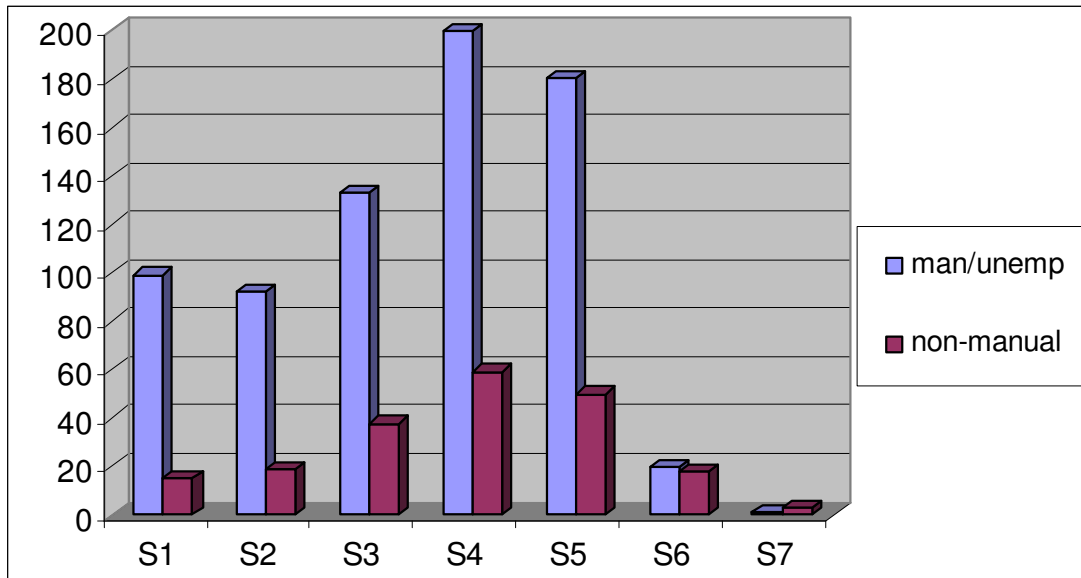


Figure 6: Cohort members with offence grounds referrals by SES (n = 4436).

There above figure indicates that children from manual and unemployed backgrounds were considerably over-representation proportionally in relation to offence grounds referrals. The significance of this association is explored using Pearson Chi-square and these results are shown in Table 4.

Table 4: Socio-economic status and referral on offence grounds (n = 4436).

		Off Ref (n = 510)	No off ref (n = 3926)	Sig.
Sweep 1	% Man / Unemployed	86.84	43.38	p < 0.0005
	% Non-Manual	13.16	56.62	
Sweep 2	% Man / Unemployed	82.88	43.51	p < 0.0005
	% Non-Manual	17.12	56.49	
Sweep 3	% Man / Unemployed	77.78	43.17	p < 0.0005
	% Non-Manual	22.22	56.83	
Sweep 4	% Man / Unemployed	77.22	42.47	p < 0.0005
	% Non-Manual	22.78	57.53	
Sweep 5	% Man / Unemployed	78.26	42.65	p < 0.0005
	% Non-Manual	21.74	57.35	
Sweep 6	% Man / Unemployed	52.63	44.43	n.s. p = 0.31
	% Non-Manual	47.37	55.57	
Sweep 7	% Man / Unemployed	25.00	44.52	*
	% Non-Manual	75.00	55.48	
* Numbers in cell < than 5.				

The association between being referred on any grounds and this measure of socio-economic status was highly significant. Children in the grouping of manual or unemployed backgrounds were more likely to be referred to the Reporter on offending grounds. The shift in referral patterns observed in the previous analysis of family structure appeared present, but not as pronounced, here in relation to socio-economic status

In order to investigate this relationship between socio-economic disadvantage and referral in more detail, the child having ever been entitled to receive free school meals was used as a “flag” or “proxy” measure of deprivation more generally. This was a factor that was used in the study by Berg *et al.*, (1978) in their investigation of the effects of court disposals on truancy (discussed in chapter 2 of the literature review). Using data available for 4597 cohort members it was found that 79.5% of the children were not recorded as ever being entitled to receive free school meals; the remainder of the cohort, 20.5% (940 individuals) were recorded as being entitled to receive free school meals. The relationship between this variable and referral on offence grounds is shown in the following figure:

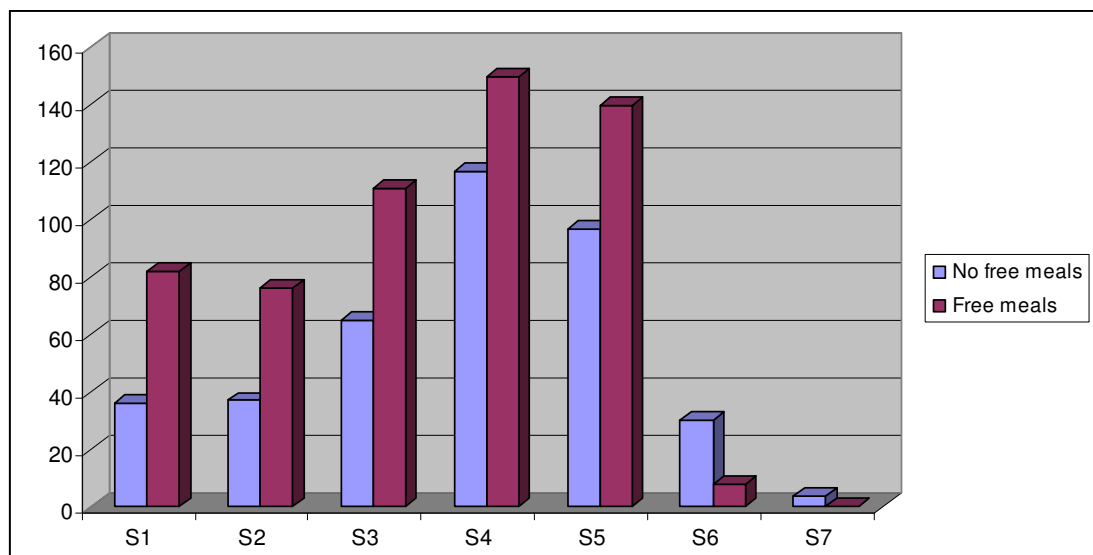


Figure 7: Entitlement to free school meals and offence grounds referrals to Children's Hearings system (n = 4597).

There were a disproportionate number of children who were entitled to free school meals and who were referred on offending grounds over sweeps 1 to 5. As with the previous analyses, the association between this variable and being referred or not on any grounds, and being referred or not on offence grounds was investigated using Pearson Chi-square tests. These findings are shown in Table 5.

Table 5: Entitlement to free school meals and referral on offence grounds (n = 4597).

		Off Ref (n = 526)	No off ref (n = 4071)	Sig.
Sweep 1	% Entitled	69.49	19.16	p < 0.0005
	% Not Entitled	30.51	80.84	
Sweep 2	% Entitled	67.26	19.27	p < 0.0005
	% Not Entitled	32.74	80.73	
Sweep 3	% Entitled	63.07	18.75	p < 0.0005
	% Not Entitled	36.93	81.25	
Sweep 4	% Entitled	56.18	18.24	p < 0.0005
	% Not Entitled	43.82	81.76	
Sweep 5	% Entitled	59.07	18.35	p < 0.0005
	% Not Entitled	40.93	81.65	
Sweep 6	% Entitled	21.05	20.44	n.s. p = 0.93
	% Not Entitled	78.95	79.56	
Sweep 7	% Entitled	0.00	20.47	*
	% Not Entitled	100.00	79.53	
* Numbers in cell < than 5.				

There was a significant association between the child ever being entitled to receive free school meals and being referred to the Children's Hearings system on offence grounds over sweeps 1 to 5. In sweeps 6 and 7 the number of children with offence referrals was small (38 and 4 individuals respectively) limiting analyses but the previous bias was no longer evident in these sweeps. As with the earlier findings in relation to the change in referrals in gender, family structure, and socio-economic status, there appears to be a similar shift in the referrals at this point in time in relation to this variable.

Summary of referral patterns

The findings presented in the section above indicate clearly that the sample of the cohort who were referred to the Reporter differ on a number of characteristics from the cohort generally. Firstly, only a minority (18.9%) of children had any form of contact with the Children's Hearings system and referrals to the system peaked in sweep 4 when the cohort was around the age of 14 years. Over the seven sweeps of data in relation to the Children's Hearings system there was a decrease in the non-offence referrals and an increase in offence referrals as the cohort matured. Males were found to be referred in significantly greater proportions on any grounds than females in sweeps 2 to 6. When looking the sample of 873 children and young people who had been referred to the Children's Hearings system, males were significantly more likely to have been referred on offence grounds than females across sweeps 1 to 5. In sweep 6 this trend was reversed and females were more likely to have been referred on offence grounds. The cohort was over 16 years of age at this point and this finding might possibly reflect a gender bias in keeping female offenders from going to court, and equally a practice of referring more males to court.

A range of factors that relate to disadvantaged backgrounds were explored. Children and young people from single parent families were significantly over-represented in referrals to the Reporter in sweeps 1 to 5. Lower socio-economic status and entitlement to free schools meals were also significantly associated with referral to the Reporter. These findings are consistent with previous research in this area where children and young people from disadvantaged backgrounds are over-represented in referrals to the Reporter (see for example Gault, 2003; Waterhouse *et al.*, 2004; SCRA, 2006). In sweep 6 the pattern of referrals shifts from being predominantly led by children from manual and unemployed backgrounds and those entitled to free school meals, to a greater proportion of children being in the non-manual grouping who were not entitled to free school meals. The differences between the groups of those referred on offence grounds and those never referred becomes insignificant at this sweep. Although the numbers referred are small, this change in pattern may reflect decision making practices of retaining certain young people within the

Children's Hearings system. It might be the case that since these young people appear to come from more advantaged backgrounds, where both parents are present, and are more likely to be female, where Court is not perceived as being the best place to deal with their charges. This finding is similar to the “leniency” that Asquith and Samuel, (1994) indicate in their study where girls were more likely to be given police warnings than males. This shift in referral patterns may perhaps also reflect a perception of there being a lower risk of re-offending amongst this group (perhaps due to perceived protective factors within the child’s family and wider circumstances) and also possibly negative perceptions of the effect that the criminal justice system would have on their future. The converse side of this shift in pattern may be that more young people, particularly males from disadvantaged, single parent families were considered to have their charges dealt with more appropriately by the adult Courts. The significance of these background factors in relation to gatekeeping practice is explored in the following chapter. The notion of a class bias, in relation to referral patterns, is also discussed later in the qualitative findings presented in chapter 8.

5.2. Comparison of cohort members within referral groups

In the previous section a number of factors were found to distinguish significantly *between* those referred or not to the Reporter. In this section the characteristics of cohort members *within* referral groups are investigated. The section has two aims: firstly to explore the assertion within the Kilbrandon Report that children referred on offence or non-offence grounds share a number of underlying similarities; secondly that within those referred on offence and non-offence grounds there are differences in the levels of need. This second aim is similar to the investigation conducted by Waterhouse *et al.*, (2004) who defined two groups within their sample of young people who had histories of referrals on non-offence only grounds who they called “victims” and those with offence only histories, the “villains”. The analyses presented here compare the characteristics of those referred over sweeps 3 and 4 (as these points represent peaks of self-reported offending and of referrals to the Reporter) in terms of their referral histories over this time period. Cohort members with six or more offence grounds referrals (a “villains” group) are compared with

those with fewer referrals; similarly a group of cohort members with three or more non-offence referrals (“victims”) are compared with those with one or two non-offence grounds referrals.

Underlying similarities over referral grouping

When the pattern of referrals in sweeps 3 and 4 are considered together (so that effectively each individual has a “history” of two years) the proportion of referrals within the grounds grouping of offence, non-offence and combined can be examined (shown in the following figure). Sweeps 3 and 4 have been aggregated in this way as referrals from only one sweep would limit both the sample size available and also the range of referral grounds for each individual. The groupings of referrals are based on the combination of referrals in sweep 3 and sweep 4 together for cohort members who were referred in both sweeps (for example, a referral in sweep 3 on non-offence grounds together with a referral in sweep 4 on offence grounds becomes grouped as Combined grounds of referral). The proportion of cohort members who fall into these groupings is shown in Figure 8.

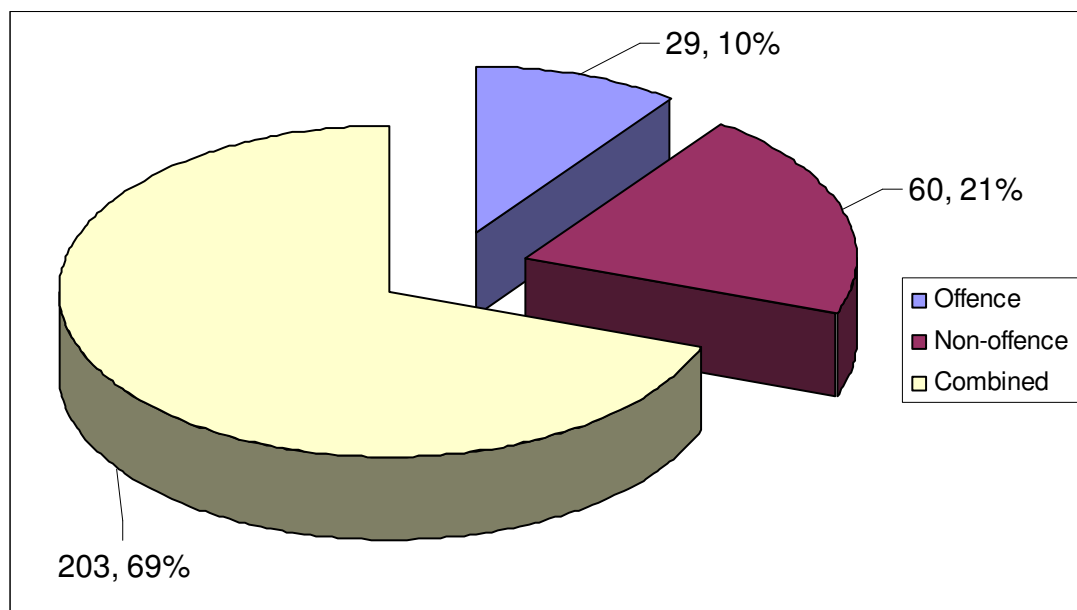


Figure 8: Referral groupings over sweeps 3 and 4 (n = 292).

When the referral grounds over the two sweeps are examined, 69% of individuals referred have combined grounds (having been referred on both offence and non-

offence grounds). Over two sweeps, the majority of children present with grounds relating to offending and non-offending, leaving a small proportion of children with referrals that are entirely offence grounds, or entirely non-offence grounds. Over the two sweeps, only 21% were referred with non-offence only grounds and 10% were referred on offence only grounds

The following table (Table 6) gives the findings from Pearson chi-square analyses conducted using Gender, Family Structure and Socio-Economic Status variables for the sample of cohort members referred on offence only (29) and non-offence only (60) grounds over sweeps 3 and 4.

Table 6: Comparison of children's backgrounds by referral group, over sweeps 3 and 4 (n = 89).

		Offence	Non-Offence	Sig.
Gender	% Male	65.5	43.3	p < 0.05
	% Female	34.5	56.7	
Family Structure	% Living with 2 birth parents	64.3	71.4	n.s. p = 0.5
	% Not living with 2 birth parents	35.7	28.6	
SES	% Man / Unemployed	41.4	60.3	n.s. p = 0.09
	% Non-Manual	58.6	39.7	

The significant association between gender and offence grounds referrals found here is similar to the pattern observed by the Children's Hearings system nationally (where in 2005 to 2006, 76% of all offence grounds referrals were for males; SCRA 2006).

In addition to the binary variables analysed above, a number of Mann-Whitney tests (due to the non-parametric distributions of the data) were performed using a range of continuous variables from sweep 3. The variables selected for this analysis were chosen on the basis that they had been found in previous investigations to be related to offending and non-offending behaviours, which could constitute grounds for referral to the Reporter (Smith and McAra, 2003; Smith, 2004a; Smith, 2004b). These variables were: neighbourhood deprivation; seriousness of self-reported offending in sweep 3; frequency of truancy in sweep 3; volume of victimisation in sweep 3; and volume of adversarial police contact in sweep 3 (definitions of these

variables are given in Appendix B). The comparisons of cohort members referred on offence grounds and non-offence grounds using Mann-Whitney tests are given in the following table (Table 7).

Table 7: comparison of children's backgrounds by referral group over sweeps 3 and 4 (n = 89).

		Offence	Non-Offence	Sig.
Neighbourhood	mean rank deprivation score	43.48	42.75	n.s. p = 0.89.
Seriousness	mean rank frequency score	45.14	41.89	n.s. p = 0.49
Truancy	mean rank frequency score	39.93	43.79	n.s. p = 0.42
Victimisation	mean rank of volume score	38.00	44.75	n.s. p = 0.20
Advers Police	mean rank of volume score	40.11	41.44	n.s. p = 0.78

In all of these comparisons between those referred on offence grounds and those referred on non-offence grounds there were no significant differences found. These findings are supportive of the Kilbrandon Report's assertion that young people referred on offending grounds share underlying similarities to those referred on care and protection grounds. Firstly, the majority of children referred over a two year period had both offence and non-offence grounds referrals. Secondly, the smaller number who were left in the offence only and non-offence only groups were not significantly different on measures of family structure and socio-economic status. A significant association between gender and referral grouping was found: males were still more likely to be referred on offending grounds and females on non-offending grounds.

Multiple offence grounds referrals

In addition to exploring the referral patterns across the groups of offence, non-offence and combined grounds, this section also aims to investigate the background characteristics of young people with offence referrals. This section aims to partially replicate the findings of Gault (2003) and Waterhouse *et al.*, (2004) by exploring the characteristics of children *within* referral groupings. This analysis also aims to investigate the extent to which young people present with degrees of "neediness" or "seriousness" within their referrals as these issues relate to the "what works" principles of risk and needs.

Over sweeps 3 and 4 there were data available for 149 cohort members who were referred with offence grounds. The majority of this group were also referred with non-offence grounds (this group should not be considered as being equivalent to “offence only” referrals), making this analysis more similar to Gault’s (2003) in this respect. The range of the total number of referrals was from 1 to 48 referrals over this time period, with a mean number of 6.35 referrals (standard deviation 7.67). The majority (59%) of cohort members over these two sweeps were referred with offending grounds on between 1 and 4 occasions. In order to create two groups that would allow the comparison of those with higher levels of offence referrals with those who have lower levels, a cut off point of six or more referrals over the time period was selected. This figure was convenient as it meant that approximately two thirds (67.1%) of those with less than six offence grounds referrals were in one group (of 100 people) and could be compared with the remaining upper third (32.9%, or 49 people) of cohort members with six or more offence grounds referrals. These two groups were then compared using Pearson chi-square tests on the binary variables of gender, family structure and socio-economic status. The findings of these tests are shown in the table (Table 8).

Table 8: Comparison of offence referral totals
over sweeps 3 and 4 (n = 149).

		1 to 5 Offences	6 + Offences	Sig.
Gender	% Male	64.00	89.80	p < 0.001
	% Female	36.00	10.20	
Family Structure	% Living with 2 birth parents	41.98	40.63	n.s. p = 0.89
	% Not living with 2 birth parents	58.02	59.38	
SES	% Man / Unemployed	78.57	77.08	n.s. p = 0.83
	% Non-Manual	21.43	22.92	

The only significant difference found in the above analyses was that males were more likely to be in the group of people with six or more offence referrals. Mann-Whitney tests were performed to investigate the continuous variables from sweep 3 of neighbourhood deprivation, seriousness of self-reported offending, frequency of

truancy, volume of victimisation and adversarial police contact. The findings of these tests are given in the following table (Table 9):

Table 9: Comparison by offence referral group over sweeps 3 and 4 (n = 149).

		1 to 5 Offences	6 + Offences	Sig.
Neighbourhood	mean rank deprivation score	68.67	60.72	n.s. p = 0.26
Seriousness	mean rank frequency score	55.86	69.54	p = 0.045
Truancy	mean rank frequency score	60.52	62.13	n.s. p = 0.8
Victimisation	mean rank of volume score	57.87	53.08	n.s. p = 0.2
Advers Police	mean rank of volume score	48.46	67.56	p < 0.005

As can be seen from the above table, the findings here indicate that within the group of cohort members referred on offending grounds the minority who had six or more referrals, were significantly more likely to be male, and were significantly more likely to have committed serious offences more frequently, and were more likely to have had adversarial police contacts than those with one to five offence grounds referrals.

Multiple non-offence grounds referrals

The analyses above compared groups of cohort members on the basis of their total number of offence grounds referrals. In this section, a similar analysis based on comparing groups based on their total numbers of non-offence grounds referrals is presented. As with the previous analysis, this sample is not intended to represent those exclusively referred with only non-offence referrals, but to investigate characteristics of those with multiple non-offence grounds. Over sweeps 3 and 4, there are data available for 143 young people who were referred with non-offence grounds. The majority of these (53.1%) have one or two non-offence referrals; the range is from 1 to 26 referrals and the mean number of referrals is 3.06 (with a standard deviation of 2.96).

The distribution of total number of non-offence referrals meant that it was not practical to separate groups into a lower two-thirds and top third as with the offence

referrals group, due to a smaller range in the total number of referrals; selecting the “top third” would have resulted in a small number which would have greatly limited the analyses. On this basis the cut-off point of one or two referrals was used to form one group that was compared with those with three or more referrals (this being approximately equivalent to the lower half of the sample being compared to the top half). As before, these two groups were compared using the binary variables for gender, family structure and socio-economic status and the results are presented in the following table (Table 10).

Table 10: Comparison of cohort members in non-offence referral group over sweeps 3 and 4 (n = 143).

		1 to 2 Non-Off	3 + Non-Off	Sig.
Gender	% Male	69.74	47.76	p = 0.007
	% Female	30.26	52.24	
Family Structure	% Living with 2 birth parents	42.86	27.08	n.s. p = 0.09
	% Not living with 2 birth parents	57.14	72.92	
SES	% Man / Unemployed	77.03	84.38	n.s. p = 0.28
	% Non-Manual	22.97	15.63	

These analyses indicated that girls were significantly more likely to have three or more non-offence grounds referrals. Those from “broken” homes were also more likely to have three or more non-offence grounds referrals; although this finding was not significant at the $p < 0.05$ level. These two groups were compared on the continuous variables from sweep 3 of neighbourhood deprivation, seriousness of self-reported offending, truancy, victimisation and adversarial police contact. The findings of the Mann-Whitney tests are presented in Table 11.

Table 11: comparison of cohort members in non-offence referral group over sweeps 3 and 4 (n = 143).

		1 to 2 Non-Off	3 + Non-Off	Sig.
Neighbourhood	mean rank deprivation score	53.66	67.32	p = 0.035
Seriousness	mean rank frequency score	52.09	69.54	p = 0.045
Truancy	mean rank frequency score	51.65	61.13	n.s. p = 0.052
Victimisation	mean rank of volume score	48.67	57.32	n.s. p = 0.14
Advers Police	mean rank of volume score	48.83	51.52	n.s. p = 0.69

The analyses presented above show that within the group of cohort members referred over sweeps 3 and 4 there are a number of significant differences between those with one or two non-offence referrals in comparison to those with three or more. Overall, these findings indicate that those with three or more non-offence referrals were more likely to be girls, from “broken” homes who were living in more deprived neighbourhoods in comparison to those with one or two non-offence grounds referrals. In addition, those with three or more non-offence grounds referrals were significantly more likely to also have had self-reported more serious offences. Although not quite reaching the level $p < 0.05$ of significance, truancy levels were higher in those with 3 or more non-offence referrals, than those with one or two non-offence grounds referrals.

The finding that young people with three or more non-offending grounds referrals also had a significantly greater level of serious offending is consistent with the argument that multiple risk factors (static in the form of previous serious offending and dynamic in relation to the young person’s current neighbourhood) contribute to the likelihood of engaging in offending behaviours. In addition, the argument that non-offence grounds are more relevant than offence grounds to the concept of risk is supported here by the finding that those with 3 or more non-offence referrals were significantly different on some of the factors (family structure and neighbourhood deprivation) than comparisons involving those with multiple offence grounds. These comparisons were not made using mutually exclusive (offence only vs. non-offence only) groups, as 69% of those included in these analyses had been referred on offending and non-offending grounds (some individuals would have been in the group with 3 or more non-offence grounds referrals *and* in the group with 6 or more offence grounds referrals).

On this basis, it could tentatively be argued that multiple non-offence grounds referrals appear to provide more information about risk and to a lesser extent criminogenic needs (which relate to multiple domains of the young person’s life; as in ASSET, described by Baker *et al.*, 2005) than multiple offence grounds referrals (which relate to one domain of behaviour). It is difficult however to specify how

closely these factors relate to each other using these data. Had risk assessment data been available for these young people (in the form of completed ASSET or YLS/CMI assessments (Baker *et al.*, 2002; Hoge and Andrews, 1996), as recommended within the *National Standards for Scotland's Youth Justice Services*, 2002), the contribution that these factors made could have been investigated in more detail. Later, in chapter 7, an ordinal regression predicting seriousness of offending is presented which further explores some of the relationship between risk factors and dynamic criminogenic needs within the cohort.

Discussion of findings on referral groupings

The Kilbrandon Report argues that in relation to children presenting with charges or care and protection issues that: *“The basic similarity of underlying situation far outweighs the differences, and from the point of view of treatment measures the true distinguishing factor, common to all the children concerned, is their need for special measures of education and training, the normal up-bringing processes having, for whatever reason, fallen short”* (1964, p.14). Support for a combined welfare and juvenile justice body, as argued in the Kilbrandon Report, was found in the above analyses. The majority of young people who were referred over the relatively short time period of two years had both offence and non-offence grounds. Moreover, those who had offence only and non-offence only grounds were found to have “underlying similarities” on a range of background measures. The only variable that was found to be significant between these groups was gender, with males being more likely to be within the offence only group, and females in the non-offence only group.

It was also found that *within* groups there were significant differences present in those with higher numbers of referrals on both offence and non-offence grounds. This second set of analyses found that “victims” were even more likely to be females, from more disadvantaged backgrounds, who were also offending and truanting (although not significantly) than those with fewer non-offence grounds referrals. Similarly, “villains” were more likely to be males, who reported having committed more serious offences and had more experiences of adversarial contacts with the police. The findings reported earlier were based on the very short time

period of two years. It seems likely that over a longer time period, more children and young people would move between the referral categories and a minority would also present with greater numbers of referrals within the offence and non-offence groupings. Consistent with Kilbrandon, these findings indicate that within those referred on offence and non-offence grounds there are a number of young people who present with greater needs than others. It is argued here that these underlying similarities represent a range of risk factors (such as truancy and victimisation), which contribute to the risk of committing further offences. In the case of truancy this and the level of deprivation in their neighbourhoods these risk factors will be amenable to intervention due to their dynamic nature (i.e. young people could attend school more frequently and potentially move neighbourhoods, or the neighbourhood could be improved by the council for instance). Seriousness of previous offending would however not be amenable to intervention due to its historic nature and should be regarded as a static risk factor rather than a criminogenic need. The offending behaviours of young people in this context can be seen as symptomatic of risks and needs which welfare based systems can aim to identify and address, as opposed to justice systems which aim to concentrate on establishing information about the offence and administering punishments accordingly. Moreover, it is argued that offenders and non-offenders, despite having similar backgrounds in the main, should not be considered to have similar risks and needs overall and that more specialised interventions may be appropriate for many children and young people who present with referral histories similar to the “victims” and “villains” discussed here and by Waterhouse *et al.*, (2004).

5.3. Aggregation of data over sweeps

In order to contextualise the cohort’s pattern of offending and interaction with agencies (such as the police, Social Work and the Hearings system), this section aggregates data from the whole cohort, over the age range which the Children's Hearings system encompasses. Data on the patterns of self-reported offending over sweeps will be presented before analyses of the characteristics of those referred to the Reporter and those placed on a Supervision Requirement. In the following sections the pattern of offending and desistance will be examined in order to

establish a baseline for offending behaviour within the cohort. The relationship between these self-reported offending behaviours will be compared with the pattern of referrals to the Reporter, focussing in particular on offence grounds referrals.

Self-reported offending across sweeps

Two variables were used in order to assess changes in levels of self reported delinquency (SRD). The first of these variables was based on the total number of relatively minor offences reported (these delinquent offences were: Breach of the Peace; Vandalism; and Theft by Shoplifting). The second variable used reflected a range of serious offending behaviours (this included: Robbery, Theft of Motor Vehicle (“joyriding”); Theft from Motor Vehicle; Theft by Housebreaking; Wilful Fireraising (Arson); and five or more incidents of Assault).

The peak of serious self-reported delinquency was in sweep 3 where the mean score was 3.1 (with a standard deviation of 7.0). It should be stated that the majority (66%) of the cohort scored zero on this variable (the maximum score was 77) and were not involved in any serious offending behaviours. These two variables (minor and serious offending) are used in the next chapter where comparisons in levels of self-reported delinquency between two matched samples are made. Since these data were derived from the self-report questionnaires the findings relate to sweeps 1 to 6. The following figure (Figure 9) gives the mean scores for minor offending and serious offending variables.

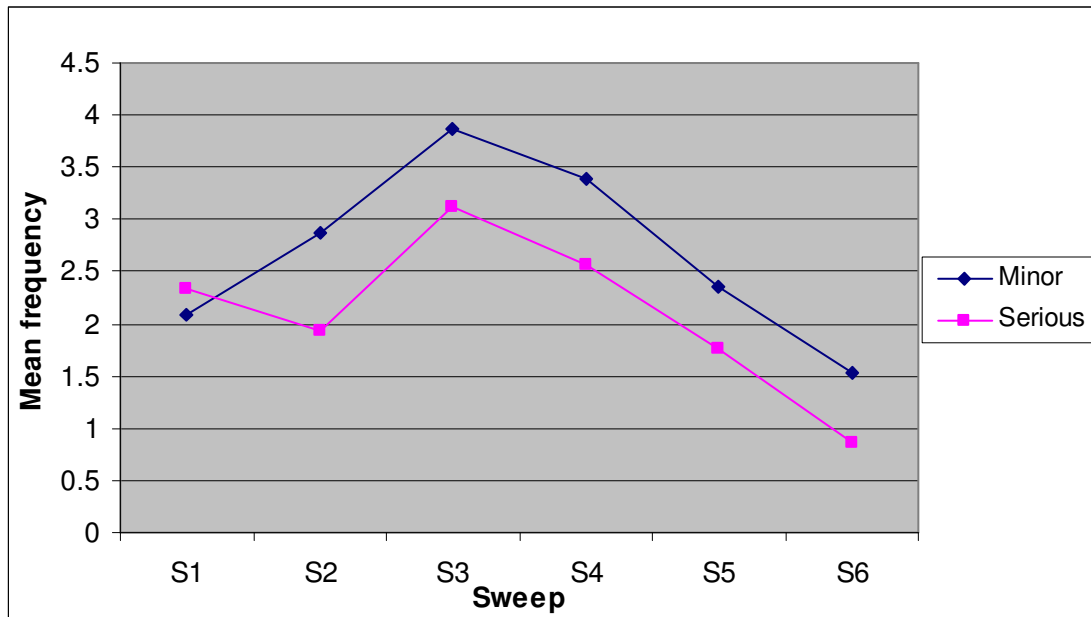


Figure 9: changes in levels of self-reported delinquency over sweeps 1 to 6 (n = 4157).

Overall, in both the minor and serious self-reported offending variables there was a general trend for cohort members to increase their levels of offending from sweep 1 leading to the peak at sweep 3, followed by a decrease in frequency of minor and serious offending from sweep 3 to sweep 6. Due to the longer time period of sweep 1, the levels of offending are not directly comparable and this may account for the apparent decrease in serious offending from sweep 1 to sweep 2. These findings are consistent with the “age-crime curve” reported in other studies (e.g. Sampson and Laub, 1993; Smith, 2002) and are highly consistent with patterns of desistance and the adolescence limited offending typology argued by Moffitt (1993). As discussed in the literature review, this pattern is likely to be a consequence of informal social control mechanisms such as attachments to work and family, and the process of maturation (Sampson and Laub, 1993; Graham and Bowling 1995; Jamieson *et al.*, (1999). As these data relate to the cohort as a whole, this pattern of offending and desistance is for the majority (81.1%) based on no formal contact with the Children's Hearings system. It could be argued that this desistance is related to the deterrent effect of an increased likelihood of charges for offences being referred to Court rather than the Children's Hearings system. However, the literature reviewed earlier suggests that deterrence based approaches are unlikely in practice to result in this

dramatic reduction in offending (Paternoster, 1988; McGuire, 1995). In chapter 8 the cohort members' perceptions of their offending and desistance are discussed.

In order to investigate the effect of referral to the Children's Hearings system it is crucial to compare those referred with a matched sample of those who were not referred as the above graph shows that on average, all cohort members decreased their levels of offending over time. By simply comparing levels of self-reported offending in sweep 3 when referred, the pattern of desistance found above would appear to indicate that the referral resulted in a reduction in offending. On this point, analyses are presented in chapter 7 describing the levels of self-reported offending within a sample of cohort members referred to the Reporter in sweep 3, compared with a matched sample who have had no contact with the system.

Hearings across sweeps

Across sweeps 1 to 7 there were 873 cohort members referred to the Reporter (18.9% of the whole cohort) on all grounds. Of those referred, 501 individuals had referrals that included offence grounds (10.9% of the whole cohort; 57.4% of those ever referred). The smallest group of individuals were the 372 cohort members who had referrals on non-offence only grounds to the Reporter (8% of the whole cohort; 42.6% of those referred). These referrals resulted in 640 Hearings held for 231 individuals (5% of the whole cohort of young people). The incidence of Hearings held over the sweeps is shown in the following figure (see Figure 10).

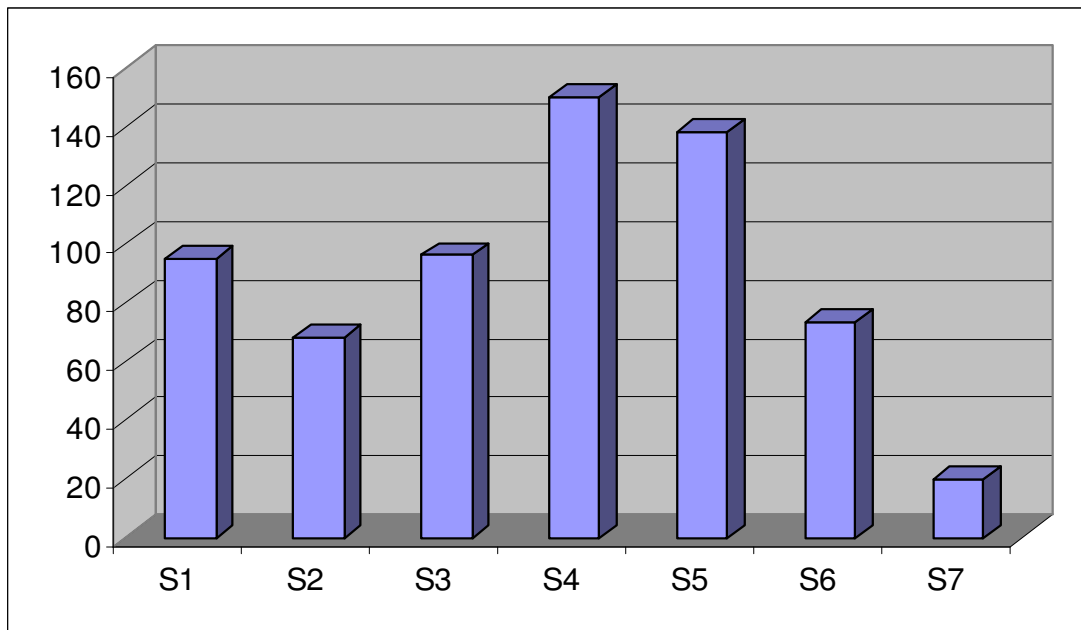


Figure 10: Incidence of Children's Hearings over sweeps 1 to 7 (n = 231).

The pattern of number of Hearings closely resembles the pattern of referrals on all grounds shown at the start of this chapter (see Figure 1). Many of the cohort members will have attended numerous Hearings (the average being around 3) with multiple referrals over a range of grounds. From this group of 231 cohort members who had attended a Hearing 38 of them left the Hearing without being placed on any form of Supervision Requirement and were not inserted any deeper within the system. In total, Panel Members made Supervision Requirements for 193 cohort members across all of the Hearings (22% of those referred to the Reporter).

System insertion across sweeps

The data presented within the following figure relates to the degree to which cohort members are inserted or embedded into the Children's Hearings system across all of the seven data collection sweeps. For example, a young male who over the course of the sweeps has attended four Hearings and been given the disposal of a Home Supervision Requirement on two occasions and then was placed in a Residential School would be counted in the following figure as having his deepest level of system insertion as being within a residential school (labelled SR Secure).

As can be seen in the following figure the deepest level of system insertion for the majority (51.3%; 99 individuals) was a Supervision Requirement within their own family home (labelled SR Home).

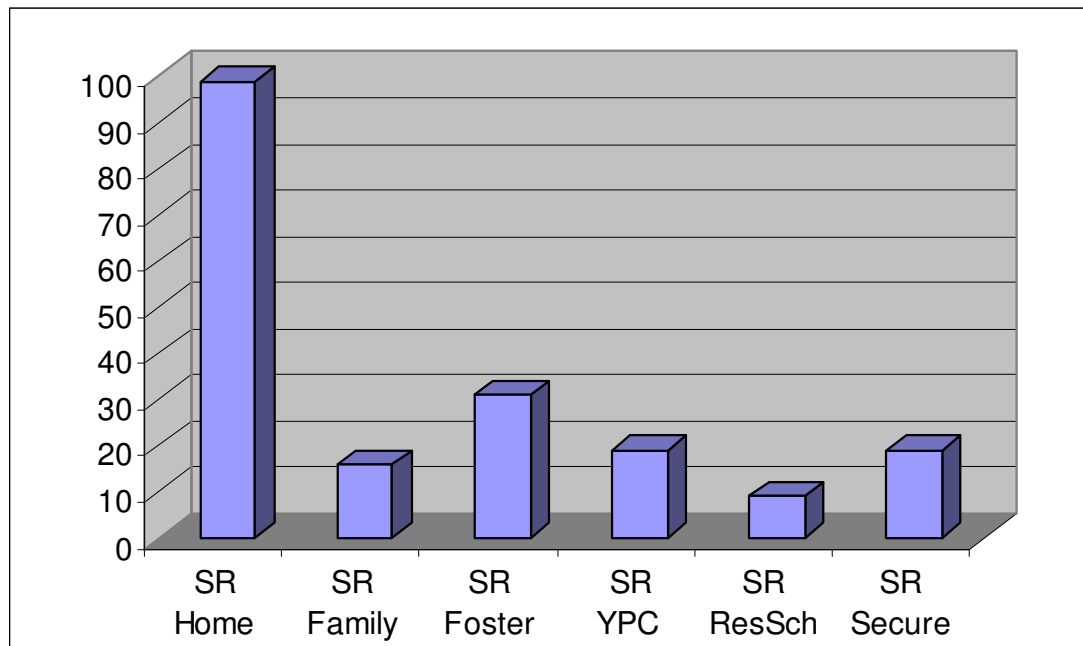


Figure 11: Deepest level of system insertion over all sweeps (n = 193).

Placements with other family members (labelled SR Family above) were made for 16 individuals; and Supervision Requirements specifying placements with foster carers (SR Foster) were made for 31 individuals over all the sweeps. From the whole cohort, only 47 individuals reached the deepest levels of system insertion and were placed by the Panel Members in some form of institutional or residential care. Supervision Requirements that specified institutional placements in Young Persons' Centres (SR YPC), Residential Schools (SR ResSch) and Secure Units (SR Secure) applied to 19, 9 and 19 children respectively.

These findings presented above are consistent with the practice of diversion and "minimum intervention" within the Children's Hearings. Only 57% of those referred to the Reporter were then referred to a Hearing where the most frequent disposal was a Home Supervision Requirement (which was the deepest level of system insertion for over half of all those placed on supervision). It was also found that just under a quarter of all young people placed on a Supervision Requirement then progressed to

some form of care in the form of a placement in a children's home, residential school or secure unit.

Due to the small number of cohort members and the complex interaction of offence and non-offence referrals in cases where Supervision Requirements are made, the following analyses are based on contact with the system over all sweeps. Aggregating data in this way allows sufficient numbers to conduct regression analyses with a range of independent variables and allows the significance of each factor to be examined independently in a manner that the earlier Chi-square analyses do not permit.

5.4. Multivariate analyses of referrals and supervision requirements

As discussed in chapter 4, many of the studies included within the review of the literature did not employ multivariate methods within their analysis of data. The use of the statistical regression method allows for each of the potentially confounding variables to be examined for their individual relationship to the outcome. It should be stressed that within regression analyses the variance in the outcome is examined in relation to each predictor variable *independently* of the other factors thus eliminating the confounding effect (see Field, 2005).

The chi-square analyses presented earlier in this section indicate that gender, family structure, and measures of economic disadvantage were all significantly associated with being referred to the Reporter. In the following analyses these factors will be used as predictor variables within regression models in order to investigate their contribution to being referred, and of being placed on a supervision requirement over all seven sweeps that relate to the Children's Hearings system data collection. Using these variables a binary regression model was fitted with the outcome variable being referred to the system on any grounds, or not referred, across the seven sweeps. The predictor variables that were entered into this model include all of those mentioned in the above analyses in order to determine the relative significance of each (these factors were gender, socio-economic status (over sweeps 1 to 4), and entitlement to

free school meals (ever), and family structure (2 birth parents; 1 or 0 parents). The contribution of the variables in the model is shown in the following table (Table 12).

Table 12: Binary logistic regression predicting referral on any grounds to the Reporter across all sweeps (n = 4195).

	B	S.E.	Sig.	Exp(B)	95.0% C.I. for EXP(B)	
					Lower	Upper
Gender (male)	0.2397	0.0889	p = 0.007	1.2708	1.0676	1.5128
SES (man / unemp)	1.0103	0.0976	p < 0.0005	2.7466	2.2683	3.3256
Free School Meals (yes)	1.293	0.0974	p < 0.0005	3.6435	3.0105	4.4096
Family structure (1 or 0)	0.8098	0.0922	p < 0.0005	2.2475	1.8761	2.6925
Constant	-2.869	0.0958	p < 0.0005	0.0567		

These variables within the regression model predicted those who were referred or not with 83.2% accuracy overall (Cox and Snell R square = 0.14; Nagelkerke R square = 0.23). Importantly, the regression method allows the influence of different factors to be assessed independently of others within the model allowing the issue of potential bias to be explored. From the above table it can be seen that the most significant factor in relation to predicting referral (on any grounds) to the Reporter across all sweeps was being entitled to free school meals, which when present increased the odds of being referred by approximately 3.6: 1. Consistent with the earlier chi-square analyses being male increased the odds of being referred by 1.2: 1; coming from a family background where both parents are not present increased the odds by around 2.2: 1; and coming from the manual and unemployed category increased the odds of being referred by 2.7: 1.

The above binary regression analysis was repeated using the outcomes of having been placed on a Supervision Requirement at any point, and having had no contact with the system. The same predictor variables (Gender, Socio-economic status, Entitlement to free school meals, Family structure) as before were used in this analysis. The findings of this regression, including the non-significant variables (using the Enter method which retained the non-significant variables), are presented in the following table (Table 13).

Table 13: Binary logistic regression predicting Supervision Requirements being made across all sweeps (n = 3928).

	<i>B</i>	<i>S.E.</i>	<i>Sig.</i>	<i>Exp(B)</i>	95.0% C.I. for <i>EXP(B)</i>	
					<i>Lower</i>	<i>Upper</i>
Gender (male)	-0.147	0.152	n.s. p = 0.34	0.864	0.641	1.164
SES (man / unemp)	0.534	0.161	p < 0.001	1.706	1.244	2.340
Free School Meals (yes)	-0.005	0.178	n.s. p = 0.97	0.995	0.702	1.411
Family structure (1 or 0)	-0.331	0.210	n.s. p = 0.12	0.718	0.476	1.085
Constant	-3.221	0.137	p < 0.0005	0.040		

The variables entered performed poorly in explaining the variance (Cox and Snell R square = 0.002; Nagelkerke R square = 0.007) and this model failed to correctly predict any cohort members being placed on a Supervision Requirement. Despite the poor accuracy of the model, socio-economic status (where coming from a manual or unemployed background) was found to significantly increase the likelihood of a cohort member being placed on a Supervision Requirement by around 1.7 times. None of the other variables incorporated in the model were found to be significantly related to the prediction of the rare event (at the level of the cohort) of being placed on a Supervision Requirement.

These findings indicate that the factors relevant to being referred over sweeps 1 to 7 are largely not relevant to the gatekeeping process involved in placing an individual on a Supervision Requirement. Additional variables are clearly required in order to describe the variance within the decision making of Reporters and Panel Members at this level of the operation of the Children's Hearings system. The practices of gatekeepers will be explored in more detail using data from sweep 3 in the next chapter.

5.5. Interventions

Following being placed on a Supervision Requirement, a social worker would be allocated the case and required to provide some form of intervention. Within the social work records from the period covering sweeps 1 to 4 there was found to be a range of data that relate to how social workers intervened in issues for the child (data

for later sweeps were not available for analysis at the time of writing). This summary will describe the patterns of social work case allocation and the intervention of other agencies. The data presented in the following section should be viewed with some caution as there were a number of discrepancies between data held in social work files and within the Children's Hearings system's files that suggest that the social work department's records were not accurate.

Of the 550 cohort members with offence grounds referrals who were referred to a Social Worker team at any point from sweep 1 to 4, 241 (43.8%) were first allocated in sweep 1. The social work records record allocation within the categories of: Voluntary; Child Protection; Supervision Requirement (SR); allocation primarily to Address Offending; and also in sweep 3 and 4 data was collected on cases Not Allocated. The type of case allocation from across the sweeps for cohort members with offence referrals is given in the following figure (Figure 13).

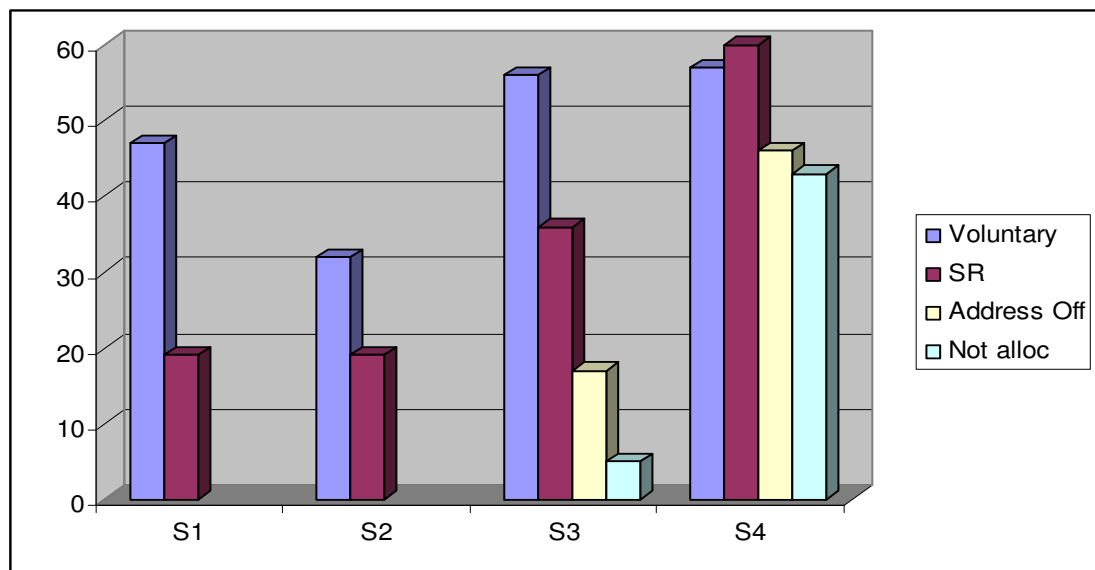


Figure 12: Allocation types for social workers to cohort members with offence referrals (n= 550).

As with previous comparisons of data over time, sweep one relates to a longer time period than the following sweeps and consequently the results are not directly comparable. The use of voluntary social work supervision can be seen to decline

from sweep one to two, and then rise again in sweeps 3 and 4. When the use of voluntary measures are compared with the use of Supervision Requirements, in sweeps 1 to 3 there is greater use of voluntary supervision and in sweep 4 there are slightly more Supervision Requirements in comparison. The use of voluntary measures in these proportions for offence referrals is consistent with the Reporter's decision making in relation to the need for Compulsory Measures (if a young person is willing to work with social work on a voluntary basis a Supervision Requirement is often not made). The allocation of social workers in order to address offending behaviour can be seen to rise from sweep 3 to 4 (17 in sweep 3, to 46 in sweep 4). Lastly, the number of unallocated cases rises considerably from 5 cases in sweep 3 to 43 cases in sweep 4 (there are no data on this variable from earlier sweeps).

Within the social work files there are data relating to the form in which the social workers intervened with the cohort members. These intervention forms include work at the following levels: the individual child; with the child and their family; primarily monitoring only of the child; irregular contact with the child; and "duty" social work tasks. These interventions are shown in the following figure (Figure 14) for the sample of cohort members who were recorded as being subject to a Supervision Requirement in sweeps 3 and 4.

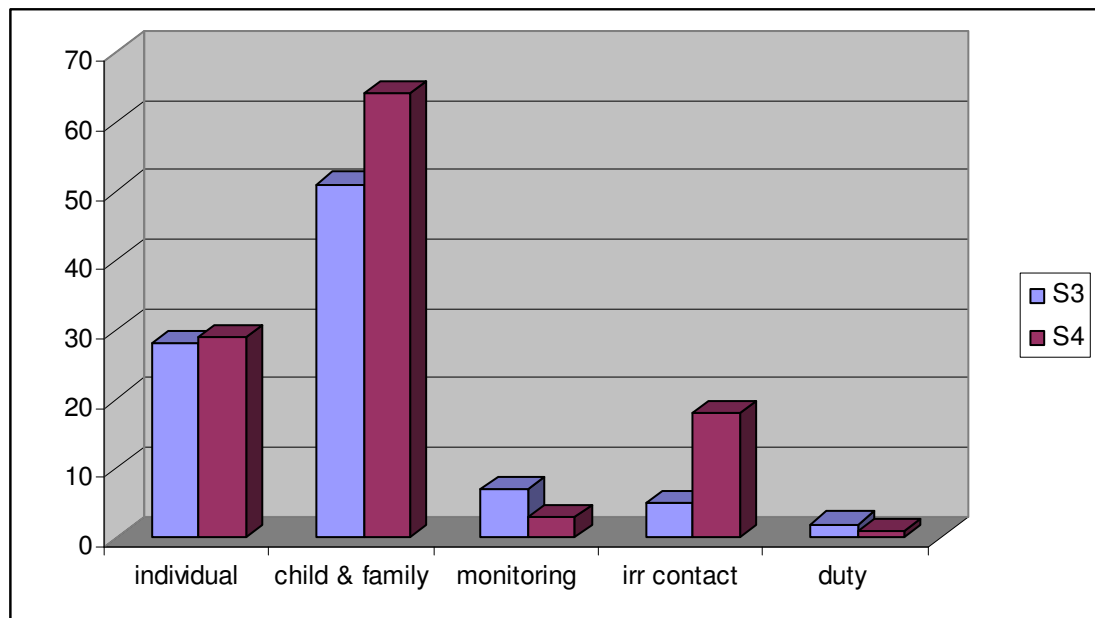


Figure 13: Allocation type for those with Supervision Requirements (n = 115).

As displayed above, the most frequent format of intervention type for children placed on a Supervision Requirement was child and family work followed by individual based work. In total 33 cohort members who were placed on a Supervision Requirement were recorded as being allocated a social worker on the basis of providing monitoring or irregular contact.

From the whole cohort there were 550 individuals who were allocated a social worker at some point between Sweeps 1 to 4, with approximately 43% of allocations taking place in Sweep 1 alone. The allocation of social workers can be made under voluntary measures, child protection issues and through a Supervision Requirement made at a Hearing. Voluntary measures were most commonly used as the basis for allocation in Sweeps 1 to 3. In Sweep 4 Supervision Requirements were the most common reason for the allocation of a social worker to the cohort member's case. Child protection issues were the second most common allocation factor in Sweep 1 but as the cohort aged this became the least common reason.

Once allocated, in Sweep 3 the most common intervention by the social workers came under the heading of "duty" work, followed by "child and family" intervention. In Sweep 4 "child and family" and "individual" interventions were the most common, particularly in cases where the child was subject to a Supervision Requirement. Cohort members with data within the social work files who were also referred to the Reporters with offending grounds were found to be involved with a number of agencies. These were mainly the Reporters' Office, Educational Welfare and the Youth Strategy Group.

The use of voluntary measures within the allocation of social work cases appears to be entirely consistent with the Kilbrandon approach of "minimal intervention". The need for Compulsory Measures, in the form of Supervision Requirements, becomes more of an issue in Sweep 4, possible due to cohort members accumulating a history of more problematic behaviours over time. Once allocated a social worker the main response was to provide informal and unstructured "duty" cover in sweep 3, and more individual and child and family interventions in sweep 4.

In addition to the allocation of a social worker there were a number of other agencies that were involved with cohort members who came to the attention of the social work teams, as shown in the following table (Table 14).

Table 14: other agencies involved with cohort members cases (n= 550).

Agency	S1	S2	S3	S4
Educational welfare	88	71	120	139
Special Education	53	57	66	75
Home Care	25	3	6	5
Youth Strategy	69	79	108	112
Medical	108	47	44	30
Psychiatric	81	46	33	25
Voluntary	83	37	48	68

The above table (14) shows that as the sample of those referred on offending grounds matures there was greater involvement from educational welfare services, possibly in relation to a corresponding increase in levels of truancy. Similarly, the Youth Strategy group, who work directly with offenders, were found to have greater involvement with older offenders. There was observed to be a decrease in the involvement of medical and psychiatric services through time, possibly reflecting a trend of early assessment for medical conditions (such as Attention Deficit Disorder) which might have been considered relevant to offence referrals. The qualitative interviews with the key professionals within the system, presented later in chapter 8, explore the meaning of these interventions from their perspectives.

5.6. Discussion

The findings presented in the first section of this chapter indicate that within the small proportion of cohort members (18.9%) who were referred to the Children's Hearings system backgrounds of social and economic disadvantage were disproportionately found. This finding supports the assertion within the Kilbrandon Report (1964) of underlying similarities in children with welfare and offending issues. As discussed in the literature reviewed in chapter 3, very similar findings have also been found in other recent studies of the Children's Hearings system (Waterhouse *et al.*, 2004; SCRA, 2006). In addition, the finding that within groups

of children and young people referred, there were a minority who presented with a greater number of referrals and correspondingly greater number of needs. The risk and needs model (discussed in chapter 2) is argued as being consistent with the philosophy of the Children's Hearings system with regards to young people presenting with offending behaviours.

When the data available for all sweeps are aggregated a pattern of self reported offending behaviours emerges that reflects those found previously with the cohort (Smith, 2006) and are highly consistent with patterns of desistance and the adolescence limited offending typology argued by Moffitt (1993). The observation that the majority of young people will desist is important to the present study as the Children's Hearings system operates on a “minimum intervention” approach and should have justifiable reasons for the use of compulsory measures when used in relation children and young people presenting primarily in relation to their offending. It is argued here that those who are referred primarily on offending grounds and are placed on supervision should have high levels of risk, making them unlikely to desist, and having correspondingly high levels of criminogenic needs. In addition, the use of compulsory measures should be limited to those who have not taken the opportunity to address their needs on a voluntary basis, rather than the Supervision Requirement functioning as a means to access resources. The “age-crime curve” also raises the issue that the outcomes of any intervention with children to reduce their levels of offending should be assessed against a matched sample of their peers who follow this pattern of desistance. In the absence of a control group this natural inclination to desist could be mistaken for the effects of the intervention.

This chapter also presented findings from a regression analysis investigating factors that predict referral to the Children's Hearings system. This analysis found that those referred were significantly more likely to be males (see also Asquith and Samuel, 1994), from deprived backgrounds living within single parent family structures. The regression analysis predicted being placed on a Supervision Requirement, however, was not found to be reliant on the same factors as the referral; with the exception of socio-economic status which remained a significant factor despite the model's poor

accuracy. This finding is intriguing as it appears to indicate that the factors which were found to be relevant to the police's decision to refer are not significant in the decision making of Reporters and Panel Members. A range of additional variables that are more detailed than these variables are required in order to elucidate the later gatekeeping stages. Of note, however, is that the criteria (or "flags" for criteria) apparently used by the police in relation to referral to the Children's Hearings system, differ from those used by those within the system. This may reflect the lack of discretion to use warnings in cases such as more serious offences or in cases where the young person has been warned previously on several occasions. This discrepancy in the relevance of factors may also be argued as being indicative of a coarse level assessment of risk and needs, or possibly a class based bias in policing (McAra and McVie, 2005).

The investigation of data held by the social work teams provided some information on how supervision was delivered. In earlier sweeps there was found to be a greater use of voluntary supervision, consistent with Reporter's use of referring a case for "Advice and Guidance" and families approaching the social work department independently requesting assistance. Within the limited data available it appeared that the most common form that supervision had taken was recorded as "generic" child and family work, followed by individual based work. In some cases although the child or young person was seen as requiring compulsory measures due to their levels of need, the supervision was recorded as being "monitoring" or "irregular contact". In addition to contact with social workers, the files also recorded contacts with other agencies for further assessment and intervention. These agencies included educational welfare services, medical services and the Youth Strategy Group (which provides services to children and young people who are in residential care or are truanting or excluded from school). The perceived effectiveness of social work supervision and services from other agencies are explored later in the qualitative chapter.

Overall, there appears to be an intriguing relationship between a range of background demographic factors and the cohort's contact with the Children's Hearings system.

The decision making functions of the various gatekeepers within the system appear to be biased and over inclusive of children, particularly males, from single parent families, where their background was of socio-economic disadvantage. The variables that relate closely to decision making by gatekeepers are explored in the following chapter. An investigation into the effectiveness of the Children's Hearings system in terms of reductions in self-reported offending will also be presented in chapter 7.

Chapter 6.

Analysis of gatekeeping and decision making practices.

Introduction

The aim of this chapter is to explore the variables which relate to the decision making processes of the two main gatekeepers (the Police and Reporters) within the Children's Hearings system for young people with offending behaviours. Studies reviewed in the previous chapters have found that children from deprived backgrounds, in single parent family structures were over-represented in referrals when compared to the general population (Martin, Fox and Murray 1981; Asquith and Samuel, 1994; Waterhouse *et al.*, 1999; Gault, 2003; McAra, 2005). The analyses presented in the following sections will explore the stages at which these children are filtered into the Children's Hearings system.

The following analyses focus on data from sweep 3 (in 2000, when the cohort were approximately 13 ½ years of age) where levels of self-reported offending are at their peak for the cohort members. The use of data from a single sweep allows a detailed examination of data on the police's patterns of charging and giving warnings, and referring children to the Reporters in relation to other contemporaneous factors that are relevant to gatekeeping decisions.

6.1. Analysis of gatekeeping

The analyses of gatekeeping will be conducted in three stages: the first stage compares those charged or warned (in sweep 3) with those who have never been charged or warned; the second stage, using the sample of cohort members who were charged or warned in the previous stage, compares those who were Referred to the Reporter and those who were not; the third stage, using the sample of cohort members referred to the Reporter, investigates factors relevant to Reporters' decisions to refer a case to a Hearing.

As discussed within the literature review, the decision making practice of the police (at the time of data collection) in relation to the cohort involves a high degree of

discretion on the part of the officers who encounter the child on the street, and also on the part of the Juvenile Liaison Officers. Officers on the street issue warnings, or charge the young person in the presence of their parents or carers, either within the police station or within the child's family home. In cases where the child was charged with a less serious offence and admits guilt, the Juvenile Liaison Officer can also decide whether to issue a written formal warning (on up to two occasions) to the child. In cases where the offence was considered to be serious, (irrespective of the child admitting guilt or not) the Juvenile Liaison Officer refers the case to the Reporter. Once in receipt of an offence grounds referral, the Reporter's task is to decide if there is sufficient evidence to substantiate the basis of the referral and if the child may benefit from compulsory measures of care (as defined within the *Children (Scotland) Act 1995*). If the Reporter decides that the grounds satisfy both of these conditions then the child's case is referred to a Hearing.

Stage 1: Police warnings and charges

The first stage of this analysis is an investigation of factors that relate to the Police's use of formal charges or warnings. From the cohort as a whole (4957 individuals, in sweep 3 when aged between 13 and 14 years) the vast majority (86.6%) were not formally warned or charged by the police, leaving 557 individuals (13.4%) who were warned or charged by the police in sweep 3. These two groups (those warned or charged, and those not warned or charged) were compared on a range of characteristics that might affect this aspect of the police's interaction with the cohort. The characteristics chosen for this initial analysis reflect those examined in the previous section and relate to each child's family and environmental backgrounds (these include: gender; family structure in sweep 3; socio-economic status; entitlement to free school meals; and neighbourhood deprivation). These factors are highly visible to gatekeepers and earlier analyses support their inclusion here.

In addition to these, a range of individual and behavioural factors for cohort members were included in the following analyses (including: frequency of self-reported serious offending for sweeps 1, 2 and 3; drug use in sweep 3; alcohol use in sweep 3; hanging around in sweep 3; parental supervision in sweep 3; truancy in sweep 3; and volume of victimisation in sweep 3). A number of factors which relate

to previous “form” or being a “known name” were also incorporated into the following analyses (these include: having been referred to the Reporter in sweep 1; and having been referred to the Reporter in sweep 2; and having been warned or charged in either sweeps 1 or 2; see Appendix B for a full description of these variables). The categorical variables (such as gender and socioeconomic status) were analysed using Pearson chi-square tests and are presented in the first half of the following table (Table 15). The continuous variables (neighbourhood deprivation; self-reported serious offending in sweeps 1, 2 and 3; levels of parental supervision in sweep 3; frequency of truancy in sweep 3; and volume of victimisation experiences in sweep 3) are presented in the second half of the following table and were analysed using Mann-Whitney tests due to their non-parametric distributions.

The comparison of the factors shown in the following table (Table 15) indicate that the cohort members who were formally warned or charged were significantly different from those who were not warned or charged. In all of the variables shown which relate to some form of social or economic disadvantage, those referred or charged were significantly more likely to be disadvantaged. Of those entitled to free school meals there were over two times more warned or charged, than those not warned or charged (38.96% warned or charged, 16.87% not warned or charged). The strength of this factor is particularly interesting as its function here is to serve as a “marker” that represents a range of deprivation issues that are not being measured here. The child’s actual entitlement or not to free school meals would unlikely be known to the police but the other deprivation issues that are associated with this variable would appear to be very significant within the police’s decision making process. The behavioural variables were also all significantly different between the groups; those who reported using drugs and alcohol were approximately three times more likely to have been warned or charged. Those who hung around “most nights” were almost twice as likely to be warned or charged also reflecting their availability for policing. Those warned or charged were also significantly more likely to be “known names” and those who had been warned or charged previously were over seven times more likely to have this experience again in sweep 3.

Table 15: Comparison of those warned or charged with those without warnings or charges in sweep 3 (n = 4161).

		No warn/charge (n = 3604)	warned / charged (n = 557)	Sig.
Gender	% Male	48.06	65.17	p < 0.0005*
	% Female	51.94	34.83	
Family	% Not living with 2 birth parents	32.19	50.72	p < 0.0005*
	% Living with 2 birth parents	67.81	49.28	
SES	% Man / Unemployed	39.82	64.91	p < 0.0005*
	% Non-Manual	60.18	35.09	
Free School Meals	% Entitled	16.87	38.96	p < 0.0005*
	% Not Entitled	83.13	61.04	
Drug use	% Yes	14.28	47.56	p < 0.0005*
	% None	85.72	52.44	
Alcohol use	% At least weekly	13.49	43.38	p < 0.0005*
	% Less often	86.51	56.62	
Hanging Around	% Most evenings	47.71	83.88	p < 0.0005*
	% Less often	52.29	16.12	
Warned / Charged in S1 and S2	% Yes	7.82	53.99	p < 0.0005*
	% No	92.18	46.01	
Referral in S1	% Yes	5.33	21.54	p < 0.0005*
	% No	94.67	78.46	
Referral in S2	% Yes	2.47	17.77	p < 0.0005*
	% No	97.53	82.23	
Neighbourhood	mean deprivation score	3.17	4.62	p < 0.0005**
Seriousness S1	mean frequency score	1.81	4.78	p < 0.0005**
Seriousness S2	mean frequency score	2.06	6.41	p < 0.0005**
Seriousness S3	mean frequency score	2.46	9.61	p < 0.0005**
Parental Supervision	mean of score	6.46	5.09	p < 0.0005**
Truancy	mean frequency score	1.24	2.63	p < 0.0005**
Victimisation	mean of volume score	2.02	4.56	p < 0.0005**

*significance value derived from Pearson Chi-Square test

** significance value derived from Mann-Whitney test

All of these factors were then entered into a binary regression model (using the forwards stepwise method) with warning or charge, versus no warning or charge as the dependant variable. The advantage of the regression method over the above analyses is that each of the factor's contribution to the variance is independent of all the other factors within the model. For example, the finding that having previous charges increases the likelihood of having further charges is assessed independently from all the others, such as the seriousness of offending in that sweep, which might be causally related to being warned or charged again. Taking all of the variables used

in the analysis presented above a regression model was fitted. The following (Table 16) shows the final version of this regression and the variables which were retained due to their significance within the model.

Table 16: Binary logistic regression predicting police warning or charges in sweep 3 (n = 4161).

	B	S.E.	Sig.	Exp(B)	95.0% C.I. for EXP(B)	
					Lower	Upper
Gender – male	0.331	0.143	p = 0.02	1.392	1.053	1.841
SES - man / unemp.	0.422	0.151	p = 0.005	1.525	1.136	2.049
Free school meals – Yes	0.379	0.158	p = 0.016	1.461	1.072	1.99
Drug use - yes	0.709	0.157	p < 0.0005	2.032	1.495	2.761
Alcohol Use - at least weekly	0.579	0.159	p < 0.0005	1.783	1.306	2.436
Hanging around - most evenings	0.758	0.164	p < 0.0005	2.134	1.547	2.944
Warned / charged in S1 or S2	1.516	0.149	p < 0.0005	4.553	3.398	6.1
Referred in S2 - yes	0.802	0.247	p = 0.001	2.229	1.375	3.614
Neighbourhood Deprivation	0.178	0.067	p = 0.008	1.195	1.048	1.363
Seriousness S3	0.311	0.063	p < 0.0005	1.364	1.205	1.544
Parental Supervision	-0.341	0.066	p < 0.0005	0.711	0.624	0.809
Constant	-3.912	0.185	p < 0.0005	0.02		

Overall this model was found to predict the outcome measure with 89.8% accuracy although there is still a large proportion of the variance unaccounted for by the model by other factors (Cox & Snell R Square = 0.21; Nagelkerke R Square = 0.39). The 95% confidence interval scores are very similar to the odds (Exp B) values indicating that the results for these variables are reliable.

Being male remained a significant factor in relation to being charged or warned independently of other factors, such as frequency of serious offending, which were included within the model. Measures of social disadvantage (manual or unemployed SES, coming from a deprived neighbourhood and being entitled to free school meals) were all found to be significantly related to being charged or warned. Behavioural factors such as the frequency of serious offending, drug use, and alcohol use were all found to be significantly related to being warned or charged (see also McAra, 2005). Hanging around most nights was the next most significant factor, supporting the notion that being available for policing is related to being warned or charged. Having

previous “form”, through warnings or charges in sweeps 1 or 2 increased the odds of further warnings or charges by a factor of 4.5. Similarly, having been referred to the Reporter in sweep 2 (on any grounds) was also found to more than double the likelihood of being warned or charged in sweep 3 independently of all of the other factors within the model.

Higher parental supervision levels, as reported by the cohort members in sweep 3, were found to have acted as a protective factor and significantly reduced the risk of being charged or warned. The family structure variable that was highly significant in the chi-square analysis was not found to be significantly associated with being charged or warned in this sweep. This finding is similar to that reported by Juby and Farrington (2001) who found that the quality of parenting was more closely related to offending than the structure of the family.

Stage 2: Police referrals to the Reporter

This stage of the analysis is based on the sample of 557 cohort members who were formally warned or charged by the police in sweep 3 and then were referred to the Reporter. From this group there were 104 who were then referred to the Reporter on offence grounds (18.7% of those warned or charged). The characteristics of the minority of those referred are compared with those not referred using the same factors as above (using Pearson chi-square tests for the binary variables and Mann-Whitney tests for the continuous variables). The findings of these analyses are presented in table 17.

These results show that amongst all of those warned or charged, the 104 cohort members referred by the police to the Reporter were more similar to each other at this stage of the analysis than at the previous stage. The two groups differed in many respects from those who were not referred in sweep 3.

Table 17: Comparison of those warned or charged and not referred, with those warned or charged and referred to the Reporter (n = 557).

		warned / charged (n = 453)	Referred (n = 104)	Sig.
Gender	% Male	62.91	75.00	p = 0.02*
	% Female	37.09	25.00	
Family	% Not living with 2 birth parents	48.78	59.22	ns. p = 0.056*
	% Living with 2 birth parents	51.22	40.78	
SES	% Man / Unemployed	62.42	75.73	p = 0.011*
	% Non-Manual	37.58	24.27	
Free School Meals	% Entitled	38.46	61.54	p < 0.0005*
	% Not Entitled	66.23	38.46	
Drug use	% Yes	45.61	56.52	ns. p = 0.058*
	% None	54.39	43.48	
Alcohol use	% At least weekly	43.21	44.12	n.s. p = 0.87*
	% Less often	56.79	55.88	
Hanging Around	% Most evenings	83.74	84.47	n.s. p = 0.86*
	% Less often	16.26	15.53	
Warned / Charged in S1 and S2	% Yes	48.71	76.77	p < 0.0005*
	% No	51.29	23.23	
Referral in S1	% Yes	16.11	45.19	p < 0.0005*
	% No	83.89	54.81	
Referral in S2	% Yes	12.36	41.35	p < 0.0005*
	% No	87.64	58.65	
Neighbourhood	mean deprivation score	4.317	6.02	p < 0.0005**
Seriousness S1	mean frequency score	4.227	7.437	p < 0.0005**
Seriousness S2	mean frequency score	5.856	9.034	p = 0.0001**
Seriousness S3	mean frequency score	8.734	13.784	p = 0.0001**
Parental Superv.	mean of score	5.033	5.359	ns. p = 0.12**
Truancy	mean frequency score	4.624	6.583	p < 0.0005**
Victimisation	mean of volume score	4.248	5.885	ns. p = 0.63**

*significance value derived from Pearson Chi-Square test

** significance value derived from Mann-Whitney test

The most striking differences between these groups are in relation to measures of social disadvantage (being entitled to free school meals; greater levels of neighbourhood deprivation; and coming from a manual or unemployed SES background) where those referred to the Reporter were significantly more disadvantaged. Previous warnings or charges in sweeps 1 or 2 were significantly different between these groups, and being previously referred to the Reporter (on any grounds) in sweeps 1 and 2 indicates that being known significantly increases the likelihood of being referred to the Reporter. The strong influence of previous

referrals was also reported in an earlier study by Martin, Fox and Murray (1981) who found the probability of coming before a Hearing substantially increased if there is a history of prior referral on offending grounds.

Many of the variables that reflect behaviours were also significantly different between the groups, with those referred having: greater levels of self-reported serious offending in sweep 1, sweep 2 and sweep 3; greater frequency of truancy; and greater levels of hanging around. Levels of drug and alcohol use however were not found to be significantly different between the two groups. At this level of gatekeeping there were no significant differences between those referred and those not referred on their levels of parental supervision, or their experiences of victimisation. Consistent with earlier findings, being male was associated with an increased likelihood of being referred to the Reporter. This finding is similar to that reported by Asquith and Samuel (1994), discussed in the literature review, who found that girls were almost twice as likely to only receive a warning as males, when matched by offence types.

The above analyses indicate that the police referred more serious offenders, who truanted more frequently and were already known to the police and Reporters. In addition, the police also referred significantly more cohort members from disadvantaged backgrounds who, through hanging around, were more “available” for policing. The extent to which these factors are related to other each is investigated in the following multivariate analysis of police decision making. The factors entered into this binary regression model were entered using the Forward Stepwise method as in the previous models. The significant factors retained by the analysis are shown in Table 18.

Table 18: Binary logistic regression predicting referral to the Reporter amongst those with warnings or charges in sweep 3 (n = 557).

	<i>B</i>	<i>S.E.</i>	<i>Sig.</i>	<i>Exp(B)</i>	95.0% C.I. for <i>EXP(B)</i>	
					<i>Lower</i>	<i>Upper</i>
Referred in S2 - yes	1.41	0.326	p < 0.0005	4.096	2.163	7.758
Neighbourhood deprivation	0.425	0.129	p < 0.005	1.53	1.189	1.969
Seriousness S3	0.273	0.086	p < 0.0005	1.314	1.109	1.557
Constant	-2.483	0.229	p < 0.0005	0.084		

Overall, the model was found to predict the outcome with 83.3% accuracy (Cox & Snell R Square = 0.102; Nagelkerke R Square = 0.173). The above findings show that the police decision to refer cohort members to the Reporter is related mainly to their previous referral history, where having been referred in sweep 2 increases the odds of being referred in sweep 3 by a factor of 4. The previous bias found in the treatment of genders was no longer evident. This is possibly due to the levels of serious self-reported offending being retained and accounting for more variance than gender. However, the retention within the model of neighbourhood deprivation levels would appear to suggest a bias that is not related to self-reported offending behaviours or substance use.

Stage 3: Reporters' referral to Hearing

The significance of factors involved in the decision made by Reporters to refer to Children's Hearings is examined in this section. These following analyses are based on the sample of 104 cohort members who were referred to the Reporter in sweep 3. Of this group only 23 progressed to a Hearing and 81 cohort members were not taken to a Hearing. The information available to the Reporters differs from that used by the police as within a child's Children's Hearing file there was information relating to the child's previous referrals on all ground, the total number of charges against the child for offences, and within reports from police social workers, and the education authority there is also information about other issues for the child. These additional sources of information are reflected in the following analysis by the variables Variety of Problems; Total referrals; and Total charges (see Appendix B for more information on these variables).

The categorical variables are analysed using Pearson Chi-square tests and the continuous variables, due to their non-parametric distributions, are analysed using Mann Whitney tests. The findings of these tests are given in the following table (Table 19).

Table 19: Comparison of those referred to a Hearing with those not referred to a Hearing by Reporters in sweep 3 (n = 104).

		No hearing (n = 81)	Hearing (n = 23)	Sig.
Gender	% Male	76.54	69.57	n.s. p = 0.49*
	% Female	23.46	30.43	
Family	% Not living with 2 birth parents	55.00	73.91	n.s. p = 0.056*
	% Living with 2 birth parents	45.00	26.09	
SES	% Man / Unemployed	75.00	78.26	n.s. p = 0.75*
	% Non-Manual	25.00	21.74	
Free School Meals	% Entitled	60.49	65.22	n.s. p = 0.68*
	% Not Entitled	39.51	34.78	
Drug use	% Yes	56.52	56.52	n.s. p = 1.00*
	% None	43.48	43.48	
Alcohol use	% At least weekly	43.04	47.83	n.s. p = 0.68*
	% Less often	56.96	52.17	
Hanging Around	% Most evenings	88.75	69.57	p = 0.025*
	% Less often	11.25	30.43	
Warned or Charged in S1 and S2	% Yes	74.68	85.00	n.s. p = 0.33*
	% No	25.32	15.00	
Referral in S1	% Yes	34.57	82.61	p < 0.0005*
	% No	65.43	17.39	
Referral in S2	% Yes	29.63	82.61	p < 0.0005*
	% No	70.37	17.39	
Neighbourhood	mean deprivation score	5.654	7.404	n.s. p = 0.06**
Seriousness S1	mean frequency score	7.014	9.467	n.s. p = 0.45**
Seriousness S2	mean frequency score	9.027	9.067	n.s. p = 0.80**
Seriousness S3	mean frequency score	13.795	13.733	n.s. p = 0.82**
Parental Supervision	mean of score	5.413	5.174	n.s. p = 0.61**
Truancy	mean frequency score	5.900	8.957	p = 0.008**
Victimisation	mean of volume score	5.370	7.696	n.s. p = 0.18**
Variety of Problems	mean variety score	3.741	11.522	p < 0.0005**
Total referrals	mean of total score	2.062	6.217	p < 0.0005**
Total charges	mean of total score	2.100	8.261	p < 0.0005**

*significance value derived from Pearson Chi-Square test

** significance value derived from Mann-Whitney test

The above analysis indicates that those children who progress to a Hearing are more similar to the other children at this stage than at the previous stage with fewer significant differences being found. Measures of deprivation were no longer significantly different between groups and behavioural issues such as substance use or seriousness of offending also did not distinguish between the groups. Contrary to the previous findings, the pattern of hanging around “less often” was significantly

associated with progressing to Hearing. Previous “form” within this stage remained highly significant. The results indicate that those who attend a Hearing were more likely to have been referred previously in sweep 1 and sweep 2, and were also more likely to have truanted more frequently than those who did not progress to a Hearing. The additional information available to the Reporters held within the Children's Hearings system's records significantly distinguished between those who progressed to Hearings and those who did not. Found to be significant were having a greater variety of problems within the records, a greater number of referrals and more charges for offences.

All of the significant variables from the above analyses were entered into a binary regression model using “progressed to a Hearing”, and “did not progress to a Hearing” as the outcomes. The variables retained in the model after using the forwards stepwise method are shown in the following table (Table 20).

Table 20: Binary regression predicting Reporters' decision to refer to a Hearing in sweep 3 (n = 104).

	<i>B</i>	<i>S.E.</i>	<i>Sig.</i>	<i>Exp(B)</i>	95.0% C.I. for <i>EXP(B)</i>	
					<i>Lower</i>	<i>Upper</i>
Hanging around - most evenings	-2.437	1.096	p = 0.026	0.087	0.010	0.749
Referred in S2 - Yes	3.442	1.182	p < 0.005	31.238	3.079	316.886
Variety of Problems	1.272	0.399	p < 0.005	3.568	1.632	7.800
Total charges	0.843	0.346	p = 0.015	2.323	1.178	4.578
Constant	-2.609	0.948	p = 0.006	0.074		

This model was found to predict the outcome with 88.1% accuracy (Cox & Snell R Square = 0.445; Nagelkerke R Square = 0.676) and a large proportion of the variance (between 44.5% and 67.6%) was explained by the model. The very large confidence interval around the factor relating to having been referred to the Reporter in sweep 2 indicates that there is a large degree of variability in this factor which is probably a consequence of the small sample size. Although the numbers are small and the findings should be regarded with some caution, they indicate that Reporters' decision making appears to be substantially based on the child's previous referral history, where having been referred in sweep 2 increases the likelihood of being referred to a Hearing in sweep 3 by a factor of around 31. The variety of problems and the total

number of charged recorded in the Children's Hearings file were also significantly related to referral to a Hearing. Contrary to previous findings, hanging around was significantly negatively (although not very strongly) related to having been referred to a Hearing.

6.2. Supervision Requirements

From this sample of 23 individuals, 21 were placed on Supervision Requirements by Panel Members within the Hearing and 2 left Hearings without a Supervision Requirement being made. Over the course of sweep 3, the 21 individuals placed on Supervision were given a total of 28 disposals from the Panel. The following table (21) shows the percentage of disposal decisions of each type (reflecting that some individuals will have multiple disposals).

Table 21: Percentage of Panel Members' disposals (n=21).

Disposal type	%
Home supervision requirement	61.9
Placement with family member	9.5
Placement with foster carer	23.8
Placement in children's unit	23.8
Placement in residential school	4.8
Placement in secure unit	9.5

NB: totals add up to 133% due to multiple disposals being given to cohort members.

Consistent with earlier findings, the most common disposal is the Supervision requirement within the child's own family home at 61.9%. Institutional based disposals made up a total of 38.1% of the total number of disposals for this group.

Once having been allocated a social worker through a Supervision Requirement, data from the social work files indicates the forms that the supervision had taken. For the group of 21 individuals there are 32 different contact types recorded for supervision and clearly some individuals had two, or more, contact types. The following table (Table 22) gives the percentage of contact types recorded for all individuals.

Table 22: Percentage of Social Work contact types (n=21).

Social work contact type	%
Regular individual	54.5
Child and family work	68.2
Irregular contact	4.5
Monitoring only	9.1
Groupwork	9.1

NB: totals add up to 145% due to multiple disposals being given to cohort members.

The most common (68.2%) form of social work contact had taken place within the context of “generic” child and family work. Individual work was the second most frequent form of contact that comprised a Supervision Requirement. In total, 18.2% of this small group who were regarded as requiring Compulsory Measures received what was recorded in the social work files as irregular contact or monitoring only. Lastly, 9.1% (one individual) received some form of unspecified groupwork activity.

In addition to the contact types given above, social work records indicate that 58 referrals to other agencies, in order for them to provide interventions, were made for the 21 cohort members placed on a Supervision Requirement. The percentages of interventions of each type are shown in Table 23.

Table 23: Percentage of Intervention types used (n=21).

Intervention types	%
Educational welfare / educational psychologist	47.6
Special education	4.8
General Practitioner	71.4
Psychiatric / mental health services	23.8
Voluntary organisations	28.5

NB: totals add up to 176.1% due to multiple disposals being given to cohort members

The most common referral was made to General Practitioners, followed by educational welfare officer or educational psychologists. Medical health and mental health services together made up the third most common intervention by another agency. The interventions which made up the 28.5% of referrals to voluntary organisations came from two individuals being referred to an organisation that works with victims of sexual abuse; an individual referred to a voluntary organisation that

provides tutors; an organisation (“RUTS”) which takes referrals for young people involved in motor vehicles offences; and one individual was referred to a befriender organisation.

6.3. Discussion

The analyses conducted indicate that access to the Children’s Hearings system through the police, appeared to be influenced by factors that were independent of actual offending behaviours. The child’s socio-economic status group, living in a relatively more deprived neighbourhood and having been entitled to free school meals were all found to be significantly related to being referred. In relation to gender, the finding here that males were statistically more likely to be referred on offending grounds is consistent with the findings using data from the same cohort reported by Smith and McAra (2004) and is also consistent with other studies which indicate that being male is one of the strongest risk factors for juvenile offending (e.g. Rutter, Giller, and Hagell, 1998; Moffitt, Caspi, Rutter, and Silva, 2001). Within the literature the effect of gender and processing shows an inconsistent pattern. In some studies it has been found that female offenders receive more serious disposals in comparison to males (e.g. Bishop and Frazier, 1992). This may possibly be related to traditional sex role stereotyping from gatekeepers who may deal more harshly with female offenders in order to enforce more traditional views of female behaviour (e.g. Daly, and Chesney-Lind, 1988). However, within the literature there are studies which suggest that female offenders are treated more leniently than males (e.g. Bishop and Frazier, 1992) through “chivalrous” notions of protecting females. The ambiguity in the research is resolved in studies that fail to demonstrate any differences in gender bias when factors such as offence severity and offence type are controlled for within the statistical analyses (Kempf-Leonard and Sontheimer, 1995). This was the case in the present study where gender was not retained in the regression models when seriousness of offending was also included.

As discussed in chapter 4, the use of the regression analysis process allows for the influence of variables to be studied independently of each other; therefore these findings indicate that there is not a confounding effect of for example police having more contact with some young people due to their levels of offending or their

“hanging around”, as these factors are separated within the analysis. The decision of the police to warn or charge a cohort member appeared to be influenced by the child having come from a “broken” home, which also has been found to be related to the decision to refer to the Reporter in other analyses (e.g. SCRA, 2006). Juby and Farrington (2001) report that the relationship between family structure and offending is not simple: relationship disruptions were associated with higher rates of delinquency (more so than when a parent died). In addition, it was found that the delinquency rates for boys, who grew up in families displaying high levels of conflict where both parents were present, had similar rates of delinquency to boys from disrupted families. Lastly, they report that the age of the child at the time of the disruption was also significant in that disruptions under the age of five years, or between ten and fourteen years, had more negative consequences than disruptions in the family structure between five and nine years of age. Similar findings on the complexity of family circumstances are reported by McCord (1982). In this study it was reported that levels of offending were higher for boys from broken homes without affectionate mothers and from homes where both parents are present but family life was characterised by high levels of parental conflict. Importantly, McCord (1982) found that the level of offending amongst boys living with affectionate single mothers was similar to that of unbroken families where there was little parental conflict. Overall it would appear that the levels of parental conflict are causally more significant to delinquent development, and divorce and separation are correlated to that conflict.

In addition, having previous “form” through being warned, charged or referred to the Reporter (on any grounds) in earlier sweeps were also significant factors in the police’s decision to issue a warning or charge in sweep 3. They were also more likely to be available to the police through hanging around or through their truancy. It might be the case that there is something particularly significant about these factors which has not been fully explained here and further research may possibly find a more comprehensive explanation, or an additional variable which may account for these findings more fully. The analyses here appear to indicate, through a combination of factors unrelated to offending, that a group of young people

experienced a greater concentration of police resources, limiting the police's opportunities to reach other offenders who may be less easily targeted. The possible explanations for this finding, such as the use of information from databases which identify persistent offenders being used within "intelligence led policing", are discussed in chapter 8 which explores qualitative findings.

The last stage at which diversion can take place is within the Reporters' decision to refer the child's case to a Hearing. From the sample of cohort members who the police had referred, 78% were diverted at this point. Of those who were referred to a Hearing, the Reporter's decision making appeared to reflect factors in relation to the child's previous referrals where the total number of referrals on all grounds, the variety of problems mentioned in referral documents and the total number of charges were significant. Factors that related to family structure, social class and disadvantage were not found to be part of the Reporters' decision making. However, the sample referred to the Reporter will have already had these factors compounded throughout the potentially biased referral processes of the police.

The influence of previous arrest history on referral to court was found to be significant within the regression analyses of data for both Bremen and Colorado in the study by Huizinga *et al.*, (2004; discussed earlier within chapter 2). Similarly in Edinburgh, McAra and McVie's (2005) findings that the police apprehend the "usual suspects" has been replicated and extended here in relation to referrals to the Children's Hearings system. The aim within the Kilbrandon philosophy to avoid the stigmatisation of young people appears on the basis of the findings here to have been undermined by the activities of the police. Having previous warnings or charges was found to be highly significant in determining how the police would respond to the child. In effect the police referral process progressively screened out the less serious offenders who were charged or warned, but concurrently selected in more disadvantaged children.

The apparent bias in the police referral practices may possibly be an echo of the Hearings systems welfare orientated philosophy. Kilbrandon's assertion that children

who are offending are similar to those in need of care and protection, may have resulted to some extent in self-fulfilling prophecy fuelled by a referral process that selects offenders not on their risk of recidivism but primarily on their levels of social disadvantage. Factors such as socio-economic status and family structure have not been found to be causally related to offending (e.g. Rutter *et al.*, 1989; Juby and Farrington, 2001), but it might be the case that these factors are perceived by the officer on the street as being very salient “markers”, which approximate risk and protective factors. These characteristics of a child’s circumstances in the absence of more detailed and reliable information might form heuristic decision making practices for police where the propensity to offend is intuitively predicted in a manner that best represents their experience, even if the decisions are not based on reliable foundations (see Kahneman and Tversky, 1973).

The gatekeeping of the Reporters appears to be consistent with the Kilbrandon philosophy. The findings that the range of problems in documents, the total number of charges, and the total number of previous referrals on any grounds are significant appear congruent with a “needs and deeds” decision making framework. The finding that hanging around most evenings was significantly associated with *not* being referred to a Hearing appears to contradict the pattern exhibited by the Police. It is possible that Reporters are attempting to distinguish between those young people whose offending is associated with factors such as spending unstructured time with their peers, from those who offend less commonly under different circumstances.

The group of cohort members warned or charged in sweep 3 passed through various decision making stages and culminated in 21 individuals being placed on a Supervision Requirement. The most frequent disposal given to these cohort members were supervision within their family home, although a number of institutional disposals were also made. It should be noted that these disposals to institutions do not accurately reflect the number of times that a young person was actually placed in one of these settings, as there is usually a waiting list for beds within these environments. Panel Members would have still have made this disposal option irrespective of whether the resource was available or not. Consequently it seems

likely that a small number of people received these disposals repeatedly during sweep 3 due to their not being an available place when the last disposal was made.

The most common form of contact from social work within a Supervision Requirement came in the form of generic child and family contact. Just over one contact type in three was for individual work and around 12% of contact types were recorded as irregular or as monitoring. The effectiveness of these forms of contact from the perspectives of the young people and social workers will be investigated in more detail in the qualitative chapters later. Lastly, social work files contained information relating to referrals made to other agencies. These referrals were predominantly to agencies which provided resources that were related to education services. Physical and mental health services made the second most frequent group of referrals and voluntary organisations made up the smallest proportion. Again, it is not clear the extent to which these services are effectively meeting both the welfare and criminogenic needs of the young people (this area is discussed in more detail in chapter 7).

The findings presented here in relation to gatekeeper practices would suggest that the children and young people who come to the attention of the Reporters are likely to represent a group of more serious offenders (but not representative of the offenders generally within the cohort) who are also largely drawn from disadvantaged backgrounds and preferentially selected and streamed into the system. Once members of this group are regarded by the Reporter and Panel Members as requiring Compulsory Measures of care, in order to justify the system's intervention in light of the "no order" principle, it is essential that the services they receive are effective and appropriately targeted. The use of structured risk assessment tools in relation to children and young people where compulsory measures are being considered would allow the identification of the relevant criminogenic needs that might be present within these "markers".

It is argued that in order to better reflect the findings of effective practice, the Children's Hearings system should "filter out" more children and young people to

resources that can be accessed without the need for compulsory measures. Some of the policy recommendations presented in *Getting it right for every child* (Scottish Executive, 2005) in particular appear to be introducing greater use of diversion and elements of effective practice to the functioning of the police. In addition, the use of Social Work and Education Liaison Officers (where social worker and education staff liaise directly with Reporters in case management decisions and information sharing) has also found to increase the speed of Reporters' decision making, allowing for earlier interventions, and also increasing the frequency of diversion to voluntary measures (Penman, 2005). The expansion of the Liaison Officers role to other areas of Scotland is argued here as facilitating more effective gatekeeping and decision making practices.

Greater integration of risk and needs assessments within the Children's Hearings system's gatekeeping stages would reduce the potential for bias, increase the accuracy and transparency of decision making, and inform decisions to divert or to intervene more effectively. The extent to which the Children's Hearings system addresses the offending behaviour of children and young people placed on Supervision Requirements is investigated in the following section.

Chapter 7.

Effect of referral and Supervision Requirement on self-reported offending and self-concept.

Introduction

The findings in the previous chapter on gatekeeping practices illustrate the process by which children and young people come to be embedded within the Children's Hearings system. The patterns and observations developed within previous chapter are drawn on in the following sections which investigate the effectiveness of the system using a matched sample of cohort members referred to the Reporter and placed on Supervision Requirements. The last sections of this chapter investigate labelling effects at the level of the self-concept in relation to contact with the police and the Children's Hearings system.

As presented earlier in chapter 6, the frequencies of minor and serious self-reported offending were observed to increase from sweep 1 leading to a peak level in sweep 3, and then decrease steeply in frequency from this point to sweep 6. In order to investigate the effect that the Children's Hearings system had on levels of self-reported offending it is essential that a matched control group is included, otherwise this pattern of desistance could be perceived as an effect of contact with the system.

A number of stages were developed in order to create a closely matched sample. The first stage involved preliminary descriptive analysis of the sample of cohort members who were referred on offence grounds in sweep 3, in comparison to those who had never been referred to the Reporter. The purpose of this stage is to define a range of variables that form the initial selection of variables for the next stage. The second stage is a more detailed analysis of these groups using a range of variables from sweep 3 in binary logistic and ordinal regressions. The purpose of these analyses is to create a range of variables that accurately reflect the sample of cohort members who are referred to the Reporter on offending grounds. The third stage in this process is to create groups of cohort members who, on the basis of the regression model developed in the previous stage, have equivalent probabilities of being referred to the Children's Hearings system, but with one group having actually been referred and the

other having not been referred. In the fourth and last stage of this section, comparisons of the changes in levels of self-reported offending between the groups will be made.

7.1. Propensity matching

Cohort members who were referred to the Children's Hearings system on offending grounds in sweep 3 were matched to a sample who had no system contact using the propensity matching method (see chapter 4). The more commonly used matching method incorporates the use of a number of salient variables (such as age, gender, socio-economic status etc) and in order to obtain very closely matched samples a large number of matching characteristics are required. However, as the number of these matching variables increases, the likelihood of their being a suitable person with identical characteristics to match with decreases. Using this method there is a tension between the accuracy of matching and the likelihood of being able to actually make a match.

This problem with accuracy of matching criteria against availability of cases to match with is circumvented by the findings reported by Rosenbaum and Rubin (1983). The authors reported that by matching on an index of propensity, which reflected the overall probability of the dependent variable being present (for example, being charged by the police), that the effect sizes of each of the individual variables which would have been used in the more commonly used method, would still contribute to the overall probability. By matching on this probability index, rather than matching on each individual variable, Rosenbaum and Rubin (1983) found that the same result could be obtained.

In the present analysis, in order to create a control group that are similar to the group of cohort members who were referred to the Reporter a number of variables that relate to the likelihood of being referred would be required to be incorporated in the matching criteria (see Appendix C for a discussion of this method). Essentially the task here is to define a group that has been referred to a group that is as similar as possible on key variables but was not referred. Rather than attempting to find cohort

members who are identical on a range of variables (e.g. gender, prior charges, alcohol use, neighbourhood deprivation, adversarial police contact etc), cohort members are closely matched on their likelihood of being referred to the Reporter (one group having actually been referred, and the other having never been referred). This propensity is defined as the score that is based on the overall effect of the variables that are relevant to the matching. This allows for the contribution of variables (like adversarial police contact, self-reported offending etc) to be taken into consideration within the overall propensity score. The “propensity score matching” method therefore allows individuals to be closely matched on a score, which is derived from a range of variables that are found to be relevant in describing their propensity of being referred. Put simply this allows individuals to be closely matched on their overall likelihood of being referred to the Reporter, without the requirement of being identical in each of the variables that define the matching process. The development of the propensity scores are defined in the three stages that follow.

Stage 1: comparison of groups

The aim of this stage is to define the characteristics of the two populations that will be matched for the following analyses. Using the data obtained by the Edinburgh Study, this analysis requires the definition of two groupings of the cohort members: those with no history of referral to the Children's Hearings system (over sweep 1 to 7) on any grounds; and those with referrals on offending grounds to the Children's Hearings system in sweep 3.

The purpose of this analysis is to identify what variables are significantly related to being referred to the Reporter on offence grounds. The significant variables found here are then combined with other variables that relate to seriousness of offending to form a model that is used to match cohort members in order to investigate the effects of the system on levels of self-reported offending. Sweep 3 was chosen for this analysis as it is the sweep which includes the peak age of self-reported offending.

This analysis is different from the earlier gatekeeper analysis in chapter 5, which examined the police's referrals to the Reporter from those warned or charged, as this

analysis compares those referred on offence grounds with cohort members who have never been referred to the Reporter at any point (including those who have never been warned or charged). There were 176 cohort members (131 males and 45 females) referred in sweep 3 on offence grounds (3.8% of the cohort), and 4421 individuals (96.2% of the cohort) who were not referred on offending grounds (including offence grounds which were included within “combined grounds”). The total number of cohort members referred on offence grounds for the purposes of this analysis is higher than the figure presented in the gatekeeper analysis chapter 5 due to the addition of cohort members who were referred in sweep 3 but had been warned or charged in sweep 2.

Comparison between those referred and not referred

On the basis of findings reported earlier in the gatekeeping section this model was fitted with the same set of variables as before (see Appendix B, for a description of each of the following variables). These included the binary variables of: gender socio-economic status; entitlement to free school meals; family structure; drug use in sweep 3; alcohol use in sweep3; hanging around in sweep 3; prior police warning or charges (in sweep 1 and sweep 2); and the scale variables of neighbourhood deprivation; frequency of self reported serious offending in sweeps 1, 2 and 3 separately; parental supervision levels; frequency of truancy in sweep 3; volume of victimisation experiences in sweep 3; and number of adversarial police contacts at sweep 3.

All of the binary variables between the “never referred” and “referred on offence grounds” groups were analysed using Pearson Chi-square tests and are shown in the first section of the following table. It should be pointed out that the majority of these variables relate to events that had taken place in sweep 3 to an outcome in sweep 3 and as such are contemporaneous and not longitudinal; consequently the temporal cause and effect relationships are obscured. The scale variables, due to their heavily skewed distributions were analysed using Mann-Whitney tests. The findings of these tests are presented in the following table (Table 24).

Table 24: comparison of those referred on offence grounds in sweep 3 with those never referred to the Reporter (n = 3900).

		Never referred (n = 3724)	Referred (n = 176)	Sig.
Gender	% Male	49.68	74.43	p < 0.0005*
	% Female	50.32	25.57	
Family	% Not living with 2 birth parents	22.19	48.87	p < 0.0005*
	% Living with 2 birth parents	77.81	51.13	
SES	% Man / Unemployed	37.51	77.78	p < 0.0005*
	% Non-Manual	62.49	22.22	
Free School Meals	% Entitled	13.13	63.07	p < 0.0005*
	% Not Entitled	86.87	36.93	
Drug use	% Yes	15.15	51.69	p < 0.0005*
	% None	84.85	48.31	
Alcohol use	% At least weekly	14.58	43.18	p < 0.0005*
	% Less often	85.42	56.82	
Hanging Around	% Most evenings	48.04	82.44	p < 0.0005*
	% Less often	51.96	17.56	
Warned or Charged in S1 and S2	% Yes	14.62	22.66	p < 0.05*
	% No	85.38	77.34	
Neighbourhood	mean deprivation score	2.94	6.01	p < 0.0005**
Seriousness S1	mean frequency score	1.84	8.34	p < 0.0005**
Seriousness S2	mean frequency score	1.49	7.63	p < 0.0005**
Seriousness S3	mean frequency score	3.1	6.94	p < 0.0005**
Parental Supervision	mean of score	6.36	5.53	p < 0.0005**
Truancy	mean frequency score	2.29	6.66	p < 0.0005**
Victimisation	mean of volume score	1.23	4.78	p < 0.0005**

*significance value derived from Pearson Chi-Square test

** significance value derived from Mann-Whitney test

As can be seen from table 24 above, all of these variables were significantly associated with having been referred on offending grounds, or never being referred, in sweep 3. When these findings are compared with the earlier findings which compared referral to the Reporter amongst those warned or charged, a number of similarities appear indicating that, broadly these two groups are similar. The findings differ between these analyses on alcohol and drug use, hanging around, parental supervision and victimisation variables were significantly different between those never referred and referred, but not significant between those warned and charged who were referred, and those warned and charged who were not referred. This finding indicates that the group of people who were warned and charged by the police differ from the cohort more generally on these variables.

Stage 2: Binary logistic regression predicting referral

All of the significant variables were entered into a binary logistic model that had referral or not as the dependent variable. The model was adjusted manually (using the Enter method within SPSS) to increase accuracy by removing the least significant variables one at a time. The final model contained only those variables which remained significantly predictive of the outcome variable. The final list of variables was comprised of: Socio-economic status; Family structure; Neighbourhood deprivation; Prior charges from the police in sweep1 and sweep2; Truancy in sweep3; and adversarial police contact in sweep 3. The final version of the model, with the significant variables retained in the equation, is shown in Table 25.

Table 25: Variables predicting referral on offence grounds in sweep 3 (n = 3228).

	B	S.E.	Sig.	Exp(B)	95.0% C.I. for EXP(B)	
					Lower	Upper
Neighbourhood deprivation	0.746	0.141	p < 0.0005	2.107	1.598	2.779
Free School Meal - yes	1.359	0.339	p < 0.0005	3.894	2.005	7.563
Seriousness S3	0.443	0.094	p < 0.0005	1.558	1.295	1.874
Drug use - yes	1.194	0.372	p < 0.005	3.299	1.590	6.843
Alcohol use - weekly	0.879	0.364	p < 0.05	2.409	1.182	4.913
Constant	-5.364	0.301	p < 0.0005	0.005		

Overall, this model performed with 97.3% accuracy: correctly predicting 46.2% of those who were actually referred on offending grounds in sweep 3; this level of accuracy is high (Cox & Snell R square = 0.159, Nagelkerke R square = 0.585). The confidence intervals are similar to the Exp (B) values which indicate that the odds ratios are reliable. It should be stressed that this model was developed with the purpose of identifying significant variables that will be used in a further model developed for the purpose of generating propensity scores for matching; it is not intended to represent a definitive predictive model.

Ordinal banding of seriousness of offending

As discussed earlier in the introduction to the methodology of this section, a second model was constructed in order to investigate variables that predict the total volume

of serious self-reported offending in sweep 3. This ordinal model used levels of serious self-reported offending as the dependent variable. Serious offending was defined by the following self-reported behaviours: joyriding, theft by housebreaking, theft from car, arson, carrying a weapon, robbery, and assault on five or more occasions. The majority (66%) of the cohort scored zero on this variable (the maximum score was 77) and the mean score for these behaviours in sweep 3 was 3.1 (with a standard deviation of 7.0). In order to create an ordinal regression model, this variable was recoded into an ordinal band based around the observed scores. The questionnaire completed by cohort members used to collect the data was based on a frequency scale for the behaviours during the last year (once; twice; three times; four times; five times; between six and ten times; and more than ten times). The banding of these variables used within this item was based around the observed distribution of scores within the response data (in particular clusters of scores caused by the collection of data as being “between six and ten times” and “more than ten times”). The bandings used here reflect the “bumps” in the distribution of scores that were a consequence of the way that data were collected. The following table (Table 26) shows the distribution of banded scores for the cohort members:

Table 26: banding of frequency of self-reported serious offending in sweep 3 (n= 4147).

Score - Banding	Frequency	Percent	Male	Female
0 - Non serious	2748	65.84	1159	1589
1 - 1 and 2	430	10.3	252	178
2 - 3 to 5	224	5.37	146	78
3 - 6 to 10	221	5.29	152	69
4 - 11 to 21	387	9.27	268	119
5 - 22 plus	164	3.93	130	34
Total	4174	100	2107	2067

The table above shows that the vast majority of the cohort (65.84%) did not report committing any of the serious offences in sweep 3. Consistent with earlier findings, there were more males involved in serious offending than females.

Ordinal regression predicting seriousness of offending

The findings of Smith and McAra (2004), based on the analysis of data from the Edinburgh Study in relation to serious offending, were used in the present study in order to aid consideration of which variables should be fitted into the ordinal regression model. In addition, variables that appeared to be significant on the basis of the analyses presented earlier were selected in order to develop this stage of the process.

The variables included in this initial descriptive analyses were: gender, hanging around in sweep 3, family structure, socio-economic status over sweeps 1 to 4, entitlement to free school meals across all sweeps, neighbourhood deprivation, commitment to school in sweep 3, truancy from school in sweep 3, alcohol use in sweep 3, drug use in sweep 3; prior police charges in sweep 1 or 2, adversarial police contact in sweep 3, level of parental supervision in sweep 3, family structure, impulsivity in sweep 3, having a girlfriend/boyfriend in sweep 3, moral disengagement in sweep 3, frequency of serious offending in sweep 3, volume of victimisation in sweep 3, and self-esteem in sweep 3. These variables were assessed for multi-collinearity and all were found to be correlated at low levels and were consequently available to be incorporated into the model.

Using this banded volume of serious self-reported offending as the ordinal outcome (which contains six levels of incrementally greater numbers of serious offences, as defined above), a number of predictor variables were included in order to establish if there was a relationship between them and levels of serious self reported offending. The model was fitted using all of the variables listed above and the non-significant variables were removed. Due to missing data for 1123 cases, the total number of cohort members included in this analysis was 3474. The parameter estimates for these variables are given in Table 27.

Table 27: Ordinal regression model predicting banding of serious offending (n = 3474).

	Estimate	Std. Error	Sig.	95% Confidence Interval	
				Lower Bound	Upper Bound
Non serious	1.663	0.113	p < 0.0005	1.442	1.884
1 and 2	2.299	0.116	p < 0.0005	2.070	2.527
3 to 5	2.702	0.119	p < 0.0005	2.468	2.935
6 to 10	3.172	0.123	p < 0.0005	2.931	3.413
11 to 21	4.682	0.145	p < 0.0005	4.398	4.965
Adversarial Police Contact	0.269	0.029	p < 0.0005	0.212	0.325
Victimisation	0.232	0.023	p < 0.0005	0.187	0.277
Risk Taking	0.405	0.035	p < 0.0005	0.337	0.474
Parental Supervision	-0.132	0.030	p < 0.0005	-0.191	-0.073
Truancy	0.174	0.027	p < 0.0005	0.122	0.226
Gender - Male	0.809	0.063	p < 0.0005	0.684	0.933
Gender - Female	0.000	.	.	.	.
Hanging Around - Most nights	0.326	0.066	p < 0.0005	0.197	0.456
Hanging Around - Less often	0.000	.	.	.	.
Alcohol Use - At least weekly	0.275	0.068	p < 0.0005	0.141	0.409
Alcohol Use - Less often	0.000	.	.	.	.
Drug Use - Yes	0.687	0.066	p < 0.0005	0.558	0.817
Drug Use - No	0.000	.	.	.	.
Prior Charges S1, S2 - Yes	0.205	0.074	p < 0.01	0.059	0.351
Prior Charges S1, S2 - No	0.000	.	.	.	.
Boyfriend/Girlfriend - Yes	0.360	0.079	p < 0.0005	0.206	0.514
Boyfriend/Girlfriend - No	0.000	.	.	.	.

This final version of the ordinal model, that included only significant factors, was found to account for approximately 40% to 45% of the variance in the outcome (Cox & Snell R square = 0.402, Nagelkerke R square = 0.445). As with regressions presented earlier, higher levels of parental supervision had a protective effect and was found here to be negatively related to the ordinal bandings of serious offending levels. Gender was found to be significantly related to serious offending independently of other factors. Participating in risky activities, hanging around most nights, having a girlfriend or boyfriend and substance use were also found to be significantly related to seriousness of offending and this finding is consistent with Smith and McAra's (2004) findings in relation to sweep 4 data. The prediction of serious self-reported offending did not include factors such as socio-economic status, neighbourhood deprivation and family structure as these were not found to be

significantly related to the ordinal outcomes. The absence of these factors is striking given their significant role in the police's decision making processes presented earlier. This finding suggests that the factors that are significantly related to serious offending are not being incorporated in the gatekeeping of the police.

Stage 3: Combined model to produce propensity scores

The significant factors from the ordinal model predicting seriousness of offending and the binary model predicting referral on offending grounds were combined into a single binary regression model which predicted referral in sweep 3 on offending grounds as the outcome variable.

All of the variables from these two earlier models were forced into this model using the Enter method; the least significant variable (at $p < 0.05$) was removed manually, and the model was re-run repeating this process until all of the variables left were significant. As discussed earlier, the purpose of this process of removing insignificant variables was to develop a parsimonious model in order to produce propensity scores, rather than account for the variance as accurately as possible. In addition, due to the relatively low numbers and the use of regression analyses, having fewer predictor variables (one variable for a minimum of around 15 cases) is recommended as good practice.

A consequence of this process was that the variables for gender and frequency of serious offending were found to be insignificant and removed during the revisions of the model. However, since these two variables were significant in the ordinal model, and they were also considered to be important factors in relation to matching groups for this purpose, they were both re-entered into the model and retained (through use of the Enter method within SPSS). The final version of this model developed to produce propensity scores is presented in Table 28.

Table 28: Combined model predicting referral on offence grounds (producing propensity scores) for matching purposes (n = 3228).

	B	S.E.	Sig.	Exp(B)	95.0% C.I. for EXP(B)	
					Lower	Upper
Gender - Male	0.395	0.288	n.s. p = 0.17	1.484	0.844	2.61
SES - Manual & unemployed	1.061	0.296	p < 0.005	2.888	1.618	5.156
Family structure - not 2 parents	0.88	0.255	p = 0.001	2.41	1.463	3.971
Prior Charges - Yes	1.15	0.269	p < 0.005	3.16	1.866	5.35
Neighbourhood deprivation	0.165	0.037	p < 0.005	1.179	1.096	1.268
Adversarial Police Contact	1.064	0.108	p < 0.005	2.899	2.347	3.58
Truancy	0.507	0.095	p < 0.005	1.661	1.378	2.001
Seriousness S3	-0.014	0.083	n.s. p = 0.86	0.986	0.839	1.159
Constant	-6.686	0.416	p < 0.005	0.001		

The final binary logistic model had an overall accuracy level of 97.1% (the Cox and Snell and Nagelkerke R Square values were 0.154 and 0.57 respectively). The above table indicates that when predicting referral on offending grounds in sweep 3, variables such as having prior charges, prior adversarial police contact, being from a manual and unemployed SES background where both birth parents were not present, was linked strongly to being referred. The two non-significant factors: gender and frequency of serious offending, may have become non-significant due to being overshadowed by stronger variables in the overall model (when prior charges and adversarial police contact are removed from the above model gender and frequency of serious offending become significant). It should be stressed that the purpose of this model is not to predict referral on offending grounds in sweep 3 as accurately as possible, but as discussed earlier, to generate for each cohort member a probability score which relates to the likelihood of being referred. This likelihood score is based on the contribution of all of the factors included in the regression model and serves to define cohort members who are similar in their propensity of being referred.

From the original sample of 176 cohort members referred with offending grounds (including those with combined referrals) in sweep 3 there were 119 left who had propensity scores produced through this regression model. The loss of 57 cohort members was due to missing data. Cohort members in the referred (experimental) group were manually matched as closely as possible to cohort members in the never

referred (control) group. As discussed earlier in the methods section that relates to this process, in cases where a perfect match was not possible matches were made to the next nearest neighbour (so long as the difference in propensity scores was less than 0.1). There were three individuals in the referred group that had propensity scores that were so high that it was not possible to match them to individuals in the never referred (control) group; these three individuals were excluded from the matched groups leaving a total of 116 individuals who could be matched to non-referred cohort members (see Appendix C for a discussion of this process).

It was observed that in the control group there were fewer individuals with high propensity scores in comparison to the referred (experimental) group, reflecting that those who had a high propensity to be referred were actually referred more often. Consequently, there were a number of instances where members of the referred group had to be matched to the same individual in the never referred (control) group on more than one occasion. This was an effect of there being fewer cohort members in the control group, available for matching on a 1:1 basis. In order to circumvent this problem some of the cohort members in the control group were matched to more than one cohort member in the referred (experimental) group. The experimental group of 116 individuals were matched manually to a sample of 70 individuals using a weighting process (described in Appendix C). When the weighting of cases was applied, this sample of 70 effectively became 116 people who were matched to the 116 in the referred (experimental) group.

In order to test the closeness of the matching between the two groups a number of statistical tests were performed using Mann-Whitney tests for scale data and Pearson Chi-square tests for the categorical data. The results of these analyses are given in Table 29.

Table 29: Comparison of referred and control groups matched using propensity scores (weighted n = 232).

		Not Referred	Referred	Sig.
Gender	% Male	70.69	72.41	n.s. p = 0.771*
	% Female	29.31	27.59	
Family	% Living with 2 birth parents	45.69	51.72	n.s. p = 0.358*
	% Not living with 2 birth parents	54.31	48.28	
SES	% Man / Unemployed	78.45	77.59	n.s. p = 0.874*
	% Non-Manual	21.55	22.41	
Prior Charges	% Prior charges	69.83	62.93	n.s. p = 0.266*
	% No prior charges	30.17	37.07	
Neighbourhood	mean rank deprivation score	114.17	118.83	n.s. p = 0.597**
Seriousness	mean rank frequency score	118.84	114.16	n.s. p = 0.591**
Truancy	mean rank frequency score	116.59	116.41	n.s. p = 0.983**
Advers Police	mean rank of volume score	113.25	119.75	n.s. p = 0.454**
Propensity Score	mean rank of score	116.56	116.44	n.s. p = 0.990**

*significance value derived from Pearson Chi-Square test

** significance value derived from Mann-Whitney test

The non-significant results on the variables that were used to generate the propensity scores indicate that the two groups are closely matched, and that the use of weighting has also not resulted in any anomalous biases. The last variable on the above table relates to a Mann-Whitney test of the two sets of propensity scores. These two scores were found to be almost identical and the very small difference was not statistically significant.

6.2. Changes in self-reported offending between matched groups

Using the matched groups (referred (experimental) group and the never referred (control) group) it was possible to investigate the effect of referral to the Reporter on self-reported levels of offending (using the two variables of minor and serious self-reported delinquent behaviours that were used to describe the pattern of the cohort's offending in Figure 9). Since these groups were matched using sweep 3 data the main focus of change is the period of sweep 3 to sweep 4. A decrease in levels of self-reported offending between sweeps 3 and 4 is found in the cohort generally, and in those referred and not referred to the Reporter (see Table 30).

The following analysis is based on the level of change in minor self-reported delinquency between sweep 3 and 4. The overall change scores for the 116 cohort members in the referred group are compared (using Mann-Whitney tests, due to the non-parametric distribution of the data) with the 116 (weighted) cohort members who had never been referred to the Children's Hearings system. These comparisons are shown in the following table (Table 31)

Table 30: Change from sweep 3 to 4
in Minor SRD levels (weighted n = 116).

	Mean Rank	Sum of Ranks	Mann-Whitney U	Sig.
Referred	107.5	10971	6355.5	n.s. p = 0.64
Never referred	111.2	12900		

There were no significant differences found between the changes in the levels of minor self reported offending for those who were referred in sweep 3 on offending grounds, and those who had no contact with the system. This finding suggests that at this sweep being referred to the Reporter on offending grounds has no significant impact on levels of minor self-reported offending.

This analysis of change from sweep 3 to 4 is repeated in the following table in relation to the change in levels of serious self-reported offending following referral on offence grounds in sweep 3. The results of this analysis are given in Table 31.

Table 31: Change from sweep 3 to 4
in Serious SRD levels (weighted n=116).

	Mean	Sum of Ranks	Mann-Whitney U	Sig.
Referred	107.7	10986	5733	n.s. p = 0.65
Never referred	111.1	12885		

The levels of serious self-reported delinquency over sweep 3 to 4 were not found to be significantly different between those referred on offending grounds and those with no contact with the Children's Hearings system.

In summary, over sweep 3 and 4, the process of being charged by the police and then being referred to the Reporter, had no significant effect on levels of minor and serious self-reported offending when compared to cohort members who had no contact with the system. This finding might be expected as cohort members who were referred are unlikely to have received any formal intervention (a letter from the Reporter being the only indication that their case had been referred to them by the police). It might be the case that the letter from the Reporter resulted in some form of parental response, and potentially some of these individuals could also have received a form of intervention from social work through voluntary measures. The following analyses focuses on the subset of those referred on offending grounds in sweep 3 who were subsequently placed on a Supervision Requirement.

Supervision Requirements

A further analysis of the effect of receiving a Supervision Requirement on offending levels was conducted using a nested sample of those included in the above analysis. Of the 116 cohort members who were referred on offending grounds in sweep 3 there were 21 individuals (18.1% of the total number referred) who were subsequently placed on a Supervision Requirement following a Hearing in sweep 3.

This group of 21 individuals were all part of the previous matching process and on the basis of their propensity scores had been matched with cohort members who had no contact with the Children's Hearings system. Due to a change in the numbers in both groups the previous weighting levels (the ratio of experimental group members to control group members) were recalculated in order to reflect that a sub-group had filtered through to this next stage. The 21 people placed on a Supervision Requirement were matched to 18 individuals in the control group (15 were matched on a 1:1 basis and 3 were matched on a 1:2 basis) which when weighted formed a group of 21.

In order to confirm that these two sub-groups are still functioning as two matched groups, a series of analyses were conducted to compare them on key variables. The findings of these tests are shown in the following table (Table 32):

Table 32: Comparison of Supervision Requirement and control group matched using propensity scores (weighted n = 42).

		% Never Referred	% On SR	Sig.
Gender	% Male	66.67	76.19	
	% Female	33.33	23.81	n.s. p = 0.49*
Family	% Living with 2 birth parents	47.62	28.57	
	% Not living with 2 birth parents	52.38	71.43	n.s. p = 0.20*
SES	% Man / Unemployed	78.45	77.59	
	% Non-Manual	21.55	22.41	n.s. p = 0.71*
Prior Charges	% Prior charges	85.71	66.67	
	% No prior charges	14.29	33.33	n.s. p = 0.15*
Neighbourhood	mean rank deprivation score	22.74	20.26	n.s. p = 0.51**
Seriousness S3	mean rank frequency score	118.84	114.16	n.s. p = 0.82**
Truancy	mean rank frequency score	18.57	24.43	n.s. p = 0.09**
Advers Police	mean rank of volume score	21.07	21.93	n.s. p = 0.68**
Propensity Score	mean rank of score	21.1	21.9	n.s. p = 0.83**

*significance value derived from Pearson Chi-Square test

** significance value derived from Mann-Whitney test

The analyses shown above indicate that there were no significant differences between the two groups on all of the variables that were involved in the original regression analysis used to create the propensity scores. Although non-significant there were some small differences between the groups in that those placed on a Supervision Requirement had less experience of prior police charges, but had a slightly greater level of truancy. These non-significant, but noticeable differences are likely to be a consequence of the small numbers of individuals in both groups (21 in the experimental group and 18, weighted to 21, in the control group).

The changes in the levels of self-reported minor and serious offending over sweep 3 to 4 were examined in relation to those placed on a Supervision Requirement in the same manner as the previous analysis. The finding of this comparison of change is shown in table 33.

Table 33: Change in levels of Minor SRD over sweep 3 and 4 for (weighted n = 42).

	Mean	Sum of Ranks	Mann-Whitney U	Sig.
On SR	18.2	373	153	n.s. p = 0.89
Never referred	18.7	393		

Although the numbers within these analyses are small, these findings indicate that there were no differences in the levels of self-reported minor offending observed between those placed on a Supervision Requirement and those who were never referred to the Children's Hearings system in sweep 3. The change in the levels of serious self-reported offending over sweeps 3 and 4 for this is given in the following table (Table 34).

Table 34: Change in levels of Minor SRD over sweep 3 and 4 for (weighted n = 42).

	Mean	Sum of Ranks	Mann-Whitney U	Sig.
On SR	18.8	382	153	n.s. p = 0.87
Never referred	18.3	384		

The above table indicates that there was also no significant effect from being placed on a Supervision Requirement in relation levels of serious self-reported offending. Overall, this lack of a significant effect from referral to the Reporter and from being placed on a Supervision Requirement was consistent when considering the minor offending variable and the serious offending variable; generally the changes in self-reported offending levels for those involved in the Children's Hearings system over sweep 3 and 4, appeared to reflect the normal pattern of desistance observed within the cohort.

Summary of process

This section described the manner in which a group of cohort members defined by their referral on offending grounds were closely matched to a group that had no contact with the Children's Hearings system. The matching paradigm incorporated a combination of variables that predict referral on offending grounds in sweep 3, and also predict seriousness of self-reported delinquency. These factors within a binary logistic regression were used to generate scores which related to each individual's

probability of being referred. The next stage in the development of the propensity model was to define the factors which relate to seriousness of self-reported delinquency in sweep 3. The factors that were found in the final ordinal model to contribute to accurate predictions were more related to the individual child's actions and behaviour and less about their socio-economic backgrounds. The significant factors from this model were combined with the factors from the previous model in order to develop a binary regression model that was used, not to predict referral as accurately as possible, but to produce propensity scores that would be used to create a referral group and a "no referral" group. In order to ensure that the matching was accurate, the variables of Gender and Frequency of serious offending were retained in the model due to their value in matching "like with like", despite them having been found to not significantly contribute to the overall accuracy of the regression. The final model, was 97.3% accurate overall even though it contained the two non-significant variables. A consequence of this process of producing propensity scores using a range of variables was that the original sample of 176 was reduced to 119 individuals due to missing data.

Matching on propensity scores was conducted manually, which in some instances involved the matching of several people in the control group to one person in the referred group. In addition, there were three individuals who had propensity scores that were so high that it was not possible to match them. Once this stage had been completed the final number was reduced to 116 cohort members in the referred group. A range of statistical tests were performed to evaluate the closeness of the matching and the two groups of 116 (once weighting had been applied; see Appendix C for more information) were found to be very closely matched and no significant differences were found in any variables examined.

When the matched samples were compared it was found that having been referred to the Children's Hearings system on offending grounds in sweep 3 had no effect on levels of self-reported offending, when compared with those who had never been referred. A nested analysis was performed using a smaller sample of those referred who were then placed on a Supervision Requirement. The effect of supervision on

levels of self-reported offending was again found to be insignificant when compared to those who had no contact with the Children's Hearings system.

7.3. Discussion

The first stages of this chapter produced a range of results that are consistent with those given in the previous chapter exploring gatekeeper practices. In relation to gender, the finding here that males were statistically more likely to be referred on offending grounds is consistent with the findings using data from the same cohort reported by Smith and McAra (2004) and is consistent with other studies which indicate that male gender is a highly significant factor in relation to offending behaviours (e.g. Rutter *et al.*, 1998; Moffitt *et al.*, 2001). Family structure was also found in the data to be significantly related to referrals on all grounds and referrals on offending grounds. However, family status although significant in referral was not retained in the regression models predicting serious offending. This finding is consistent with Juby and Farrington (2001) who found a range of issues that were correlated with family structure, which also suggest that this variable serves as a “marker”. Victimization was found in the ordinal regression analysis to be predictive of serious offending. This finding was also reported previously using data from the same cohort by Smith (2004). In this context the victimisation variable is more closely related to experiences that are related to acts committed by peers. The prediction of serious self-reported offending did not include factors such as socio-economic status, neighbourhood deprivation and family structure as these were not found to be significantly related to the ordinal outcomes. In relation to the gatekeeping practices the absence of these factors suggests that the decision making processes of the police which appear to be heavily reliant on these factors do not relate significantly to seriousness of self-reported offending when more reliable sources of information are available.

The use of two closely matched groups in the present study permitted an investigation into the effect on self-reported offending of being referred to the Reporter and also the effect of being placed on a Supervision Requirement. Overall, the process of being apprehended by the police, then being charged, and then being

referred to the Reporter, had no discernable impact on their levels of subsequent self-reported offending. Over the sweeps 3 to 4 it was found that the referred group reduced their levels of offending at a similar rate to their peers who had no contact with the Children's Hearings system. In addition, the finding that the 21 children who were then placed on a Supervision Requirement also continued to offend at the same rate as their peers suggests that the supervision had no measurable effect. Due to the small number of cohort members included in this analysis this finding should be viewed with some caution. Furthermore, the effect of referral and supervision was not followed-up beyond sweep 4, and it is possible that there may have been a response observed in later sweeps which may have indicated an effect from supervision.

In relation to the “what works” literature discussed in chapter 2, it is argued that if interventions were provided in a manner that was consistent with effective practice, such as multi-systemic therapy (Henggeler and Borduin, 1995) then this comparison between groups would have been more likely to have resulted in a reduction in levels of self-reported offending in the group that was placed on a Supervision Requirement. In addition if the risk principle had been applied with this sample there may have been a proportion who may have been considered to have a low risk and few criminogenic needs and might have appropriately been diverted from the system.

Importantly, however, within this analysis the effect of being referred to the Reporter and also of being placed on a Supervision Requirement did not have any significant negative effect on levels of offending. When this finding is related back to the literature on labelling, there was no observed effect of deviance amplification found in the analysis using the matched samples (Walker, 1980). This finding is similar to the study reported by Minor *et al.*, (1997; discussed in chapter 2) where young people were either diverted, or processed through court following apprehension for offences. The authors reported that there was a “minimal relationship” in terms of their recidivism that was attributed to having been diverted or taken to court. In addition, the findings reported here are also resonant with those of Huizinga *et al.*, (2004) in their comparison of the effects of the two systems in Bremen and Denver. In this study there was also found to be little effect on subsequent levels of offending

observed between the comparison sites. The lack of resources to provide effective interventions has also been a recurring theme in evaluations of the Children's Hearings system (e.g. Hallett *et al.*, 1998). The review of the system conducted by Audit Scotland (2002) also commented that the Children's Hearings system was not well resourced in providing services to address the needs of young people who were persistently offending. The report also discusses that from the funds available 63% was spent (£150 million) on reaching decisions rather than providing interventions. The report (Audit Scotland, 2002) also found that just over 10% (£25 million) of the available funding was spent on providing community based interventions, which it is argued here would be consistent with the Kilbrandon philosophy and if they are delivered in ways that are in line with effective practice, they would be the most cost-effective means of addressing needs.

The effect of referral to the Children's Hearings system and perceptions of the effectiveness of supervision and labelling through system contact, are explored further using the findings from the qualitative interviews which are presented in the following chapter.

7.4. Contact with officials and changes in self-concept

The literature reviewed in the chapter 2 on labelling theory described two forms of labelling effects (see Paternoster and Iovanni, 1989): changes in how other people interact with the individual and how this affects relationships (social and structural labelling); and changes in the individual's concept of themselves (self-concept labelling). Previous studies examining changes in self-concept have investigated how individuals perceive themselves following a labelling event. The study by Klemke (1978) for example, used self-report data derived from a sample of high school students to investigate changes in self-concept following apprehension for shoplifting. Klemke (1978) reports that those who were caught identified with the "troublemaker" label and were more likely to shoplift in the future in comparison to those who were not caught. However, Klemke (1978) did not control for a range of confounding variables that might also have affected future offending behaviours.

The effect of the Children's Hearings system in relation to labelling is investigated within this chapter by examining how contact with the police and the Children's Hearings system may have influenced the way in which cohort members perceived themselves. This self-concept data is derived from the responses given by cohort members in the questionnaire from sweep 3, where they answered a range of questions that related to their own perception of themselves as being labelled a "troublemaker". This "troublemaker" perception was based on two perspectives: the individual seeing themselves as a "troublemaker"; and their perception that other people would see them as being a "troublemaker". The other people they were asked to consider were: their friends; other people of the same age; their parents; their teachers; and other adults. The following table (35) shows the association between the perceptions of being a troublemaker cross tabulated with gender. Pearson chi-square tests were performed in order to investigate if there is an association between troublemaker perceptions and gender.

Table 35: Cohort members' perceptions of being a troublemaker in sweep 3 (n = 4292).

Troublemaker perception		Male %	Female %	Sig.
Self	No	87.42	91.86	p < 0.0005
	Yes	12.58	8.14	
Friends	No	86.88	90.46	p < 0.0005
	Yes	13.12	9.54	
Peers	No	88.08	91.49	p < 0.0005
	Yes	11.92	8.51	
Parents	No	89.93	88.63	n.s. p =0.17
	Yes	10.07	11.37	
Teachers	No	81.47	88.91	p < 0.0005
	Yes	18.53	11.09	
Other Adults	No	81.47	86.33	p < 0.0005
	Yes	18.53	13.67	

The vast majority (85.5%) of young people who responded did not think of themselves as troublemakers, or think that others would see them as troublemakers (for example, 86.88% of males and 90.46% of females did not think that their friends perceived them as being troublemakers). Of those who did report that they thought

they were perceived as a troublemaker (in all of the categories apart from their perceptions of what their parents think) there was a significant association found with gender; males were more likely to see themselves as troublemakers and to report that other people (apart from their parents) would also see them as troublemakers. Males and female in the cohort reported that they thought their parents would regard them as being a troublemaker in approximately equal proportions.

Factors were selected that reflected a range of areas within each individual's experience which may be relevant to their perception of themselves as troublemakers (in sweep 3). These factors (which are described in more detail in Appendix B) relate to their relationship with their parents (frequency of arguments with parents in sweep 3); their behaviour within school (frequency of truancy in sweep 3); their contact with the Children's Hearings system (referred to Reporter in sweeps 1 or 2 , and a separate variable indicating if they been subject to a Supervision Requirement in sweeps 1 or 2); their contact with the police (been warned or charged in sweeps 1, or 2; variety of adversarial police contact in sweep 3); their behaviours and attitudes (hanging around in sweep 3, drug use in sweep 3, alcohol use in sweep 3, frequency of risk taking behaviours in sweep 3, self-reported serious offending in sweep 3, moral disengagement in sweep 1); and lastly a range of individual and background factors (gender, SES, family structure, and neighbourhood deprivation, and entitlement to free school meals at any point) were included in order to investigate if these were linked to the perception of self as a troublemaker (to investigate, for example if children from deprived backgrounds were more likely to think of themselves as troublemakers). The findings of these analyses are presented in table 36.

Table 36: Factors influencing the self-concept of being a troublemaker (n= 4292).

		Not Troublemaker (n = 3186)	Troublemaker (n = 368)	Sig.
Gender	% Male	48.62	60.6	p < 0.0005*
	% Female	51.38	39.4	
Family	% 1 or 0 birth parents	32.19	50.72	p < 0.005*
	% 2 birth parents	67.81	49.28	
Argue with Parents	% At least weekly	48.44	73.77	p < 0.0005*
	% Less often	51.56	26.23	
SES	% Man / Unemployed	41.49	49.72	p < 0.0005*
	% Non-Manual	58.51	50.28	
Free School Meals	% Entitled	81.48	73.91	p < 0.0005*
	% Not Entitled	18.52	26.09	
Drug use	% Yes	12.52	50.59	p < 0.0005*
	% None	87.48	49.41	
Alcohol use	% At least weekly	12.45	43.32	p < 0.0005*
	% Less often	87.55	56.68	
Hanging Around	% Most evenings	46.6	77.32	p < 0.0005*
	% Less often	53.4	22.68	
Warned or Charged in S1 and S2	% Yes	15.32	12.11	n.s. p = 0.13*
	% No	84.68	87.89	
Referral in S1 or S2	% Yes	9.48	23.64	p < 0.0005*
	% No	90.52	76.36	
On SR in S1 or S2	% Yes	1.48	2.45	n.s. p = 0.16*
	% No	98.52	97.55	
Neighbourhood	mean deprivation score	3.27	3.63	p < 0.01**
Risk taking	mean total score	5.96	11.46	p < 0.0005**
Moral Disengagement	mean frequency score	2.73	4.55	p < 0.0005**
Advers Police	mean volume score	0.63	3.05	p < 0.005**
Seriousness S1	mean frequency score	1.82	4.38	p < 0.0005**
Seriousness S2	mean frequency score	1.35	5.02	p < 0.0005**
Seriousness S3	mean frequency score	2.4	3.84	p < 0.0005**
Truancy	mean frequency score	1.71	1.83	p < 0.0005**

When those who considered themselves to be troublemakers were compared to those who did not hold this self perception most of the variables above were found to be significantly different. Interestingly, being warned or charged was not found to be related to this perception, but being referred by the police to the Reporter was. This finding may be indicative of how seriously these two processes are perceived; however, being placed on a Supervision Requirement in sweep 1 or 2 was not associated with the troublemaker self-concept. It is difficult to account for these

findings, perhaps simply being warned or charged was not regarded as being “in trouble”, but being referred (on any grounds) to the Reporter was associated with this perception. Possibly, the Children's Hearings system in relation to those placed on a Supervision Requirement (also in relation to any grounds) was not related to the perception of being in trouble as the people and process did not convey a sense of “being in trouble” to those involved at this stage.

The extent to which these perceptions can be attributed to the effects of labelling (changes in self-concept) are explored in a range of regression analyses in order to control for confounding variables (such as self-reported offending), allowing the contribution of each variable to be assessed independently. Using the cohort members' perception of themselves as being a troublemaker as the binary dependent outcome variable (seeing self as a troublemaker, or not) all of the variables discussed above were entered into a forward stepwise regression model. A number of variables were excluded from the model due to them not contributing significantly to the prediction of self perception of being a troublemaker (these were: gender; family structure; hanging around; prior police charges in sweep 1 or 2; neighbourhood deprivation; and as mentioned above, any contact (referral, Hearing, Supervision Requirement) with the Children's Hearings system on any grounds over sweeps 1 or 2). The significant factors that were found to predict the binary troublemaker status variable were retained in the final version of the regression model through use of the forwards stepwise method. These factors and related values are given in the following table (Table 37).

Table 37: Binary logistic regression predicting seeing self as troublemaker in sweep 3 (n =3072).

	<i>B</i>	<i>S.E.</i>	<i>Sig.</i>	<i>Exp(B)</i>	95.0% C.I. for <i>EXP(B)</i>	
					<i>Lower</i>	<i>Upper</i>
Argue Parents	0.697	0.172	p < 0.0005	2.007	1.434	2.810
Drug use	0.484	0.174	p < 0.01	1.623	1.153	2.285
Truancy	0.264	0.068	p < 0.0005	1.302	1.14	1.487
Advers Police	0.54	0.071	p < 0.0005	1.716	1.494	1.972
Risk taking	1.125	0.1	p < 0.0005	3.081	2.533	3.748
Moral disengagement	0.171	0.076	p < 0.05	1.187	1.023	1.377
Seriousness S3	0.282	0.074	p < 0.0005	1.326	1.147	1.533
Constant	-3.175	0.12	p < 0.0005	0.042		

The final model predicted troublemaker status with an overall accuracy of 92.3%. (Cox & Snell R Square 0.20 and Nagelkerke R Square 0.44) and these factors accounted well for the variance observed. Risk taking behaviours in that sweep was found in this model to be a very strong factor (increasing the odds of seeing oneself as a troublemaker to around 3: 1). Those who argued with their parents at least weekly were around two times more likely to have reported the perception of themselves as being a troublemaker. Adversarial police contact in sweep 3 was significantly related to troublemaker outcome, but contact with other official agencies was not retained within the regression model. If in sweeps 1 or 2 a cohort member had been referred to the Reporter, attended a Hearing or been placed on a Supervision Requirement, this was not found within this model to be significantly related to the perception of self as a troublemaker as with adversarial police contact in sweep 3. Moral disengagement and truancy were found to be linked to the perception of being a troublemaker possibly through the young person's attitude to their behaviour and truanting itself being perceived directly as a form of "trouble". Drug use and frequency of self-reported serious offending were also found to be significant and retained within this model.

7.5. Discussion

Overall, these findings suggest that the formation of the self-concept of being a troublemaker was influenced more by the individual's attitudes and behaviours than by contact with official bodies. That factor that was found to contribute most to this perception was the individual's levels of risk taking behaviours. In the analyses presented above, adversarial contact with the police was the only agency that had a significant contribution to this perception. The finding from the earlier descriptive analyses of there being no labelling effect through contact with the Children's Hearings system is supported in the findings here. It would appear that attending Hearings and the process of being on supervision did not convey a sense of being in trouble that altered self-concepts. The philosophy of the Children's Hearings system as a mechanism aims to avoid the stigmatisation of children and young people appears to be successful on the basis of these findings.

The finding that adversarial contact with the police was significantly related to the perception of being a troublemaker is similar to that reported by McAra and McVie (2005) who found that police contact had a deviance amplification effect. In the present study police contact was found to have an effect at the level of the self-concept within labelling theory. This finding is similar to other studies discussed in the literature indicating a deviance amplification effect through labelling (e.g. Gold 1970; West and Farrington, 1977; Klemke, 1978).

The labelling effect of contact with the police and the Children's Hearings system are discussed in more detail in the following chapter presenting qualitative findings from interviews.

Chapter 8.

Qualitative findings on perceptions of the Children's Hearings system

Introduction

This chapter aims to provide a review of the issues derived from 52 semi-structured interviews that were conducted for the purpose of this research. The overall aim of the qualitative interviews was to augment and further explore some of the findings produced by the quantitative analysis in order to develop “thick descriptions” (Geertz, 1973) of the Children's Hearings system. Many of the patterns and relationships observed within the quantitative data were “triangulated” by collecting narrative accounts from the perspectives of those within the system, closely observing the system, or actively working within the system.

The qualitative findings will be used in order to support the main arguments of this thesis which are: the Children's Hearings system in practice (as opposed to its underlying philosophy) is biased towards children; and young people from disadvantaged backgrounds as a consequence of the discretionary powers of gatekeepers; and that the disposals used for offenders fail to address their criminogenic needs through poor targeting of effective interventions (such as those that have been identified from the body of “what works” research).

8.1. Summary of interview sample

In total, 52 interviews were conducted and transcribed. The sample of people interviewed includes 26 cohort members (19 males, 7 females; 14 serious and persistent offenders who were atypical of those generally involved in the Children's Hearings system; and 12 cohort members with offences that were more typical and were comparatively minor in seriousness and infrequent in incidence). One cohort member who was interviewed in prison had a history of very serious offending but had no contact with the Children's Hearings system at any point. From this sample of 26 cohort members, 12 of their parents/guardians (6 of the serious offenders; 6 of the minor offenders) also agreed to be interviewed. The parents interviewed included two foster carers who had extensive contact with the system due to their carer roles.

One of the foster carers had recently qualified as a social worker and also held a degree in law. The parents of the persistent offenders generally had considerable contact with the Children's Hearings system and social workers through the cohort members and also their other children. Parents of the less serious offenders had little contact with the system through the cohort member and also tended to have not had contact with the system through other children in the family.

Interviews were also conducted with 14 professionals who had considerable experience of the Children's Hearings system (8 Social Workers, 2 police officers, 2 Reporters, and 2 Panel members). Amongst the professionals interviewed there were a number of very experienced social workers who had extensive involvement with the Children's Hearings system over the years through working in Child and Family teams. This group included social workers who had previously been employed as teachers, police officers and one individual who had also worked as a Reporter. Six of the social workers were at the time of interview working exclusively with persistent offenders in a secure unit or community group work capacity. The two police officers interviewed were both employed in the role of Juvenile Liaison Officers and act as a conduit between the Edinburgh Children's Hearings office and Lothian and Borders Police. Social Workers were reluctant to talk about the individual cases of cohort members, but were willing to discuss the system more generally. For this reason, the original intention of discussing specific cohort members was not pursued and interviews focussed on the respondent's experience of the system generally.

8.2. Findings from interviews

Common issues from the interviews with cohort members, parents/carers and professionals are presented in the following section under the following thematic headings:

- Development of offending behaviours
- The Hearings
 - Purpose and gatekeeping
 - Punishment and Deterrence

- Fairness and Ability to talk
- Accepting grounds
- Labelling
- Effectiveness of Disposals on offending behaviour
 - Home supervision
 - Effectiveness of residential homes and schools
 - Effectiveness of secure units
 - Explanations for desistance

Qualitative data on these themes are presented in the following section from the perspective firstly of the cohort members, and then their parents and carers. Following these, the perspectives of the professionals interviewed are presented before discussing each theme in relation to issues from the literature review and quantitative findings.

Development of offending behaviours

In this first area of questions discussed the cohort members who were interviewed (19 males and 7 females, of which 14 were considered to be persistent and serious offenders and 12 minor offenders) gave a very similar range of reasons for their offending. Primarily, these reasons centred on lack of constructive use of leisure time, associating with offending peers (and pressure from these peers), feelings of boredom, and substance abuse. Factors that were found in the earlier quantitative analyses such as low levels of parental supervision and the propensity to being involved in risky behaviours were not mentioned by any of the offenders interviewed as being implicated in the onset of their offending behaviour. The following quotations from some of the male persistent offenders give a flavour of the type of lifestyle factors that they believed had contributed towards their offending behaviour:

...if there was more better things to do at night, 'cos that's how I started hanging about with older gangs, smoking hash, drinking. There was nothing else to do. I wasn't going to sit in my house on my own. Male persistent offender.

Just my mates. They were always, used to egg me on to come and do things with them and that eh. I used to try and tell them that I didn't want to and that eh, but they were "ah come on, lets go and get some money," and that like. And then like "you're

a shitebag,” and that, so I’d just go and do it. It was the worst thing to do though.
Male persistent offender.

The development of offending behaviour was discussed in interview with the sample of parents (12 parents/guardians, 6 of the serious offenders and 6 of the minor offenders). Primarily, they also regarded the aetiology of offending behaviour as being caused by boredom and a lack of alternative activities provided within the community. Parents were extremely consistent in suggesting that by having more community centres and clubs in the neighbourhood there would be a reduction in the local levels of youth crime. This was nicely illustrated by the mother of one male persistent offender:

Give them, the youths, more activity to do. And more play areas. Likes of somewhere to play snooker, somewhere to play football. Likes of anything ken for adults – there’s nothing. There’s nothing for them. I think that’s what’s wrong with half the crime – there’s nothing for them. Mother of male persistent offender.

It was suggested by cohort members and their parents that had there been facilities in the community (such as youth clubs) there would be less offending. Cohort members were more likely to offer additional reasons for their offending that were related not to external factors, but to their choice of peers and substance use.

In discussion with the professionals (8 Social Workers, 2 police officers, 2 Reporters, and 2 Panel Members) the development of offending behaviour was attributed to a number of factors such as substance abuse, parental supervision, social exclusion and coming from a deprived background. The relevance of these factors to gatekeeping practices were discussed, particularly since it had been observed within the quantitative data that children and young people from under-privileged backgrounds were over-represented in referrals to the Reporter, attendance at Hearings, and on various forms of Supervision Requirement (see chapters 5 and 6). All of the Social Workers interviewed agreed that from their experience this apparent social class bias was an accurate reflection. However, many argued that this over-representation was due to the importance of the child’s or young person’s needs being met within the Children’s Hearings system. The argument was commonly made that children from deprived backgrounds tended to present with greater levels of social and welfare needs. In addition, there was a

perception that the bias towards children from deprived backgrounds was not so much a class bias but a result of Panel Members applying their own value systems to such cases and assessing deprived children as being genuinely needy. This argument was centred around the observation that it was predominantly middle class people who were involved at each gatekeeping stage of the process. This first quotation is an example of the first argument that appears to suggest that the over-representation of children from deprived backgrounds could be justified on the basis of greater criminogenic needs and a lack of protective factors.

...within the recommendations it will relate to the child's networks and the willingness of people within those networks to address those issues; that should not necessarily have specific social class implications, but I would think that middle class people might have more resources – that ranges from financial resources to... personal resources or relationship resources to cope with these issues – and that may well influence the kind of recommendations that you are making, because if people are prepared and able to deal with things themselves, that would always be... the chosen route not least because the resources that we would have as a department are not great. Social Worker

The second argument based on social class in a discriminatory bias is given as an explanation for the patterns of referral. This class bias account is exemplified by the following quotation from a social worker.

I think that if you look at the make-up of Panel Members there is a backdrop of values and expectations – that we all aspire to – but if somebody does not neatly fit into that value base then it is problematic. It opens up a whole host of problems at a cultural level in terms of assessment and interventions – that's a really wide issue that does impact upon relationships. It is important as a social worker to not let these background issues influence judgements. The whole Hearing set up, in my experience, the Panel Members differ markedly – middle class, quite simplistic views – from some of the families that attend Hearings. I think that is a whole fascinating area that there are no easy answers. Just to add there is a huge difference in the makeup of Panel Members, in terms of their backgrounds knowledge insight. It is quite worrying to consider the powers that they have and I suppose there is a whole range of issues in training and recruitment in that area. Social Worker.

Here the issue is not that some environments are inherently more criminogenic or that some families and communities have fewer protective factors. The quotation above appears to suggest that Panel Members may sometimes impose their own class based judgements and aspirations in a biased way on children and families that attend Hearings.

The Hearings – Purpose and gatekeeping

A separate issue from the potential sources of bias in gatekeeping are the perceptions of the purpose of the Hearings themselves. Young people who had been referred to the Reporter on offending grounds, but had not yet attended a Hearing, generally reported having vague impressions of the purpose of the Children’s Hearings system. Prior to attending Hearings, cohort members generally reported that their perception of the system was that it served to administer punishments, typically in the form of residential care placements.

I got told it was just like a mini-court or something. I was quite scared when I was a wee laddie. I can remember actually the first I went to the Panel I was shiting myself. I thought I was going to a home or something. Male persistent offender.

Amongst those who had attended several Hearings, their understanding of its purpose was more considered in comparison to those who had attended one Hearing. However the notion that the Children’s Hearings system’s aim, in relation to offenders, was primarily to provide a disciplinary function was consistently maintained by those interviewed. In this respect, the young people who had attended Hearings regarded them as being “soft” in meeting this aim. The hearings were not only viewed as a quasi-court system, however; some cohort members also indicated some appreciation of the welfare principles of the system and expressed that it also served to address care and protection needs, for example:

Well I know it’s there for to discipline you if you’ve done something wrong. Eh... look at – evaluate – if you are right to stay in the house. If it is maybe your parents’ fault, they move you and put you into foster care. That is what basically they are really there for. Male minor offender

I think it’s to discipline them in a way, because, I think it’s just to teach them what they’ll be going up for, when they’re older. Because, that’s what I say, it’s just like a mini court, and they’re basically saying to you - because that’s what they said to me - this is what you’ll be like up to court, but it’s different. You basically get a slap on the wrist at a Panel or you go to a children’s home. But, if, in a few years time if you go to the Court it’s a different story. That’s what I think what the main purpose of a Panel is... People that go in front of Panels think “I’m here to get punished,” but it’s not really, they’re trying to keep you out of trouble; that’s helping you. Male persistent offender.

Parents’ perceptions of the Children’s Hearings were on the whole very consistent with those of their children as they also regarded it primarily as a mechanism to place children into residential care. Parents who had had no previous experience of

the system often reported that they thought that their children would be taken from them and placed in care as a direct consequence of attending their first Hearing.

Actually, what I thought would happen is that they would get taken away and put in a home. Children's hearings... a lot of them do that - I was very surprised. Mother of male persistent offender.

On deeper probing about the purpose of the Hearings, parents were uncertain about its purpose beyond the role as a diversion from court. Often it was this diversionary function that was criticised by parents and regarded as being “soft” for young people who were offending persistently, as illustrated in the following examples:

It tries to keep you out of prison. But, if you've not got a Children's Hearing at... say 16, and you go to Court it would be harder than what it is for a person's supervision - ken? - that's what they told me. They said that as long as he's got a social worker and he's on supervision, he'll be safe from going behind bars. Mother of male persistent offender.

They are trying to help - aye. But they help in all the wrong ways. I mean they are helping them to make them into bigger criminals because they let them out! [...] My lassie has been through the system and her record is as long as the street and it never helped her. I think if they had done something at the beginning... it would not have continued 'cos she would have said to herself that she would end up in jail - ken what I mean? But she is saying to herself "I'm going to get let off with it. I'm going to do what I want and get let off." [...] I know a lot of people that have been to Panels and went "Yes, got off with it again," and went out and got into bother again. Mother of female persistent offender.

On this theme cohort members and their parents expressed similar perceptions of the system. Prior to attending Hearings, parents and cohort members often reported that they thought placement in a children's home was a likely consequence of attending their first Hearing. Once both groups had attended Hearings the purpose was often then perceived as being a juvenile justice forum that operated from a “soft” punitive, rather than welfare based foundation. Once children and parents had attended numerous Hearings, particularly as the children matured towards the age of sixteen, their perspectives appeared to shift towards viewing the system as being a diversionary body that “protected” offenders from Court but did not provide effective interventions to address offending behaviours.

The Hearings – Punishment and Deterrence

The perception that the Hearings' main function was to act as a juvenile court was found to be held by all of the young people and their parents (but not foster carers). Given that this punishment and deterrence model framed their perception of the Children's Hearings system a large proportion of the time spent in discussion revolved around this issue.

The overwhelming majority of the young people interviewed regarded the disposals given by the Children's Hearings system as being a "soft option". The persistent offenders in particular regarded the lack of a perceived punishment to have resulted in an increase in their rates of offending due to a lack of deterrent effect from sanctions. However, amongst the minor offenders who were referred to the Reporter, it appeared that parental reprimands for their actions were more significant than attending a Hearing and being placed under some form of Compulsory Measure.

I just thought it was a joke. Cos, well I just thought at the time, at that age, that I could get away with everything. And then I was getting away with it – and I think that is why I kept offending... because I always got away with it. Nothing ever happened to me, it was always just a slap on the wrist and they just said "Oh you're a naughty boy. Don't do it again." Male persistent offender.

In a way I knew that if I had a social worker then they couldn't do nothing else to me. So, they weren't going to do anything else to me so I could do... basically do what I wanted when I wanted and not get in trouble for it. I think they are too soft, because you can just go back out and do what ever you want. They're not punishing you or nothing. Female persistent offender.

These points from the persistent offenders are resonant with the research on moral reasoning and its relationship with offending behaviours (see Palmer, 2003 for a review). Gibbs (2003) argues that children develop more mature moral reasoning as they age. Within this framework, the cohort members interviewed could generally be characterised as reasoning at a relatively immature stage lacking an advanced appreciation of social perspective-taking and empathy. Their comments given in interview suggest a basic understanding of social interactions within a cost-benefit structure. In this sense, they perceived their offending as positive (e.g. as being enjoyable, or financially rewarding) with few costs and that their own egocentric view of their actions was most important. The comments regarding a lack of

punishment, equated with “getting away with it”, and the subsequent lack of a deterrent effect are both consistent with the moral development literature.

When asked about the deterrent effect of a “harder” system, all the persistent offenders interviewed indicated that they thought it would have encouraged their desistance. Consequently, the majority of offenders interviewed thought that the Children’s Hearings system should have more disposals that would allow more punitive responses.

Then maybe people would start realising what they were doing. And then maybe they would realise that they needed to stop doing it... I wouldn't be here [prison] I don't think. I would not be sitting where I am now. If they done something... if they punished me and done something to help me then... I'd realise it was wrong and I'd not take it all as a joke. Like, now I've started thinking I can't take it as a joke any more; I've been in the jail. I go back out there and offend and I'm back in right away cos I'm on licence - so I can't do nothing. Female persistent offender.

Despite this view that deterrence should be part of the package, cohort members were uncertain as to whether it would actually work in practice. Interviewees were asked to consider how a harder system would operate in relation to their decision making prior to offending. Most of the young people indicated that they did not think about consequences at all prior to offending and, therefore, would be unlikely to be deterred from offending because of them. However there appeared to be some indication that offenders might be deterred from further offending if they perceived that they had been punished previously.

You don't think it through. They [young people who are offending] just don't think about consequences, they just go and do it... That's the problem, there's always going to be people like that. A lot can't help it and you can't change it. Male minor offender.

Continuing on the theme of punishment and deterrence, parents were also very keen to endorse a system that acted more punitively for young people referred on offending grounds.

I think they should have been a bit more strict on the bairns, instead of just saying “if you ever come back in front of me...” just like what happened to her, you should go to court the second time. And that would maybe stop them offending. They give them so many chances to go to a Panel, and not refer them to a court then maybe they would stop offending... If you are going to keep re-offending and the Panel is going to say “don't do that,” all the bairns are going to say “it's a wee slap on the

wrist,” they are not going to be bothered with that. There’s no secure units outside anyway, they are basically all full. Mother of female persistent offender.

I think America’s got a good idea for having a boot camp for youngsters that can’t settle in schools; that keep getting into trouble and all that. Mother of male persistent offender.

The majority of parents, especially those of more serious offenders, were of the opinion that there would be a direct relationship between increased punishments and a reduction in offending. However, one of the foster carers expressed that more therapeutic disposals, based on the needs of the individual child, rather than a punishment based approach would increase the effectiveness of the system:

Consequences, you know, if you are working it with some kids it will have different effects. The Panel should have more flexibility to have consequences that fit the child’s circumstances at that time – that was supposed to be the strength of the system. Political pressure is now about consequences being punishments. If it is about trying to restore a kid to normality, then it has to be about putting things in place that the child can work with. One size fits all approach was too much to work. Children have a range of issues, about age... anger. There needs to be therapeutic consequences. The child has to be part of that. Foster carer of male persistent offender.

The view presented above is consistent with the argument that the “what works” principles and research on effective interventions should be available for young people who are involved with the Children's Hearings system on offending grounds (discussed in more detail later). The fact that this comment came from a foster carer rather than the young person’s biological parent may reflect a different experience of the Children's Hearings system or training in this area.

Generally, the professionals’ endorsed the Kilbrandon Report’s welfare emphasis of rehabilitation in conjunction with the “what works” principles. In practise the Children's Hearings system was seen to be ineffective in relation to those referred on offending grounds, especially for those young people involved in serious and persistent offending. This lack of effectiveness was grounded in perceptions of the system being very slow to respond initially. This finding is also supported by the report published by Audit Scotland (2002) which found that on average it takes 5½ months for a child to reach a Hearing. A further issue raised during interview was that once a child had been placed on supervision there was then a lack of available resources (an issue discussed in more detail later) in order to provide effective

interventions. In relation to the theme of deterrence, the perception of the system as being slow to respond to those who might be caught and referred to a Hearing to receive a “slap on the wrists” is in stark contrast to the certain, swift, and severe punishment required when deterrence approaches are considered to have any effect (e.g. Paternoster, 1989). The professionals’ suggestions for improving the system were less punitive than those of the cohort members and their parents. As the following quotations illustrate, themes that arose from interviews with professionals related to the lack of perceived consequences for offending and a lack of clarity around the purpose of the Hearings and their disposals.

A group of young people perceive the Children’s Hearings system as having no consequence. They’re aware that there are no secure places so until they reach sixteen they think that they can get off with it. For that group, there is no deterrent in the system. Social Worker.

A lot of young people just think that the system is a scam and a piss take – a way of avoiding punishment; I’ve had that said to me by a number of young people that I have been working with - people that I am frustrated with because I am getting nowhere in terms of their supervision. Social Worker.

Are you doing them any favours when you are sitting down and looking at twenty or twenty-five offences and say “go away and don’t do that again?” No you’re not. What ends up happening is that they up the ante... the tariff becomes higher. Suddenly they are sixteen years of age and the police see them as public enemy number one because they have ran all over the communities causing all sorts of havoc. [...] For a lot of young offenders they just don’t know where that came from. Whereas if they had been held accountable and responsible... and I don’t think Kilbrandon ever intended that they were not to be held accountable for their actions. Social Worker.

In discussion with the professionals about how the system could become more effective the notion of “consequence” was raised on several occasions. All of the professionals, apart from one, were clear to avoid suggesting that the Hearings System should provide a punitive response. However, the majority argued that, in relation to persistent offenders, there is a need to provide some form of intervention that gives young people a clear message about their behaviour, that also would reduce the likelihood of them re-offending.

While my personal feeling is... although I agree with the Kilbrandon philosophy that young people who offend are also people in need – but, they are also young people who offend, and while we want them to stop offending, the offences do take place and hurt people. I am very keen on restorative justice, but I appreciate that is a conscious decision for that to be a useful thing. To my mind punishment is legitimate and reasonable and I think that is a problem with the system, as it exists. Social Worker.

I think that when you do get to the point... at the top end where you do get young people that have exhausted the system through their offending, then you do have to... move onto another process, to manage their behaviour. Juvenile Liaison Officer.

The Hearings - Fairness and Ability to talk

The Kilbrandon philosophy describes that the Hearings should provide an informal, relaxed atmosphere that promotes communication between all relevant parties and encourages the participation of the child in particular. On this issue, consistently throughout interviews, cohort members that had attended Hearings regarded them as relatively informal, but despite this, they still experienced a degree of anxiety when attending. Those who had attended a number of Hearings commented that they valued the Panel's attempts to understand a wider range of issues and its attempts to encourage desistance.

A Panel is much easier, but it is much more, like a better environment to go and speak about your problems and that. So, like a judge is not going to sit and like hear about all your problems and that, they just say "Well Mr Smith, dah de dah de dah," whatever is written down in front of them, he would read that out to you. They'd not pure go over all your details and that about what's happening – ask you what's happening and that. How's it going to change and all that. Male Persistent Offender.

Just the way that I explained things to them and that. They were just really understanding. They listened quite a lot. They were not pure butting in and that when I was trying to have my say. Male persistent offender.

Cohort members responded that they valued being able to express their opinions and version of events to the Panel Members. Most cohort members interviewed thought that the Panel understood what was happening in their lives around the time that they were offending. Cohort members expressed that they felt that they were afforded the opportunity to speak at Hearings, although many chose to not take advantage of this. This perception is important as it allows children and young people the opportunity to take an active part in the Hearings process and provide information to the Panel Members regarding their circumstances that would allow an exploration of the issues that precipitated the behaviours. As discussed in chapter 2, Tyler (2006a) describes legitimacy as being a psychological property of an institution or social arrangement which leads to the perception that its actions are appropriate, fair and just. The

opportunity afforded to young people to participate in the Hearings could be argued to increase the perception of the system as being a legitimate authority. In addition a child's ability to express their views and participate in the process is not just an important element within the Kilbrandon philosophy but also features within the 1989 UN Convention on the Rights of the Child.

In relation to the perception of fairness and the lack of legal representation within the system, these issues were not regarded as a problem for those who had attended Hearings (a finding also reported by Waterhouse *et al.*, 1999). Social workers were seen as being useful in communicating on their behalf and also representing them in a way that they felt meant they did not require a lawyer to be present. One reason for not feeling the need for legal representation was that the cohort members interviewed were largely unconcerned about the outcomes of Hearings. They reported that they did not feel that legal representation was necessary due to their perceptions of the low likelihood of receiving the more serious disposal options available, as in the following example:

In a way I didn't really bother cos I knew that they couldn't do anything to me. The worst that they could do to me is put me in a secure unit, which is... secure units are no different from a home, apart from in a home you're not locked up. Female persistent offender.

None of the young people, parents or professionals interviewed raised any concerns about the informality and the routine absence of legal representation within the Hearings. Some of the young people and professionals commented on discrepancies between Reporters' and Panel Members' decision making in relation to some young people referred on offending grounds. It was commented that busy urban teams working with young people from deprived high-crime neighbourhoods were relatively lenient in comparison to rural areas as it was felt that disposals were more serious where offending was less common. These differences in rates of diversion and disposal were seen as reflecting regional attitudes and not a consistent and national perspective. This variation appeared to be based on the local tolerance of "deeds" rather than the "needs" of the child. However, professionals followed this point by discussing problems in relation to "due process" for individuals (Alder and

Wundersitz, 1994). Although there appeared to be a tension between maintaining the informality of the Hearings and achieving consistent “due process”, the professionals interviewed supported the informal welfare approach as its aim was to act in the best interests of the child.

The balance between informality and legal representation was also supported by those interviewed, as it was posited that a more informal setting allowed for a broader understanding of the offending behaviour within the context of the child’s family and community circumstances to be taken into consideration. In addition, the role of Safeguarders (an independent assessor who is appointed to consider the child’s and families positions in a case) who are involved in a small number of cases, was mentioned as providing additional support.

The Hearings – Accepting grounds.

While they did not feel the need for legal representation in Hearings, the persistent offenders did indicate that they had strategies that they used when offence grounds were put to them. Those interviewed stated that they “managed” their presentation in front of the Panel Members when asked to accept offence grounds in order to minimise the likelihood of receiving more serious disposals. The following example from a male persistent offender illustrates this “impression management” approach:

Saying “Aye, I promise I’ll behave. You’ll not be seeing me for like, you’ll not be seeing me again,” things like that, ken? Giving them pure whoppers, hopefully they’ll take them in. Blame it all on the bevy and that, eh? “It was mainly the drink and that what done it,” like, but I just played up on that - the drink and drugs and that. Male persistent offender.

The Kilbrandon Report made the recommendation of separating the roles of the Hearings from that of a Court in relation to establishing the proof of an alleged offence. Since the decision making of Panel Members is directed to the child’s best interests, the facts of an alleged offence are regarded as less important than the needs that the child presents with. This welfare orientation means that in many cases the outcome of a Hearing (such as the continuation of a Supervision Requirement) would not differ due to the child or young person accepting all the alleged offence grounds or a proportion of these grounds. Consequently, young people (and their

parents or guardians) before a Panel when offence grounds are put to them can accept these grounds. If the grounds are not accepted the alleged offence is referred to the Sheriff Court for a “proof hearing”. Some of the persistent offenders also stated that they adopted a strategy of accepting some offence grounds over others in order to attempt to manage the outcome of the Hearings. Their strategy appeared to be based on a process similar to plea bargaining within the Hearing in order to reduce the number of grounds accepted, to reduce the likelihood of a more serious disposal but equally avoiding the possibility of grounds being taken to a proof hearing. The following example describes the process of “bargaining”:

...when they read out all your charges you go (speaking in a quiet, polite voice) “Em, I was there at that one, but I did that one.” You look for all the serious ones, you ken which ones are the serious ones - cos you probably did all of them - and you deny the most serious ones. But see if it’s like an assault... or say if it is like housebreaking that’s more serious than like choring a peddle bike. So if you denied to a housebreaking you admit to two thefts of a peddle bike, it’s like that. You try and equal it up. You always admit to like... say about 60% or 65% if the charge sheet, cos then the Panel just let it go and that’s it. If you deny like most of it then you like... if you deny like 60% of it or 50% of it, it goes to the Sheriff. So you don’t want it to go to the Sheriff or would like... fucking end up stuck in secure. Cos he’ll think you are a wee shite and that the Panel doesn’t work for you. Male persistent offender.

In interviews with the professionals on this issue it was apparent that they were aware that some young people would take advantage of the fact that the Hearings were not intended to test offending grounds in the manner of a court. Professionals felt, however, that within the welfare approach the needs of the child were more important than the young person not accepting some of the offence grounds, and this would ultimately have little impact on the Panel’s disposal within the Hearing anyway.

As well as attempting to evade blame for some offences, it also emerged during interview that some offenders were culpable of taking the blame for offences that they had not committed. In discussion with persistent offenders and professionals, it emerged that offenders sometimes claimed responsibility for offences that had been committed by peers who were older than themselves (usually around 16 or 17 years of age). The rationale behind this was that the younger offender would have the

offence dealt with at a Children's Hearing rather than in Court, whereas the older offender would be sure to go to court.

Professionals consistently referred to the age of criminal responsibility of 8 years as being too low and failing to take account of the cognitive ability of the child, according to developmental research. However, due to the welfare orientation of the system, they did not feel that this early age of criminal responsibility resulted in negative consequences for the child since their needs, rather than punishment, were the focus of intervention.

The Hearings – Labelling

The concept of labelling was difficult to explain to many of the cohort members interviewed, although there did appear to be some perception of labelling effects following contact with the agencies involved with the Children's Hearings system. The notion that an individual's self-image would change to that of an "offender" due to labelling was not supported generally by the cohort members referred on offending grounds. However, the more serious and persistent offenders reported that they felt that they had been treated differently within their communities once they became known as offenders. It is not clear from the interviews the extent to which this perception of being labelled is based on repeated contact with an agency (particularly the Police), with the Children's Hearings system specifically, or simply due to the young person's visibility as an offender within the community.

No not really, I don't think that my school friends even knew about it. They knew I was not living with my mum, but they never knew about the Panel – I never really understood it at that age so I don't think they'd have had a clue. Female minor offender

People like in this cul-de where I stayed, after they found out I had a social worker and stuff like that, they used to think I was troublemaker and that, and try and blame me for everything. Male minor offender.

No' really, folk were not like "He's on supervision keep away from him". I think the police hated me with a passion... Mind you, I don't know if that was because I was on supervision or that. Male persistent offender.

The issue of labelling was discussed with the parents and carers interviewed. They consistently felt that the Children's Hearings did not result specifically in labelling, (this also appeared to be reflected in the quantitative findings on labelling in chapter 7) but that they felt that their children were already labelled through their behaviour and through their social and family backgrounds, as in the following example:

He's labelled already, not through the Panel - but because of his name... just his name - from the police, it doesn't matter what the Panel says...the police. Mother of male persistent offender.

The perception of the extent to which the Children's Hearings system has a labelling effect on young people was mixed, with some professionals regarding children arriving "pre-labelled" by their communities. Although the perceptions were diverse, there appeared to be a general theme that if children had acquired labels, this was mainly a consequence of their behaviour as observed by the community and not by the Hearings themselves, which do not have any openly visible effect. Residential placements were often regarded as labelling due to their observable qualities.

Undoubtedly, young people pick up labels. I think it is a difficult area, but inevitably, by definition of the disposal that are given, the Children's Hearings system results in a whole set of language and labels that result in and around the Hearing system. Families can have labels and reputations – mum, dad, uncle and here's wee Jimmy from the Smith clan can be labelled "bad families", inevitably that is going to affect the response. It is definitely around. A young person from that sort of background... reputation it is possible, might be more expediently pushed into the system. ...I do think that being in residential care does accentuate how people deal with them and perceive them. If two people behave in the same way, then the one that is in residential care is seen as extreme and out of order; somebody else from a home background it's seen as a blip. There is no getting away from that. Social Worker

I would be saying that the young person would be labelled before they go to the hearings in the first place. It depends on the source of the referral. I don't know the statistics on referrals, but if it is offending grounds the young person might already be labelled by their local community depending on their interaction with the local police. So they are labelled before they get into the system. Education labels people before they get into the system; the labels already attached before they get to the system. I would say that most young people are pre-labelled before they arrive, because they will have presented a range of complex issues before they appear at a Panel. Social Worker

Amongst the three groups of interviewees there appeared to be some consensus in the perspective that Children's Hearings do not directly label young people. However, it was also a shared view that young people who were involved in the system may have been labelled prior to attending their first Hearing. This labelling

was seen as being attributed to a number of factors, such as if the child's family name already being known to the police through the offending behaviours of siblings or other family members. One further explanation for this labelling that arose during the interviews was that the police were in many cases using information available from databases that identified the persistent offenders in their area. This "intelligence led" policing may have resulted in officers focusing on individuals who were already known to be offenders as a direct consequence of previous contact. This finding is consistent with the quantitative findings on perceptions of being a "troublemaker" presented earlier, where contact with the police, but not the Children's Hearings system was related to negative self-concept. From the interviews it also appears that the extent to which labelling events are publicly observable are significant; attending a Hearing or being placed on a Home Supervision Requirement was not regarded as being labelling, as these activities did not result in any observable differences in the child or their behaviours. However, the Panel's power to place children in residential care might be regarded as labelling because it is obvious to a number of agencies and members of the community that the child is being treated differently.

In interviews with professionals the labelling implications of accepting offence grounds within a Hearing in terms of the *Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003* were discussed as it appears that some of the aims of avoiding the stigmatising effects of convictions that within the Kilbrandon philosophy have been undermined to some extent by this legislation. The young people interviewed held the perception that offences dealt with in the Hearings were expunged from records when they reached adulthood leaving them with a "clean slate". However, young people did not appreciate that it would be a requirement to disclose previous convictions (including those considered "spent") for job applications (through Disclosure Scotland's processes) for some types of occupation later in life. This represents a further tension between a welfare approach that aims to avoid labelling, and legislation intended to identify individuals with concerning prior offences which, ironically, was introduced mainly to protect children.

Effectiveness – Home Supervision

Once a child or young person had been referred and accepted grounds at a Hearing the Panel Member's most frequent disposal was to make a Supervision Requirement where the child continued to reside within their family home. The effectiveness of this form of supervision was regarded with mixed feelings by those who had experienced it. The factor that appeared to most strongly determine how the young people interviewed felt about supervision was their relationship with individual social workers. The majority of offenders interviewed suggested that a Supervision Requirement had a negligible impact on their offending levels, and it was seen by some to be little more than an inconvenience. Very few persistent offenders reported that they had participated in any form of structured intervention aimed at reducing their offending as part of their Supervision Requirements.

The forms of intervention mentioned most often were in relation to motor vehicle offences and alcohol counselling. Those who participated in the motor vehicle crime intervention (The Rural and Urban Training Scheme, known as "RUTS") reported that they had learned basic principles of mechanics, had "a few chats" about dangerous driving and also got to use motorbikes on a track. All of those who participated in this intervention reported that it had not changed their offending behaviour; in fact, one individual reported that it had made him more interested in stealing motorbikes. Similarly, those who had received alcohol counselling reported that they found it to be a waste of time and that they stopped attending after two or three sessions.

If there was any structured content within these forms of intervention that was specifically aimed at addressing criminogenic needs, this was not reported in interview. Similar findings in relation to referrals to other agencies are reported by McAra (2005) who explored the relationship between substance use and referral to the Children's Hearings system. McAra, (2005) found that following being placed on supervision in relation to a referral for substance use, children had limited access to specialist drug or alcohol interventions, and 48% were referred again to the Reporter within the following year with substance misuse being a key issue within the

referral. Generally, supervision was regarded as being delivered inconsistently, by a range of people, and the supervision period was lacking in any meaningful interventions based on criminogenic needs.

She used to take me out... if like... if... two weeks or something I did not steal I'd like go out the second week or something. Like to Megabowl or something, I think I went swimming a couple of times and to McDonalds a couple of times too. That's about it, swimming, Megabowl and McDonalds. Male persistent offender.

[The social worker] would just take me round the scheme and have a wee talk. [...] I never had one for about - I'm not joking - 12 months. I never seen a social worker for ages until I got another Panel and then I got allocated a social worker a week before it, just to find out the gossip. Then after that, same again, never seen them till just before the Panel. Male persistent offender.

I would say it reduced it [levels of offending] because I thought to myself, "Right, I'm not going to have... if I keep offending, I'm going to have to keep going to these Panels, I'm going to have to keep seeing these social workers, which is not what I really want to do." It was just basically a waste of my time. Male persistent offender.

...they would just talk to you for about an hour. Just asking you what you've done, this, that and the other. One of the social workers I got at one point actually would go out and have something to eat and coffee and whatnot, so that was alright. But usually it was just an hour chat, or whatever. Male minor offender.

There appeared to be a difference in how some parents perceived the Hearings based on what their child's offending meant to them personally. Some parents described the Hearings as only having meaning to the child because the parent had given the event some meaning. Other parents alluded to the Hearing having a different effect based upon the child's social background and how that influenced their perception of the process, suggesting that there was a greater deterrent effect in children from more advantaged backgrounds.

...the ones that I have been to a Panel with have taken it seriously, but that's me telling them to take it seriously. I have said to them there are ramifications. I have met other kids that, for them, going to a Hearing is nothing... If I had been a parent that did not care about it, it would have meant nothing. The only reason he started to care was because I started to push the message about this being the first step in a ladder – and the ladder is only going down the way not up the way. And... unfortunately for him it probably didn't mean anything. It meant more that I was going on about it. Foster mother of male minor offender.

I think, maybe, for bairns that come from a better area that I come from, it would do a world of good for them – cos they would get a fright. But if they come from a rough area I don't think that the Panel would do any good for them. ...if their own parents couldn't give them a telling off, who is going to listen to anybody up there? If I am saying to her "Don't do that again cos you'll go to court," and then they go to the

Panel and they say “now don’t do that again.” They are not going to listen to strangers if they’re not going to listen to their own mother. Mother of female persistent offender.

The effectiveness of the Home Supervision Requirement was perceived by the majority of interviewees to have a negligible impact on their offending levels. The professionals regarded the function of the supervision process as being ambiguous and lacking in focus, serving little more than a monitoring function.

I really do think that most of the time it is a bit of paper. The children struggle to understand it and social work struggle to apply it. A supervision order is monitoring; I’m not sure who is best to do that. There are so many people involved around about a child - that dilutes the effects. People interpret things their own way. Supervision orders are open to much interpretation. Foster father of male persistent offender.

The issue of resources was commonly raised and all groups of interviewees believed that children on home supervision requirements were not seen often enough, and that when they were seen the work that was initiated was not meaningful. From the perspectives of the cohort members, some reported that they had a good relationship with some social workers; others did not enjoy the experience and regarded it as a waste of time. Their perception of the supervision process indicated that, generally, the social workers had “wee chats” and took them out occasionally for food. The lack of time amongst social workers to deliver Supervision Requirements was found to be an issue across Scotland (Audit Scotland, 2002; 2003). In addition the purpose and the focus of the Supervision Requirements appeared to be ambiguous and consequently ineffective. The reviews of the literature on effective practice discussed in the literature review, indicates that “interventions” of this form are likely not to produce reductions in recidivism.

The professionals who deliver home Supervision Requirements were very consistent in their perceptions of the supervision process. Themes of a perceived lack of effectiveness, clarity and sufficient consequence were very common amongst professionals interviewed.

I think that... the care plan of the social worker and the resources that are available can be effective, but only within the dynamic of everything else that is going on in the life of the young person. Particularly because of the kind of chaotic... nature of a lot of these young people’s families’ lives, the actual work that can be done is often very

reactive and limited. My view is that... there is a gatekeeper function that if you get a social worker on the issue, then the social worker can legitimately say that the levels of need are great and open up resources. It's a bit sad... it seems to me that a lot of what we do with young offenders, as social workers, is shepherd them with them with the view that by the age of 25 they will have stopped because that's what just happens – or that they are in prison or somebody else's problem – you know that offending is something that happens between the ages of 14 and 25 then they grow out of it (laughs). Social Worker

We don't know what a Supervision Requirement really means to the kid and their family... having a social worker visit every three weeks. They don't have the time to do much. What they actually do with the young person is an issue. There is not much actual work it's more of a loose "tag". I don't know how much that stops somebody offending. Social Worker.

The above comments highlight a lack of focus within the supervision that consequently does not appear to address needs (criminogenic and non-criminogenic) in a tangible way. The normal pattern of desistance amongst those on supervision is commented upon within the first quotation above. This effect was observed in the quantitative analysis where there were found to be no differences in the levels of self-reported offending in the sample who were placed on a Supervision Requirement matched to a sample of the cohort that had no contact with the system; both groups having reduced offending at the same rate.

Effectiveness – Residential homes and schools

Amongst the interviewees who had experienced being placed in a children's home or a residential school, there were mixed feelings about how effective this had been. One key factor that affected such experiences was the proximity of the home to their family and local area. Being removed from their local area was seen as being significant in assisting them to reduce their levels of offending; however, due to the disruption in contact with family and friends it was also seen by some as a punishment. Some cohort member's expressed that their placements in units resulted in them being victimised by other young people and staff. The issue of developing new peer offending networks and absconding from units to offend was also raised in some interviews. This following quotation illustrates the process of "socio-structural" labelling, through interventions resulting in increased levels of association with other delinquent peers (discussed in chapter 2) in the context of a children's home:

Well, I didn't mind being in a home, cos I could do what I want when I want because there was staff there looking after you and they do shifts. But, it bothered me when I went to Drylaw [Young Person's Centre] cos I didn't know where I was going. Didn't know where Drylaw was or nothing. And I made pals with everybody in there and started drinking and taking drugs, locking myself in rooms and... running away doing shit like that again. Female persistent offender.

Residential placements were also regarded by professionals, for the main part, as lacking positive outcomes. The main reasons for this view were that young people were accommodated with other offenders who served to amplify their deviance in a manner consistent with social learning theory (Bandura, 1977) and differential association (Sutherland and Cressey, 1970). Professionals also suggested that some residential staff lacked sufficient skills and powers to be effective in their roles.

I don't think it's productive at all – I appreciate it has to be done, usually there is no other option – but I think there... what we find is that there is a mix of people there on child protection but offending grounds seem to dominate this area. What tends to happen is that they all become offenders, and in some cases persistent offenders. Juvenile Liaison Officer.

A number of the cohort members expressed that they enjoyed being placed in residential school as it enabled them to access a range of recreational activities. However, one cohort member and his foster carer expressed very negative views around residential placements as they indicated that the cohort member was the victim of physical and sexual abuse from staff in a residential unit. Other cohort members perceived their placement as being a punishment as they were not in contact with their family and friends. However, being removed from their local area was seen by them as being significant in temporarily reducing levels of offending. Overall, perceptions of the effectiveness of residential placements indicated that there appeared to be a short-term reduction in levels of offending, followed by an escalation due to the development of a new peer group which is supportive of offending. This finding of an increase in offending following bonding with a group of peers, is also argued by McCord (1992) who reported on the negative effects of interventions with a group of boys followed up within the Cambridge Somerville Youth Study (discussed in chapter 2).

Effectiveness – Secure Units

Placement in a secure unit was also regarded as being a form of punishment. In terms of effectiveness, there did appear to be some temporary reduction in offending during the period of the placement, probably due purely to the incapacitation effect of a secure placement. However, following the end of the placement, frequency of offending was generally reported to have returned to previous levels.

Professionals had ambivalent views about the value of secure accommodation. Some regarded it as ineffective and punitive, whilst others considered it to provide a useful incapacitation effect, as a last resort.

...there is not enough secure accommodation. And young people are not stupid and they work out for themselves that the chances of them being put into secure accommodation are very slim. I have been to numerous Hearings where the Panel has decided that the young people should go to secure and then they find out that there are no places, the young person goes out on the streets again and commits more crime. They are brought back in front of the Panel again in three or four months – and again they recommend and find out that there are no spaces. Juvenile Liaison Officer.

The “threat” of a secure placement by Panel Members was not regarded as having a deterrent effect as the young people interviewed, aware of limited resources, did not consider it to be a likely consequence. Interviewees in all groups shared negative views about the use of secure units. They were regarded as being the most severe disposal available to the Children’s Hearings system. Cohort members and their parents regarded the use of a secure unit placement as a form of punishment. Professionals generally regarded the placements as being a “last resort” which provides a temporary opportunity to stabilise a young person’s circumstances and ensure their safety. The effect of incapacitation on levels of offending was shared by interviewees, but it was the perception that once the young person has left secure care their offending would return to prior levels.

As well as felling that secure placements were punitive, interviewees frequently referred to the issue of resources. Parents generally felt that the Panels were unable to make effective disposals either due to a shortage of social workers to provide supervision, or a scarcity of places in residential and secure units.

They have this “lets wait and see” attitude and kids don’t get the resources they need when they need them. ...There is no co-operation or resources, so they make threats “you’ll go to secure.” Kids know that they won’t go to secure, or they wouldn’t be bothered if they did go. ...when you find out that... that there are no secure beds then the Panel has no teeth. Kids regard the panel as a joke because they know that they have no resources – no teeth. Foster carer of male persistent offender.

Resource implications featured in many of the responses from professionals when discussing the purpose and effectiveness of the system in contrast to the functioning of the system.

...I think it is generally ineffective, probably just in terms of shortages of personnel in terms of providing the supervision. I don’t know whether it even impacts on the child; I think it could be more successful if it was directed towards the parents and their parenting skills. I think that is crucial, my belief is that it does not matter what intervention you throw at the young people it has to carry on at home. Juvenile Liaison Officer.

The use of the Children's Hearings system to access resources, rather than a mechanism for making decisions in the best interests of children who require compulsory measures, was a recurring issue, as highlighted by the following quotation:

I think that Kilbrandon’s early intervention was more maybe slanted towards the supervision bit of the Social Work Scotland Act. He would have wanted early intervention and support for families, that children that got referred to the Hearings System would have got more access to resources that would help them. I don’t think that Kilbrandon ever intended it to be used as a vehicle to residential. I think that a lot of people saw residential care as being the only way to sort some of these issues out. Social Worker.

This concern that the Children's Hearings system is inappropriately used as a means of obtaining resources for children concurs with findings from research carried out by Waterhouse and McGhee (2002). The issue is also discussed in the policy document *Getting it right for every child* (Scottish Executive, 2005), which advocates a more proactive role for agencies in meeting the needs of the child without relying on other service providers, in particular the Hearings system. In cases where compulsory measures are not deemed necessary, the Reporters will refer the child’s case back to the agencies in order for them to fulfil their duties towards meeting the child’s needs. *Getting it right for every child* also discusses

improvements to the Children's Hearings system that place greater emphasis on preventative educative programmes which involve families more in the process of addressing problems themselves (Scottish Executive, 2005).

As well as feeling that compulsory measures were sometimes used purely to access resources for children, the professionals interviewed felt that the approaches of early and minimum interventions were poorly applied due to a lack of resources and lack of clarity in translating principles into effective interventions. They were however, very supportive of the philosophy of early intervention and minimum intervention but sharply contrasted the theory with actual practice, as in the following example:

I would say that... early intervention is not really effective in terms of offending. There is almost a culture of waiting... things get swept under the carpet, and workers, families the young people and the Hearings system gets distracted on issues and side issues and there is a deflection away from looking at the difficult area offending, and what all that that entails and how to intervene at an earlier stage. I think that there is a response when things reach an absolute crisis. I think that... there is an element of waiting and looking for evidence; there is an element of "what do we do?" a helplessness experienced by workers; an element of wanting to do... if there is one big obvious thing to do then we'll do it, but if there are a lot of small things to do then, we tend not to do it. Social Worker.

Within the discussions around the theme of the purpose of the Children's Hearings system and the goals of early intervention and prevention there were ways in which the system could be improved. The role of parents and teachers was highlighted by professionals as being crucial in reducing levels of future offending by young people from high-risk groups. This "failure of upbringing" from Kilbrandon was endorsed by the professionals interviewed.

For youth crime I would start at preventative measures. Start when they are younger and work up from there. A lot of the issues are to do with parents, and parents now are a lot younger – they could be 16 or 17. You are educating the parents and the young people – engaging with them both. We are sadly lacking on that side. Some young people have never had boundaries or consistency from the parents. And you need to work with the young person and the parents. Otherwise you could be totally contradicted – you could be doing some work with the young people and their parents undo it all. You need to work with them both, it's two prongs. Social Worker.

The views given above from an experienced social worker are congruent with the system's "social education" approach. Findings discussed in the literature review of effective practice of multi-systemic therapy (which is based on social, ecological and

family systems theories) would appear to meet the aims described above. In relation to early intervention, the High/Scope Perry Preschool Program (Schweinhart *et al.*, 2005) would also appear to meet the aims of early intervention described in the following quotation:

Identify in schools, in the community the families that require early intervention to support the work that is going on in their communities. Trying to improve the environments in the community to strengthen the positives that are there and also tackle the disruptive and anti-social elements – focus on social inclusion. I don't see that happening. We tackle the behaviours but not the issues that are around that. I think that would have a huge impact and take a lot of people away from hearings. In utopia I would like to see that and that would fit with Kilbrandon's ideals. Joined up family work, continuity between different agencies providing services in communities. Social Worker.

This final point of a need to improve multi-agency working also appears to have been picked up by the Scottish Executive's review of the Children's Hearings system. In response to this, there have been moves to improve communication and integration between schools, social work, health and inspectorates described in *Getting it right for every child* (Scottish Executive, 2005). In addition, the values expressed in the Kilbrandon Report and by the professionals interviewed were also resonant with the recommendations produced by United Nations within *Directing Principles of Riyadh* which stresses early intervention through multi-disciplinary crime prevention approaches (Riyadh Guidelines, 1990).

The use of structured interventions that have clear aims and objectives in addressing criminogenic needs, in contrast to the unstructured use of supervision, was discussed by some of the professionals interviewed. The use of tertiary level groupwork programmes was also recommended as being useful for some high risk offenders.

I think that if a young person is nicking cars forty times in a month there needs to be some sort of symbol to say "stop" we all get together look at the evidence and produce a plan to address that. This obviously leads into resources issues and that there can be an appropriate intervention at the right level to address the issue. It sounds simple but the difficult part is defining what is the input, and my experience with groupwork would suggest that is an effective approach. I think the... the Children's Hearings system can be clouded in how it puts plans together. Social Worker.

These views are consistent with the recommendations made within *National Standards for Scotland's Youth Justice Services* (2002) and the use of "what works"

type offending behaviour programmes by some teams may be a reflection of these recommendations being put into practice.

Effectiveness – Desistance

In contrast to the previous section on the use of effective interventions, the interviewees gave a number of reasons for changes in their own offending behaviour which did not include any form of programme, whether they claimed to have desisted entirely, reduced their offending, or merely expressed a desire to stop offending. Cohort members attributed any actual or desired desistance from offending to an increasing perception as they got older that they would be likely to receive a custodial sentence in the future if they continued to offend and enter the adult criminal justice system. Some cohort members also mentioned other factors relating to their own maturity, such as no longer associating with peers who continued to offend and establishing more positive relationships.

Stopped hanging about with people - which I did. Got a job. Actually I done a six month course. It got me away from them, and got me the job I'm doing now like. One thing is my dad, my pals parents would get them to steal... if my pal stole a bike and sold it... his dad would want some of the money. My dad would never do that - he'd never encourage me to steal or that. That's a difference. Male persistent offender.

It's zero [current level of offending], because I've got a girlfriend and I've got a bairn on the way? Because I've got responsibilities. I would really like to be there for my child's birth. Male persistent offender.

Just don't want to go to jail - that was the main thing - I just wasn't wanting to go to jail. Seeing my mum and that, I was putting her through a lot of pressure as well, she was about to have a nervous breakdown... When I was stealing I didn't bother about girlfriends or that. Just money, money, money was all I thought about. I've got a girlfriend and that, and if it wasn't for my bird I would have been here [prison] a long time ago as well. Male persistent offender.

There was a common theme amongst interviews that desistance was part of a process of maturation for most offenders in a manner that is very similar to that described by Sampson and Laub (1993) and Jamieson *et al.*, (1999). Cohort members expressed that they had formed new relationships with peers who were not offending and had gained social capital (that also functioned as protective factors).

The literature on desistance shares a number of similarities with the literature on how motivation affects changes in behaviours in other areas (Miller and Rollnick, 2002). Within the “stages of change” model, (discussed in chapter 2) change is regarded as a process that can be conceptualised along a continuum of motivation stages. The combination of the stages of change model with the moral development literature would suggest that young people with serious or persistent offending behaviours would be likely to be motivated to change if they perceived that there are more negative outcomes than positive outcomes to their offending.

I think that they view it from a very selfish point of view - as if they get away with it or not. If they are not inconvenienced by it then they got away with it. Juvenile Liaison Officer.

For some, these combined literatures could be argued to support the introduction of deterrence based practices. Given that approaches of this kind have been found to “not work” (e.g. Gendreau *et al.*, 1999) this point is not being argued here. Desistance from offending appears to be a natural process that takes place for the vast majority of young people without recourse to deterrence or intervention.

8.3. Discussion

Throughout the interviews carried out for this thesis, a number of themes relating to the Children's Hearings system and Supervision Requirements were explored. It would appear that many of the recommendations made within the Kilbrandon Report (1964) are evident in current practice. Cohort members who had attended Hearings felt that the system had treated them fairly and that the Panel Members had understood their circumstances at Hearings. The informality of the system was found to facilitate the participation of young people and their families, which is also a feature within the 1989 UN Convention on the Rights of the Child. In addition, it was felt that legal representation was not necessary within the Hearings (although was mainly due to young people not being concerned about the consequences of Panel Members' decisions). However, children and young people appeared to not be aware of the implications of accepting offence grounds at Hearings in relation to “disclosures” for future jobs.

The separation of the process of adjudicating contested alleged offence grounds in practice appeared to result in a “plea bargaining” process where children and young people accepted some offence grounds which were presented to them, but did not accept them all in an attempt to minimise what they perceived as the overall seriousness. This process was perceived by some of the young people interviewed as “getting off” with having committed certain offences. Professionals on this point, expressed that in many cases, these additional offence grounds would not have resulted in a different disposal being made, and consequently there was not perceived to be any benefits in referring the grounds to the Sheriff for “proof”. This point reinforces the emphasis of the Children's Hearings system's welfare basis of acting in the “best interests of the child” over the just-deserts approach applied in justice models as described in the literature review (see Alder and Wundersitz, 1994).

A further aim of the Children's Hearings system's approach is to avoid the “stigmatisation” of children and young people. This was discussed within the interviews and the perception generally was that the Children's Hearings system achieved this goal; however the use of residential placements were regarded by some as having a labelling effect. Generally young people were considered to arrive at a Hearing “pre-labelled” and the police, in particular, were regarded as having this labelling effect. This qualitative finding was supported in the quantitative data (within chapter 7) in relation to the effects of having police contact and holding the self-concept of being a “troublemaker”. In addition, it was found (in chapter 6) that previous contact with the police significantly increased the likelihood (independently of other potentially confounding factors as discussed in chapter 4) of referral to the Reporter.

The characteristics of young people referred to the system were also discussed. The Children's Hearings system was regarded by some of the professionals as reflecting a class bias, as the children who were “embedded” within the system were predominantly from disadvantaged backgrounds (as in the quantitative findings in chapter 6). This over-representation was discussed by some professionals in terms of

the system's welfare orientation, where disadvantaged children were regarded as having greater needs and consequently would be more likely to be referred to the Reporter and placed on Supervision Requirements. The relationship between characteristics of the child's family and environment was compared by some professionals to be indicative of a mixture of risk and protective factors. It is argued throughout this thesis that the use of risk assessment tools, such as ASSET (e.g. Baker *et al.*, 2002), would facilitate better quality and more accurate assessments of needs, which would be less likely to be criticised as being biased due to the requirement to gather information in a more objective manner. The use of such assessments would facilitate gatekeeping and decision making resulting in greater use of diversion and better targeting of resources for the minority who are regarded as being in need of compulsory measures.

The findings relating to the over representation of cohort members from deprived neighbourhoods might also be argued to some extent to be a consequence of "hot spot" policing (focusing on neighbourhoods with high crime levels) rather than a class based bias. This policing practice could be argued to be analogous to the process of traffic wardens spending more time in areas where there are more parked cars (and hence more cars potentially "available" to receive parking violations). In this sense, the activities of the police would be less likely to be regarded as indicating a class based bias, but reflective of a process to efficiently achieve outcomes (e.g. a high "clear up" rate) by spending more time in areas where there are known offenders.

In relation to perceptions of risk and gatekeeping practices, amongst persistent offenders approaching the ages of 16 and 17, there appeared to be a process of them being "selecting out" from the Children's Hearings system and into the criminal justice system. In interviews, a theme emerged of some offenders "outgrowing" the Children's Hearings system, as it was felt that supervision had failed to address their needs. This perception supports that reported by Whyte *et al.*, (1999; discussed in chapter 3) who found that the most common reason for recommending the termination of a Supervision Requirement was in relation to a lack of co-operation.

In addition, some of the young people interviewed expressed the belief that the police also “held back” offence grounds around the time of the alleged offender’s sixteenth birthday, with the intention of increasing the likelihood of the charges being dealt with in Court. It is argued that the perception of “outgrowing” the system, and of the perceived process of “holding back” charges are incongruent with a diversionary and welfare orientated system, and these issues may reflect biased attitudes towards a group of young people. It is argued that if a the risk principle (Andrews and Bonta, 1998) was integrated within the decision making practices of the Children's Hearings system, this group in particular would be more likely to present with higher levels of risk and needs (criminogenic and non-criminogenic) than the majority of children and young people who are referred to the Children's Hearings system. On this basis it is argued that the Children's Hearings system and the provision of Supervision Requirements should address this group’s needs as early (using risk tools) and effectively (by addressing criminogenic needs through effective methods) as resources permit.

When compulsory measures were applied, they were generally regarded by all those interviewed as being ineffective. The perception amongst professionals generally was that supervision lacked a proportionate or effective response, largely due to interventions not addressing criminogenic needs and the inadequacy of resources (particularly time to provide frequent contacts) to create effective supervision. Young people, particularly persistent offenders, and their parents held classical views on punishment and deterrence, which resonate closely with those reported by the general public in other studies (e.g. Tufts and Roberts, 2002; Hutton, 2003). Within these interviews, it was argued that the disposals given by the Children’s Hearings system were little more than admonishments and perceived as a “slap on the wrists” by young people. The use of residential placements was regarded by this group as being inherently criminogenic, resulting in “deviance amplification” due the placement requiring them to live with an offending peer group. Moreover, persistent offenders suggested that this lack of a perceived punishment resulted in escalating levels of offending, reflecting rational choice decision making and immature levels of moral development (Palmer, 2003). In interview, some persistent

offenders reflecting on their experience of the Children's Hearings system expressed anger at not having had some form of intervention (described as a specific deterrent). They argued that the Children's Hearings system should have “stopped” them in a way that would encourage desistance and prevented them from receiving custodial disposals from the criminal justice system. Themes of desistance amongst persistent offenders centred on the attenuation of relationships with delinquent peers and developing new positive relationships (similar themes are discussed in the literature reviewed in chapter 2). Persistent offenders also expressed the perception that adult court and prison had a greater deterrent effect than the Children's Hearings system.

Desistance amongst young people with minor levels of offending was discussed regarded to be related to how their family responded to their offending, rather than how the Children's Hearings system responded. The significance of parental responses to offending behaviours was highlighted in interview with foster carers who commented that the system lacked “therapeutic consequence” for young people. This foster carer had effectively implemented a re-integrative shaming and restorative response himself. This point is very consistent with Hay's (1998) discussion of Braithwaite's theory of re-integrative shaming within the context of parental sanctions (where the child is shamed as a consequence of their behaviour, a sanction might also be placed on them, but the child is also re-integrated back within the family). In the absence of this parental response, it is argued that supervision (whether voluntary or through compulsory measures) could provide an effective “consequence” in the form of restorative justice and re-integrative shaming interventions (see also, Spencer and McIvor, 2000). It is argued here that these interventions also offer the potential to improve the socio-moral reasoning of children and young people and could contribute to enhancing motivation to change.

In relation to effective practice (as discussed in chapter 2) the use of motivational interviewing techniques (Miller and Rollnick, 2002) within supervision is argued to create better engagement in the process of change by young people. Motivation within the context of supervision has been discussed by other researchers such as Rex (1999). A significant component to the client's engagement and motivation to

change is argued by Rex, as being created through the relationship between the client and the supervisor, effectively allowing the supervisor to become a role model (see also Trotter, 1999).

All of the professionals interviewed (with one exception) expressed the view that the use of punishment and deterrence approaches would be unlikely to have any positive effects. A large proportion of the professionals interviewed suggested that groupwork programmes would provide an effective form of intervention. It is argued here that due to the potentially negative effects of interventions (e.g. McCord, 2003) these interventions should maximise the opportunity to facilitate positive outcomes through the rigorous application of the principles of the “what works” research (Andrews and Bonta, 1998). In order to reduce the potential for net-widening (and ineffective use of resources) the use of groupwork based interventions should be limited to the minority of young people who, according to Moffitt’s (1993) theory, may possibly be life course persistent offenders, where the intervention clearly meets their criminogenic needs in a way that would encourage desistance.

Chapter 9.

Conclusions.

Introduction

This thesis has primarily focused on the argument that the original philosophy of the Children's Hearings system described in the Kilbrandon Report (1964) is congruent with the contemporary literature on the principles of effective practice in working with offenders (e.g. Andrews and Bonta, 1998). In practice, it is argued that the functioning of the Children's Hearings system (in relation to children and young people referred on offence grounds) is currently failing to meet the needs of children and young people who present with serious and persistent offending behaviours. There was no significant effect found in relation to levels of self-reported offending when a group of young people who had contact with the system were compared with a matched group who had no contact. The provision of subsequent interventions and their effectiveness could be greatly improved through integration of these principles of effective practice. The following sections will conclude the main arguments throughout this thesis by drawing together the main findings of the literature review, the quantitative findings and the qualitative findings.

9.1. Overview of thesis

The impact that the Children's Hearings system has on the offending behaviours of children and young people was investigated using data obtained through the Edinburgh Study of Youth Transitions and Crime. The introductory chapter describes the three substantive research aims of this thesis which were to:

- describe and analyse the factors that influence whether young people are referred to the Children's Hearing system;
- evaluate the impact of the Children's Hearings system on delinquent development;
- present qualitative findings on the experience of the system from the perspective of the offenders, their parents and caseworkers.

The following sections discuss how these research aims have been met and relate the findings to the argument that the functioning of the Children's Hearings system could be improved by better implementation of principles of effective practice as identified within the literature reviewed here.

9.2. Referrals to the Reporter

The first of the above aims was addressed in chapters 5 and 6 where the findings presented in relation to referrals and gatekeeping practices were also convergent with those found in the literature reviewed in chapter 3 (e.g. Martin *et al.*, 1981; Waterhouse *et al* 1999 and 2004; and Gault, 2003). In the present study it was found that children, especially young males, from deprived backgrounds and single parent families were significantly more likely to be referred to the Children's Hearings system and subject to compulsory measures. These findings in relation to the social and environmental backgrounds of children and young people referred to the Children's Hearings system support the assertion made in the Kilbrandon Report (1964) that the circumstances of children presenting with offences and welfare concerns show underlying similarities. It is argued that the welfare focus on needs is consistent with the criminogenic needs principle, in that both recommend that in order to more effectively address the risk of reoffending, interventions should focus on the individual's needs rather than using punitive or justice based approaches.

The present study also found that within the group of children and young people referred, a minority presented with multiple referrals on offending and non-offending grounds who should have been considered to be at a higher risk of re-offending and also to have greater levels of criminogenic needs (Andrews and Bonta, 1998). On this basis it is argued here, as it has previously been argued by Whyte *et al.*, (1999) and (Waterhouse *et al.*, 2004), that more specialised interventions might be required, within the same system, for this minority due to their level of needs.

Within the present study the referral processes of the police could be construed as being indicative of a biased "over sampling" of children from deprived backgrounds. There are a number of potential explanations that could account for the referral

practices of the police. It could be argued (as by McAra and McVie, 2005) to represent a class based bias and that some groups of young people are more available for policing because they spend greater amounts of their time on the street. The observed referral patterns might also be argued to be a consequence of practices such as intelligence led policing (particularly in relation to circumstances where police performance measures for offending are present) or an imprecise risk assessment process where repeated incidents of police contact result in a child or young person having “form”. This point is discussed in chapter 6 where it is argued that the police might be employing crude heuristically based risk assessment processes using highly salient, but largely inaccurate, risk and protective “markers” in their decision making. The analyses of Reporters’ decision making practices indicated that they had better quality information available to them (from education and social work reports) that allowed them to use a different range of factors within their decision making processes. Reporters however, can only reach decisions in relation to those who are referred to them, and this selection effect might limit the potential of the system to provide interventions for those who have the greatest needs. It has been argued throughout this thesis that a deeper integration of the risk principle would facilitate better decision making. Risk assessment tools would allow for more accurate, consistent and transparent decision making for children and young people referred on offending grounds

9.3. The effect of the system

The second substantive aim of the present study was to evaluate the impact of the Children’s Hearings system on delinquent development, the results of which are presented in chapter 7. This analysis used a quasi-experimental analytical design where two groups were closely matched: one group were referred on offence grounds to the Reporter and the control group; who were matched on a range of important social, demographic and behavioural variables, but had no contact with the system. It was found that the process of being apprehended by the police, charged, and then referred to the Reporter, had no discernable impact on levels of subsequent self-reported offending when compared with the group that had no system contact. In

addition, the analysis of the effects of supervision revealed that levels of self-reported offending were similar to the matched group who had no system contact.

It is argued that these findings demonstrate a level of inappropriate handling of referred cases whereby a proportion of those within the system could have been diverted. In addition, on the basis of the information available, the interventions that were provided were not successful in targeting and addressing criminogenic needs. It is argued that the implementation of Supervision Requirements could be improved by greater use of approaches such as home visitation schemes (Schweinhart *et al.*, 2005), restorative justice interventions (Latimer *et al.*, 2001), multi-systemic therapy (Curtis *et al.*, 2004), and offending behaviour programmes (Latimer *et al.*, 2003), where appropriate.

The Children's Hearings system functions as a diversionary body for juvenile offenders with the aim of avoiding “stigmatisation”. The analyses of the “troublemaker” perception conducted in chapter 7 indicates that the Children's Hearings system appears to have been successful in this aim, in that contact with the system was not related to this perception. The findings reported here in relation to contact with the police are similar to Klemke's (1978) study of shoplifting and labelling and also more recently to those of McAra and McVie (2005) where police contact was found to be significantly labelling.

The studies discussed in the literature review (chapter 2) appear, on balance, to support the use of diversionary approaches (in order to ameliorate potential labelling effects) over punitive and deterrence approaches (Huizinga *et al.*, 2004; Bernberg *et al.*, 2006). The findings reported here that referral to the Children's Hearings system and being placed on supervision made no discernable difference to levels of self-reported offending do not support deterrence or labelling based theories. These findings are more similar to those reported by Minor *et al.*, (1997; discussed in chapter 2) that the relationship between offending and desistance is not significantly affected by diversion or formal processes, but by the characteristics of each individual child. In chapter 5 the “age-crime curve” observed in the cohort also

supports the use of diversion and the principle of “minimal intervention”. This finding is consistent with others (Sampson and Laub, 1993; Moffitt 1993; Graham and Bowling 1995; and Jamieson *et al.*, 1999) and indicates that the majority of young people will desist from offending without the requirement of any formal interventions. The literature on “what works” also supports a “minimal intervention” approach in that low risk offenders have been found to gain little from interventions, and also that some interventions can have potentially harmful effects (e.g. McCord, 1992). This second point appears to represent a confluence of theories in that the grouping of young people with offenders appears to increase their levels of delinquent behaviours in a manner that is consistent with “socio-structural labelling” (Paternoster and Iovanni, 1989), “differential association” (Sutherland and Cressey, 1970) and “social learning theory” (Bandura, 1970).

9.4. Qualitative findings

The third substantive aim of this thesis was to present qualitative findings on the experience of the system from the perspective of the offenders, their parents and caseworkers. In total, 52 semi-structured interviews were conducted and the findings of these interviews are presented in chapter 8.

Young people, particularly the more serious and persistent offenders, and their parents regarded the Children’s Hearings system as being ineffective and “soft”. They suggested that the system could be improved by shifting towards a punitive justice model which would have a deterrent effect on offending. The effectiveness of these approaches were undermined, however, as many of the young people who expressed this view also indicated that they would not actually have been deterred by a “harder” system as they did not consider the consequences of their actions, or believe that they would be caught in order to be deterred (see Paternoster, 1989; McGuire, 1995). Interestingly, some interviewees discussed the Children's Hearings system as being superficially presented to children and young people in a deterrence based context, where “threats” of residential placements were made. Similarly young people referred on offending grounds also indicated that they perceived the system as an ineffective justice model where a “slap on the wrists” was given. This observation

may reflect the stage of moral development that many of the young people shared at the age when they were placed on supervision (see Gibbs, 2003).

The professionals interviewed also expressed that the Children's Hearings system was ineffective in reducing offending behaviour, particularly for persistent offenders. In contrast to the opinions expressed by the young people interviewed, the professionals (apart from one Social Worker), expressed that punishment and deterrence approaches were not conducive to effective intervention. The Kilbrandon philosophy was strongly supported by professionals in theory, but was not regarded to have been effectively translated into practice in the form of interventions, largely due to a lack of resources. The professionals interviewed viewed Home Supervision Requirements as ineffective in reducing offending behaviour, particularly for persistent offenders. In addition, Supervision Requirements with a condition of residence in residential homes and schools were perceived as actually encouraging further offending. Many of the professionals interviewed expressed the view that the Children's Hearings system needed to produce "consequences" for young people referred on offending grounds in order to be more effective. Their comments relate directly to the provision of structured and meaningful interventions and were supportive of the introduction of findings from the effective practice literature into supervision. Specifically, early intervention was stressed as being crucial and the use of restorative justice and "what works" type programmes were valued by professionals. The responsivity principle (Andrews, 2000) was also supported by many professionals who were reluctant to deliver interventions that did not consider the specific needs and learning styles of individuals.

9.5. Limitations of the research

The present study places considerable emphasis on the effectiveness of the principles of "what works". It is argued that the use of risk assessment tools would result in better identification of children and young people who present a high risk of recidivism, allowing gatekeepers to make greater use of diversion and a better allocation of resources for those who require compulsory measures. In addition, risk assessment tools would identify a range of criminogenic needs which could then be

addressed by interventions. Lastly, interventions that are based on the findings of effective practice have been argued here as being likely to facilitate greater levels of desistance. The main limitation of the present study, however, is that due to the functioning of the system over the period of data collection it was not possible to empirically test these arguments. Had, for instance, all of the children and young people who were referred to the Reporter been assessed using a risk assessment tool it would have been possible to specify how many would have been more appropriately diverted. Similarly, if the analysis of the impact of the system had also included a group who, as part of their supervision requirement, had engaged in a restorative justice intervention, or engaged in multi-systemic therapy, then the argument that these approaches are more effective could have been tested.

The absence of these data for the purposes of analysis requires that this argument is based on the findings discussed in chapter 2, which draws largely upon meta-analyses, which are also primarily North American in origin. Clearly there are a range of cultural and contextual issues that require to be considered in the implementation of interventions developed abroad which may impact upon their effectiveness in other countries. Further research is required in order to establish if these interventions can be translated into effective practice here in Scotland.

A further limitation of the present study is that it has focussed on the functioning of the Children's Hearings system in the City of Edinburgh. Many of the findings in relation to referral patterns and interventions may not generalise to other areas of Scotland, particularly more rural communities where social differences may impact differently upon the balance of risk and protective factors found in individuals and their communities. The data and analyses presented here are not just limited geographically, but they also relate to the functioning of the system at the points in time when the data were collected. Since the Edinburgh Study started in 1998, there has been a major shift in policy in relation to youth justice and the Children's Hearings system has seen the introduction of a range of different disposals such as Anti-Social Behaviour Orders and the use of electronic monitoring. The emphasis of "needs" over "deeds" also appears to have shifted over this period in time both in the

political area and possibly in the public's perceptions. In this regard, these findings should be taken to represent the relationship between the Children's Hearings system, and the children and young people in the Edinburgh Study who had largely aged beyond the remit of the system in 2002. Generalisations of these findings beyond these parameters are made with caution.

9.6. Conclusion

The Kilbrandon philosophy appears to have been both radical for its time and considerably prescient in relation to findings that support the Children's Hearings system's approach, (see Hallett, 2000). The Children's Hearings system is now able to defend its position from the basis of studies into the effects of diversion (Huizinga *et al.*, 2004) and effective practice (Latimer *et al.*, 2003) that developed in the years that followed the Kilbrandon Report (1964). Moreover the Kilbrandon recommendations, when compared to the recommendations within the 1989 United Nations Convention on the Rights of the Child, show a high degree of similarity in the underlying approaches. Both sets of recommendations share a focus on diversion from criminal justice processing (in order to avoid stigmatisation); decision making based on the best interests of the child; rehabilitation and social reintegration rather than punishment; and the deprivation of liberty as a last resort once other means have been tried. However, the Children's Hearings system has not managed to meet all of these guidelines and the majority of young people aged 16 and 17 are still tried in adult court for offences (see Whyte *et al.*, 1999). If the recommendations laid out in *It's a Criminal Waste Stop Youth Crime Now!* (Scottish Executive, 2000) had been put fully into practice, this would have gone a long way to addressing this deficit as far more 16 and 17 year olds would have been retained in the Children's Hearings system rather than attending court.

Despite the Kilbrandon *philosophy* being well supported in the contemporary literature, in *practice* the current functioning of the Children's Hearings system is in many respects not consistent with the recommendations made within the Kilbrandon Report (1964) or with the effective practice literature. The main impediment to this would appear to be a lack of resources, particularly the provision of early and

community based interventions for those children, young people and their families who would benefit most from them.

As discussed in the introductory chapter, the Scottish Executive has also reached many of the same conclusions made here. Policy defined within the *National Standards for Scotland's Youth Justice Services* (Scottish Executive, 2002) and *Getting it right for every child* (Scottish Executive, 2005) in particular, appears to support the introduction of greater use of diversion and elements of effective practice to the functioning of the police, social work and the Children's Hearings system. The greater availability of resources should meet the perceived need for effective "consequences" discussed earlier without the use of compulsory measures or punishments. Equally, however, the values expressed by some of the parents and young people that increased punitive measures should be introduced are also supported by the implementation of *Scotland's Action Programme to Reduce Youth Crime* (Scottish Executive 2002) and also *Putting our communities first: A Strategy for tackling Anti-social Behaviour* (Scottish Executive 2003) which brought youth courts, electronic monitoring and anti-social behaviour legislation. As discussed in the literature review there is little support for the deterrent effect of such systems, however these new disposals are also paired with interventions that have some foundation of effectiveness. It remains to be seen over time how effective these interventions will be in the absence of a clear and consistent ethos to guide them.

The Children's Hearings system currently operates as neither a purely welfare nor purely justice orientated system. The policies currently in effect appear to perniciously undermine any unified theoretical foundation and generate tensions within a single system which attempts to meet both welfare and justice aims simultaneously. Given the current political climate (and approaching Scottish and general elections), it would appear that the future of the Kilbrandon philosophy depends on the extent to which the Children's Hearings system can demonstrate in practice its ability to meet the needs of children and young people. However, in the absence of the welfare orientation being able to currently demonstrate positive effects it will become increasingly more difficult to argue against any potential

policies in the future which would give greater emphasis to “deeds” within a justice model being applied to Scotland’s children and young people.

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Appendix A

s.52 of the Children (Scotland) Act 1995

- (1) The question of whether compulsory measures of supervision are necessary in respect of a child arises if at least one of the conditions mentioned in subsection (2) below is satisfied with respect to him.
- (2) The conditions referred to in subsection (1) above are that the child
 - (a) is beyond the control of any relevant person;
 - (b) is falling into bad associations or is exposed to moral danger;
 - (c) is likely -
 - (i) to suffer unnecessarily: or
 - (ii) be impaired seriously in his health or development, due to a lack of parental care;
 - (d) is a child in respect of whom any of the offences mentioned in Schedule 1 of the Criminal Procedure (Scotland) Act 1975 (offences against children to which special provisions apply) has been committed;
 - (e) is, or is likely to become, a member of the same household as a child in respect of any of the offences referred to in paragraph (d) above has been committed;
 - (f) is, or is likely to become, a member of the same household as a person who has committed any of the offences referred in paragraph (d) above;
 - (g) is, or is likely to become a member of the same household as a person in respect of whom an offence under sections 2A to 2C of the Sexual Offences (Scotland) Act 1976 (incest and intercourse with a child by step-parent or person in position of trust) has been committed by a member of that household;
 - (h) has failed to attend school regularly without reasonable excuse;
 - (i) has committed an offence;
 - (j) has misused alcohol or any drug, whether or not a controlled drug within the meaning of the Misuse of Drugs Act 1971;
 - (k) has misused a volatile substance by deliberately inhaling its vapour, other than for medicinal purposes;
 - (l) is being provided with accommodation by a local authority under section 25, or is the subject of a parental responsibilities order obtained under section 86, of this Act and, in either case, his behaviour is such that special measures are necessary for his adequate supervision in his interest or the interest of others.

Appendix B

Description of variables

Background variables

Variable name	Variable description
Gender	Male=1, Female=0.
Socio-economic status	Manual/unemployed=1, non-manual=0. Data on socio-economic status was collected at two sweeps. At sweep one, cohort members were asked to describe their parents' occupations which were then coded using the Registrar General Social Classification Scheme. Using these data, a socio-economic status could be assigned to only 61.4% of the cohort. At sweep four, a survey of parents' provided more information on socio-economic group and socio-economic status could be assigned to 69.5% of the cohort members at sweep four. Over the three years between data collection in sweep one and sweep four, the socio-economic status groupings were highly correlated (0.64). In order to improve the data sweep four data was used, and where sweep 4 data were missing data from sweep one was used. This process resulted in a socio-economic group code for 88.3% of all cohort members. Lastly to facilitate analyses using this variable and in order to improve accuracy, socio-economic status was divided into two broad groups: manual or unemployed; and non-manual.
Entitlement to free school meals	If cohort members were recorded as having been entitled to receive free school meals at any point. Yes = 1, No =0.
Family structure	<i>'Which of these people do you live with most of the time?'</i> (various options given including birth parents and other alternatives) Living with both birth parents =1, living with 1 or 0 birth parents=0.
Neighbourhood deprivation	The neighbourhood deprivation scale was based on 6 census-defined indicators of social or economic stress: percentage of the population who had lived in the area for less than 12 months; percentage of the population aged 10-24; percentage of households consisting of lone parents and children; percentage of households overcrowded; percentage of households in local authority housing; and percentage of the population unemployed. A standardised score was created for each variable and then added together to give a composite social deprivation score. 91 Edinburgh neighbourhoods were created using a geographic information system and a deprivation score was assigned to each. The deprivation scale ranges from zero for the most affluent areas, to 13.31 for areas with the highest levels of social and economic stress.

Contact with agencies

Variable name	Variable description
Adversarial police contact.	<i>'During the last year, did you have contact with the police for any of these reasons?' Told off or told to move on by police; stopped by police and asked questions about something you had done; stopped by police and asked to empty your pockets or bag; picked up and taken home by police; picked up and taken to police station; formal warning by the police; charged with committing a crime.</i> Yes=1, No=0.
Variety of adversarial police contact	Scale (0-7) based on how many types of adversarial contact the respondent had experienced in the last year.
Police warning or charges	<i>'During the last year, were you given a formal warning at a police station at a police station? 'Were you charged by the police for committing a crime?'</i> Yes=1, No=0.
Previous adversarial police contact	Respondent reported having any adversarial police contact at a previous sweep of the survey. Yes=1, No=0.
Previous warnings or charges	Respondent reported being warned or charged by the police at a previous sweep of the survey. Yes=1, No=0.
Referral to the Reporter	Evidence of cohort member having been referred to the Reporter during sweep. Yes=1, No=0.
Volume of police charges	Number of police charges logged in children's hearings record for the past year.
Variety of needs	In the past year number of types of problems (personal, school, home) recorded in Children's Hearings system files.
Total charges	Record of the total number of charges for offences recorded for the child with the Children's Hearings system records.
Total referrals	Number of times logged in children's hearings record that the child has been referred to the Reporter.
Supervision requirement	Was the cohort member subject to a Supervision Requirement during sweep? 1 = Yes, 0 = No

Behavioural and personality variables

Seriousness of offending	Seven types of self-reported 'serious' offending were combined to create a 'serious offending' variable: Robbery, Theft of Motor Vehicle ("joyriding"); Theft from Motor Vehicle; Theft by Housebreaking; Wilful Fireraising (Arson); and five or more incidents of Assault). The total number of incidents of these seven offence types were added to create a volume scale, ranging from 0 to 77.
Minor offending	Volume measures of self-reported 'minor offences', including: Breach of the Peace; Vandalism; and Theft by Shoplifting.
Drug use	'During the last year, did you take or try any illegal drugs?' Used drugs=1, Did not use drugs=0.
Alcohol use	'During the last year, did you drink an alcoholic drink?'; 'How often do you drink alcohol now?' Drink weekly=1, Drink less often or not at all=0.
Truancy	'During the last year, did you skip or skive school?'; 'How many times did you do this during the last year?' More than 5 times=1, 5 times or less=0.
Hanging about	'How often do you hang around these areas in the evening or at weekends?' (Choice of areas given) Most evenings=1, Less often=0.
Boyfriend/girlfriend	Cohort member had a partner during sweep. 1 = Yes, 0 = No.
Arguments with parents	Self-report data collected on a scale (0-18) where 18 indicates a high level of conflict. Derived from items on how often disagree or argue about: homework; my friends; how tidy my room is; what time I get in at; what I do when I go out; and money.
Risk taking	Risk taking: scale (0-24) (where 24 indicates a high level of risk-taking). Derived from how much agree/disagree with the following: <i>I like to test myself every now and then by doing something a bit risky; sometimes I will take a risk just for the fun of it; I sometimes find it exciting to do things that might get me into trouble; excitement and adventure are more important to me than feeling safe.</i>
Impulsivity	Impulsivity: scale (0-24) (where 24 indicates a high level of impulsivity). Derived from an abbreviated version of Eysenck Impulsivity Scale
Parental supervision	Scale (0-9), high score = close supervision. Based on 3 indicators of parental supervision: 'when you go out how often do your parents know... 'where you are?', 'who you are with?', what time you will be home?'
Victimisation	Number of times in past year someone: <i>threatened to hurt you; actually hurt you by hitting, kicking or punching you; actually hurt you with a weapon; stole something of yours; used threat or force to steal or try to steal something from you.</i>
Self-esteem	Abbreviated six item self-esteem score (low to high)
Troublemaker perception	Self reported perception of self-concept of being a "troublemaker" based on two perspectives: the individual seeing themselves as a "troublemaker"; and their perception that other people would see them as being a "troublemaker". The other people they were asked to consider were: their friends; other people of the same age; their parents; their teachers; and other adults. Yes =1, No = 0.

Appendix C.

Matching using propensity scores.

The process of matching attempts to overcome the problem of a lack of randomised allocation to the experimental and control group conditions by mimicking the properties of the randomisation process (see chapter 4). The method of matching based on propensity scores has two advantages over quasi-experimental approaches: firstly the effect of the intervention can be estimated non-parametrically; and secondly it resolves the issue of there being a lack of overlap in variables between the intervention and control groups (frequently referred to in the literature as the “common support problem”) which can produce a bias in outcomes.

In relation to the present study, the process of attempting to closely match cases over a number of variables (especially in relation to continuous variables) can result in there being no suitable individual in the control group available to match to (Rosenbaum and Rubin, 1983). The control group cases were selected on the basis that they had never been referred to the Reporter. This group was then matched to those who had been referred on offence grounds in sweep 3 on the basis of their propensity scores. After conducting a series of analyses to select the significant variables a final regression model was produced in order to develop propensity scores. Two variables that were not found to be significantly related to the regression predicting referral, but were significant in terms of matching groups, were gender and frequency of self reported serious offending in sweep 3. These two variables were retained using the Enter method in order to ensure that groups were as closely matched as possible as this consideration was more important than defining a model which predicted referrals with very high levels of accuracy.

The distribution of propensity scores within the group who were referred was highly skewed as a consequence of those who had the greatest likelihoods of being referred having *actually* been referred. Consequently there was a concentration of high propensity scores within this group. A similar issue was found in the control group where there were fewer propensity scores towards the upper end of the range, as

those who were more likely to be referred had been referred and consequently were excluded from this group. In effect this meant that some of the cohort members in the referred group were not matched as there were no cohort members in the control group with propensity scores which were similar enough to match them with.

There “calliper matching” method was used within the analyses as it reduces the likelihood of poor matches being made (see Heckman *et al.*, 1998). Matching was conducted on a case by case basis applying a calliper “propensity range” in order to match as closely as possible to the next “nearest neighbour” (in many cases propensity scores were identical) within a narrow tolerance range of scores of less than 0.1 of a difference (Smith and Todd, 2005). In cases where the propensity scores between groups fell outwith the calliper range no match was made. Effectively the process of calliper matching imposes a quality control criterion on the process.

Due to the issue of the number of available cases within the control group who had propensity scores within the calliper range, several cases were “weighted” in order to provide matches (Dehejia and Wahba, 1999). In order to reduce the potential biasing effect of repeated matching to one individual, a maximum limit of five experimental group members matched to one control group was set (this weighting of 5 to 1 was made on 7 occasions). In practice the majority (71.43%) of the matches were made with a 1:1 weighting. The weighting ratios of individuals in the control group to individuals in the experimental group are shown in the following table (Table 38):

Table 38: ratio of control group to experimental group weighting (n = 70).

Weighting	Frequency	Percent
1	50	71.43
2	8	11.43
3	5	7.14
5	7	10
Total	70	100

The experimental group of 116 individuals were matched manually to a sample of 70 individuals, which when the weighting of cases was applied effectively became 116

people. The process of matching using propensity scores, combined with the use of weighting, produced two closely matched groups that effectively contained 116 members in each group. The analyses using these matched groups are presented in the main text in chapter 7.

Appendix D.
Semi-structured interview templates.

Cohort Members' Interview Schedule

Participant's Name _____

Date of Birth _____

Date of Interview _____

Icebreaker conversation – small talk to build rapport.

Can I just check your name, address and date of birth are correct.

The time period I'd like to ask you about is starts when you first went to secondary school up to around your 18th birthday. The questions will mainly be about your involvement with the Children's Panel, which you might also know by the name of the Children's Hearing System.

The questions will mainly be about the sort of offences you were committing at the time and how you felt the Children's Panel treated you, but I'm also interested in other reasons for you to be in front of the Panel.

Before we start with these questions. I'd like to make sure that you know that this interview will be confidential. This means that I won't identify you or pass on any information you give onto anyone else. Your taking part in this interview is voluntary and you can decide not to take part at any point.

I'd also like to get more information about how the Children's Hearings treated you at that time from other people too. So I'd like to talk to somebody else like your mother or your social worker about what was happening then for you. Everything that they tell me will also be confidential and if they want to talk to me that will be voluntary too.

Do you have any questions about any of that?

Are you happy for me to now turn the tape recorder on now?

More small talk to normalise recording process.

Children's Panel - Before

I'd like you to think about the Panel (Hearings) before you had been for the first time (for offending and non-offending grounds).

- 1) Tell me about what you thought would happen?*
- 2) At that time did you know anyone that had been to the Panel?*
- 3) Did what you knew about the Panel put you off offending?*
- 4) Did it put you off from doing other things like skiving from school or getting into trouble apart from offending?*

Children's Panel - During

Now I'd like you to talk about what you experienced once you'd been to a Hearing (Panel).

- 5) When was your first hearing (Panel)? (how old, referral grounds?)*

- 6) *Tell me about the non-offence grounds that you had (what were they for, when was this)?*
- 7) *Tell me about what happened when you were there (purpose, understanding of process)?*
- 8) *How did you feel when you were before the Panel?*
- 9) *Once you had been before the Panel, what effect did it have on your levels of offending?*
- 10) *Once you had been to a Panel, do you think that people treated you differently? (tell me more about that; what people and in what ways. Cover: Parents friends brothers/sisters Police Teachers Others)*

Children's Panel - Disposals

I'd like to ask some questions about your experience of being on a Supervision Requirement for offences.

SR Social Work

- 11) *When were you first put on a for any reason SR (what was that for)?*
- 12) *Tell me about what happened when you put on supervision because of your offending?*
- 13) *What did you think about having to see a social worker?(why)*
- 14) *How did you get on with your Social Worker?*
- 15) *How often did you see your Social Worker?*
- 16) *What sort of things did you and the Social Worker talk about?*

17) *What effect did being on a SR have on your offending? (why)*

18) *Were you referred to any groups to do some work on offending issues (e.g. CHIP, HYPE, RUTS) What happened?*

SR residential –if placed in residential

19) *Tell me about where you were placed (where, how long, how feel?)*

20) *Why were you placed there (grounds)?*

21) *What sort of things did you do there (average day)?*

22) *Did you do anything there that was about your offending?*

23) *In your experience, how useful do you think that residential placements are in dealing with offending?*

24) *Once you'd been in residential, do you think that people treated you differently? (tell me more about that; what people and in what ways)*

Children's Panel – Overall

25) *What do you think the Panel is for (purpose, aims)?*

26) *Do you think that the way system treats young people who have offended in a fair way (why)?*

27) *Did you feel that the Panel listened to you and understood what was happening in your life at that time (why)?*

28) *Do you think that the Panel were trying to help you (why)?*

29) *How did you feel about going in front of the Panel without having spoken to a lawyer, or having one with you?*

30) *What could have happened earlier to prevent you getting into more trouble?*

31) *What age do you think people should go to court instead of the Panel (why)?*

32) *If young people were sent to court instead of the Panel for offences, what difference do you think this would make?*

33) *If you were in charge of reducing the levels of crime committed by young people in Scotland what would you do?*

Offending

I'd like you to talk about the sort of offences that you were committing at the time you were involved with the Panel.

34) *How do you think the police treated you generally (fairness)?*

35) *In what sort of ways did the police treat you and your friends?*

36) *What sort of offences were you committing (why)?*

37) *How worried were you about getting caught (consequences)?*

38) *Were there certain things about your life at that time that made it more likely that you would offend (friends, substances, low parental supervision)?*

39) *Did you ever go to court for offences at that age (what for, why – referred from Panel for proof hearing etc)?*

40) *How did you feel about being in court (what happened)?*

41) *How did it compare to being in front of the Panel (fairness)?*

42) *If there had been a youth court instead of the Panel, what difference do you think that would have made to you?*

- 43) *What do you think about the Panel having more powers to do things like make young people wear tags, or out them onto drug treatment and testing orders?*
- 44) *Is there anything that I've not asked that you think I should have?*

Parent's Interview ScheduleParticipant's Name _____Address _____Cohort Member's Name _____Relationship to Cohort Member _____Date of Interview _____

Note: CM refers to Cohort Member; the actual name of the young person will be used in the interview.

Icebreaker conversation – build rapport relax interviewee etc.

Can I just check your name and address.

The time period I'd like to ask you about is starts when CM first went to secondary school up to around his/her 18th birthday. The questions will mainly be about CM's involvement with the Children's Panel which you might also know by the name of the Children's Hearings System.

Before we start with these questions. I'd like to make sure that you know that this interview will be confidential. This means that I won't identify you or pass on any information you give me onto anyone else.

Do you have any questions about that?

Are you happy for me to now turn the tape recorder on now?

More small talk to make tape-recording normal.

<u>Children's Panel - Before</u>

I'd like you to think about the Panel before CM had attended for the first time.

- 45) *Tell me about what you thought would happen?*
- 46) *At that time did you know about anyone that had been to the Panel?*
- 47) *How did you feel about CM going to the Panel?*
- 48) *How did you feel about going to the Panel?*
- 49) *At around this time, how would you describe your relationship to CM (care, support, supervision etc)?*

<u>Children's Panel - During</u>

Now I'd like you to talk about what you found out once you'd been to a Panel with CM.

- 50) *When did CM first attend a Hearing (age, grounds)?*
- 51) *Tell me about what happened when you were there (purpose, understanding)?*
- 52) *How did you feel when you attended the Panel?*
- 53) *Did you think that the Panel listened to CM and understood what was going on for him/her?*
- 54) *Did you think that the Panel listened to you and understood what was going on for you at that time?*
- 55) *To what extent did you feel that the Panel was trying to help CM?*

56) *Once CM had been before the Panel, what effect do you think it had on his/her levels of offending?*

57) *Once you had been to a Panel with CM, do you think that people treated you differently? (tell me more about that; what people and in what ways.)*

58) *Do you think that people treated CM differently once he/she had attended a Children's Hearing? (tell me more about that; what people and in what ways.)*

Children's Panel - Disposals

I'd like to ask some questions about CM's experience of being on a Supervision Requirement for offences.

SR Social Work

59) *Tell me about what happened when CM when he/she was put on supervision because of offending?*

60) *What did you think about CM having to see a social worker?*

61) *How often did CM meet with his/her social worker?*

62) *How do you think CM got on with his/her social worker?*

63) *How did you get on with CM's social worker?*

64) *What effect did being on a SR have on CM's levels of offending?*

65) *What was helpful and unhelpful about CM's SR?*

66) *What effect did having a regular social work contact have on normal family life?*

67) *Before CM's Panel how much contact did your family have with the social work department (reasons, length of contact etc)?*

SR residential –if placed in residential

68) *Tell me about where CM was placed (where, how long, reason)?*

69) *How did you feel about CM being placed there?*

70) *How useful for CM do you think that this residential placement was in dealing with his/her offending*

71) *Once CM had been in residential, do you think that people treated him/her differently? (tell me more about that; what people and in what ways)*

Children's Panel – Overall

72) *What do you think the Panel is for (purpose, aims)?*

73) *Do you think that the way system treats young people who have offended in a fair way (why)?*

74) *Did you feel that the Panel listened to CM and understood what was happening for him/her at that time (why)?*

75) *Do you think that the Panel were trying to help CM (why)?*

76) *What could have happened earlier to prevent CM getting into more trouble?*

77) *What age do you think people should go to court instead of the Panel (why)?*

78) *If young people were sent to court instead of the Panel for offences, what difference do you think this would make?*

79) *If you were in charge of reducing the levels of crime committed by young people in Scotland what would you do?*

Offending

I'd like you to talk a little about the sort of offences that CM was committing at the time he/she was involved with the Panel.

80) *How do you think the police treated CM generally (fairness)?*

81) *Why do you think that CM started to commit offences?(when first start)?*

82) *How worried do you think that CM was about getting caught?*

83) *Were there certain things about CM's life at that time that made it more likely that he/she would offend (friends, substances, low supervision)?*

84) *If there had been a youth court instead of the Panel, what difference do you think that would have made to you?*

85) *Did you attend court with CM for his/her offending (what for, when)?*

86) *How does it in your experience compare to the Hearings (fairness etc)*

87) *Is there anything that I've not asked that you think I should have?*

Professional Observer's Interview Schedule

Professional's Name _____

Work Address _____

Cohort Member's Name (if relevant) _____

Date of Interview _____

I'd like to ask you a range of questions about the CHS that will mainly focus on offending and offence referrals (and also about the individual CM). The questions will mainly be about CM's involvement with the Children's Panel

Before we start with these questions. I'd like to make sure that you know that this interview will be confidential. This means that I won't identify you or pass on any information you give me onto anyone else.

Do you have any questions about that?

Are you happy for me to now turn the tape recorder on now?

<u>Children's Panel - Before</u>

1. *Generally, how much knowledge about the Children's Panel do you think that young people have, prior to attending for the first time? (specific CM case?)*
2. *To what extent do you think that this has a deterrent effect on young peoples offending or truanting? (specific CM case?)*

3. *How do you think that the local police view children and young people in this neighbourhood generally?*
4. *How would you say the young people in this area view the police.*
5. *What do you think are generally the main reasons why young people become involved in offending?*

Children's Panel - During

6. *Generally, how do you think young people (8-16) feel when they are attending a Panel when they have been referred on offending grounds? (specific CM case?)*
7. *How much do you think they understand about the purpose of the Panel, the role of the Panel members?*
8. *To what extent do you think that the system encourages young people to give an account of their behaviours and backgrounds. (do the young people use this opportunity)*
9. *How do you think young people referred on offending grounds view the Panel?*

<u>Children's Panel - Disposals</u>

10. *Generally, once a child has been referred to the Panel on offending grounds, what effect do you think it will have on their levels of offending? (specific CM case?)*
11. *How do you think you people placed on a SR view the supervision and social work?*
12. *Generally speaking, how effective do you feel a Supervision requirement is in reducing the levels of offending in young people?*
13. *What problems are there with supervision of this group?*
14. *What affect do you think an SR has on family life generally?*
15. *What could make a SR for offending grounds more effective?*
16. *How effective would you say that residential supervision (in school or a YPC) is for young (persistent) offenders?*

17. *What effects do you think come from mixing those who primarily are in need of care and protection with those who are primarily offending?*
18. *What do you think is the effect of concentrating offenders with different degrees of risk into one location (social learning)?*
19. *How effective do you think that ASBOS and ISMS (tagging) will be with young people who are persistently offending?*

Children's Panel – Overall

20. *Do you think that the way system treats young people who have offended in a fair way (why)?*
21. *Do you think that the Panel treats young people referred on offending grounds too softly, too strictly or is it about right in its approach?*
22. *What about more serious offenders?*
23. *To what extent do you think that children that go through the Panel system for offending are labelled or stigmatised in some way as consequence (who treats them differently, in what ways?)*

24. *At what age do you think that young people who are offending should move from the Hearings System and into the Courts? (Why?)*
25. *To what extent do you think that the Hearings system lacks sufficient powers to deter persistent young offenders from committing further offences? (why?)*
26. *To what extent do you think that young people don't think through the consequences of a lot of their offending and would consequently not be deterred by a more powerful Panel?*
27. *If you were to be put in charge of reducing the levels of youth crime in Scotland, what would you do? (community based interventions etc etc).*
28. *Is there anything that I've not asked that you think I should have?*