London School of Economics and Political Science

Youth Justice in England and Wales: Exploring young offenders' perceptions of restorative and procedural justice in the referral order process

Lauren Margaret Iona Lacey

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Abstract

In recent years the government has introduced youth justice policy which claims to draw on the philosophy of restorative justice as an alternative to punitive sanctions. Referral orders were implemented nationally in 2002 and purportedly represent a significant policy commitment to restorative justice. Rather than incarcerating offenders or deterring them through punishment, referral orders aim to encourage them to understand the consequences of their behaviour, make amends and re-join the law abiding community. This is purportedly achieved through a youth offender panel (panel meeting) run by lay members of the local community along with a member of staff from the youth offending team (YOT). The panel meeting aims to provide a forum away from formal court proceedings to discuss the offence and to agree and construct a contract that the offender must follow.

Referral orders therefore present a useful arena in which to explore young offenders' experiences of restorative justice and to compare this with their experience of the more formal court process. Research has revealed that fair procedures are important in securing people's compliance with the law and that offenders view restorative processes as fairer than court. However, the majority of research in this area has been done with adults and there is comparatively little research that focuses on young offenders' perceptions of criminal justice processes. For children, procedural safeguards largely relate to the manner in which adults interact with them. My research therefore explores young people's experiences with a range of authority figures including: teachers, police officers, magistrates, lay panel members and staff at the YOT. In doing this I aim to consider both how young people perceive the restorative elements of referral orders and more broadly, the way in which they form judgements of different criminal justice processes and sources of authority.

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Last, but by no means least, I would like to dedicate this thesis to my fiancé Patrick, who has been incredibly supportive over the past four years and always had faith that I would get here.

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Chapter One
Introduction

Over the past decade England and Wales have consistently detained more children in custody than any other country in Western Europe. Our youth justice system has attracted criticism from international human rights bodies and it has been argued that we are more punishment focused, in our response to children and young people who offend, than the majority of our European counterparts (Howard League for Penal Reform, 2008). However, despite this perceived punitive approach, successive governments of the United Kingdom have shown a sustained commitment to what they claim to be restorative principles. At the height of their 'tough on crime' stance to dealing with youth crime in 1997, New Labour laid out their intentions for the purportedly restorative referral order, based on the principles of 'restoration', 'reintegration' and 'responsibility' (Home Office, 1997: 9.21).

Referral orders are a mandatory sentence for all young people aged 10-17 who are being convicted of a first time offence and are pleading guilty. They were implemented nationally in 2002 and claim to represent a significant policy commitment to restorative justice. Rather than incarcerating offenders or deterring them through punishment, referral orders aim to encourage children and young people to understand the consequences of their behaviour, make amends and re-join the law abiding community. This is purportedly achieved through a youth offender panel (panel meeting) run by lay members of the local community along with a member of staff from the youth offending team (YOT). The panel meeting aims to provide a forum away from formal court proceedings to discuss the offence and to agree and construct a contract that the offender must follow (Ministry of Justice, 2009). Government guidance states that the contract must include interventions to address re-offending and reparation to the victim, or to the wider community, through community payback schemes.

Young people are first sentenced in the youth court, before attending the panel meeting, and therefore referral orders provide an opportunity to compare their experiences of the formal courtroom and the comparatively informal panel meeting. Evaluation of restorative processes, and indeed of the referral order pilots, has

revealed that offenders feel these processes are fairer and that they have been treated with more dignity and respect than in the traditional court process (Sherman et al 2011). Research suggests that this is important and that when the processes exerted by the police or courts are perceived as fair, people are more likely to accept the constraints placed upon them by these authorities (Tyler and Huo 2002). There are a number of factors that have been found to contribute to judgements about fairness including: whether people are allowed to participate in decision making; whether people think that authorities are neutral in their decision making; whether people believe that authorities are trustworthy and whether they are treated with dignity and respect (Tyler 2004).

However, the majority of research in this area has been conducted with adults and the studies that do exist with children largely use quantitative measures of procedural justice that were devised from previous research with adults. There is no settled literature on whether these measures are appropriate for studying the views of young people, which has led researchers to call for further research into young people's understanding of what is procedurally fair and in particular the extent to which they want to participate in criminal justice processes (Hinds 2007, Hicks and Lawrence 2004). Children's experiences of procedural safeguards largely relate to the manner in which adults interact with them and there is a need for further research into what young people value in these interactions. My research aims to contribute to the gap in the research literature and consider what is important to young people in making up their judgements of different criminal justice processes and different sources of authority.

Although evaluation of restorative processes has suggested that they are viewed as procedurally fair, it has been argued that the lack of procedural safeguards in these processes challenge the basic legal rights of offenders (Ashworth 2002). When referral orders were first introduced there was much controversy over the 'fairness' of the procedure. Ball (2000) draws attention to the fact that referral orders are compulsory, and that this coercive element goes against restorative justice which is based on cooperation. She also argues that the fact that the young person does not have legal representation at the panel meeting is problematic particularly as they are required to sign a binding contract (Ball, 2000). Arguably the panel meeting involves a fundamental imbalance of power, in that the adults running the meeting are able to

dictate the terms of the contract to the offender (Wonnacott, 1999). Therefore, it is possible that young people will experience the panel meeting as coercive and punitive, much in the same way they are likely to experience court. There is a need for research that explores young people's perceptions of the panel meeting and the other restorative elements of referral orders.

This thesis seeks to uncover young people's experiences and perceptions of the referral order process, including: their initial arrest and detention at the police station; sentencing in the youth court, and their experiences at the youth offending team. In addition, it considers the ways in which young people form judgments about different authority figures through exploring their experiences of policing and at school. Rather than eliciting young people's responses to pre-defined categories within closed questions, I wanted to enable them to talk about their experiences freely and in their own words. I therefore chose to conduct qualitative interviews and my methodology is discussed further in chapter three.

My research offers important insights in three main areas. Firstly, it considers the ways in which referral orders meet their purported restorative principles through the eyes of the young people who experience them. In particular, my research allows for comparison between young people's experiences of court and the purportedly restorative youth offender panel. Secondly, my research contributes to the growing literature on children's perceptions of fair procedures through looking at their experiences of these different justice processes and with different sources of authority. Thirdly, my research offers a number of important insights that are relevant to policy and practice within the youth justice system, particularly in relation to restorative justice. I will now outline what will be discussed in each chapter of the thesis, following this first introductory chapter.

Chapter two provides a review of the relevant literature prior to outlining the research questions and methodology in chapter three. This chapter begins by providing a brief historical and political backdrop to the introduction of referral orders and explaining their operation. Further to this it explores the relevant literature relating to restorative justice, both in theory and practice, and considers research and evaluation of restorative projects in the youth justice system. The literature and theory surrounding procedural justice is then outlined, which has largely developed through

research with adults. It is also necessary to consider the research that has been conducted in this field with children. I consider the findings of a number of quantitative studies as well as qualitative research on children's experiences of criminal justice processes. This chapter will finish with an explanation of how the literature I have outlined frames my research questions.

Chapter three provides a description of the methods that were used to conduct the empirical research that forms the basis of this thesis. It begins by stating the research questions that were shaped by the literature in chapter two and are addressed throughout this thesis. Further to this, an explanation is provided for both the research approach and the choice of methods. This includes a justification of the choice of respondents and the use of semi-structured interviews. The sampling approach taken and the rationale behind this is then outlined and the details of the final sample that was selected for the research is provided. The section following on from this provides an honest account of the research process. This includes a discussion of the challenges that were faced, both in gaining access to interviewees and in conducting the research interviews. My research involved interviews with potentially vulnerable young people and I therefore go on to discuss in detail both the ethical issues that I considered and the safeguards that I put in place. Chapter three finishes by explaining the way in which my interviews were analysed, which leads me onto my first empirical chapter.

Chapter four explores young peoples' perceptions of and experiences with teachers and police officers. Young people were asked about their experiences of getting into trouble or being told off by their teachers at school as well as their general experiences of policing and of being arrested and held at the police station. Using an analytical framework taken from Tyler's work on procedural justice, this chapter looks at what was important to the young people in making up their judgements of these interactions and the authority figures involved. In order to compare young people's interaction with authority figures in two significantly different contexts, both their experiences of school and policing were explored. Specifically, this chapter provides a context with which to look at young people's perceptions of authority figures in court and at the panel meeting in chapter five and at the youth offending team in chapter six.

Chapter five explores young people's experiences both of the relatively formal youth court and of the comparatively informal panel meeting. The purportedly restorative panel meeting aims to allow a space away from the formal courtroom in which the offender can discuss the offence and participate in deciding what will happen in its aftermath. As well as achieving its intended restorative outcomes, the panel meeting has the potential to display many of the features that are associated with procedural justice. However, concerns have also been raised about the coercive nature of the panel meeting. The majority of the research that has been carried out on procedural justice has been conducted with adults and there is comparatively little research that focuses on young offenders experiences of both restorative and criminal justice processes more broadly. Therefore, this chapter considers how young people experience the formal court process and how this compares with their experiences of the comparatively informal panel meeting. Further to this, it considers what is important to young people in making up their judgements of these processes and their interactions with the different authority figures involved.

Chapter six explores young people's experiences at the YOT after their initial panel meeting. Specifically, it focuses on their experiences and perceptions of completing reparation schemes and victim awareness activities and considers how they met with restorative aims. In addition, the approach that staff took to working with the young people at the YOT is outlined. In particular, this section considers the importance of the relationships that the young people had with their case workers, both in securing their engagement with the YOT and helping them to move forward with their lives. Further to this, it explores the way in which the young people viewed the YOT staff in comparison to the other authority figures outlined in chapters four and five. In doing this, this chapter examines the way in which these findings link both to the literature on procedural justice and literature within the youth justice field.

The concluding chapter considers the implications of this thesis for a number of different areas. Firstly, it outlines the findings on the way in which referral orders meet with their purportedly restorative principles through the eyes of the young people who experience them. Specifically, this section looks at the ways in which 'restoration', 'reintegration' and 'responsibility' played out in the various stages of the referral orders process. Secondly, the implications of my research for the growing literature on children's perceptions of fair procedures are considered. In particular,

this section looks at young people's perceptions of the panel meeting compared to the formal courtroom. The chapter then moves on to consider young peoples' perceptions of authority figures both within and outside the referral order process and suggests the way in which this fits with the literature on procedural justice. Thirdly, the possible policy and practice implications of my research are highlighted. Specifically, recommendations about the operation of reparation schemes and the conduct of panel meetings are made. This concluding chapter finishes by considering avenues for further research in this area.

Chapter Two
Young people, Justice and Legitimacy

Introduction

In this chapter I will explore the relevant literature that underpins my research questions. This thesis does not allow the scope to provide a detailed history of the origins of the youth justice system in the United Kingdom. However, in order to provide context for my study of referral orders I will briefly outline the historical development of youth justice policy in England and Wales, specifically focusing on the introduction of the Crime and Disorder Act (CDA) and the political backdrop to the introduction of referral orders in 1999. In addition, I will go on to highlight contemporary debates and policy developments within youth justice in England and Wales.

Referral orders are a purportedly restorative intervention and in the second section of this chapter I outline relevant literature on restorative justice both relating to its philosophical underpinnings and its practical application in youth justice. Evaluation and research of these restorative practices will be outlined, paying particular attention to children's perceptions of the process.

Evaluation of restorative processes has revealed that offenders often see them as procedurally just, in that they feel they have been treated fairly and with respect. In the third section of this chapter I will go on to outline the literature and theory on procedural justice, which has mostly been developed through research with adults. I will also outline in detail the existing research relating to children and procedural justice, and explain how this research frames my area of research.

Referral orders: A Historical and Political Backdrop

During the latter half of the 19th century, alongside the development of the modern construction of childhood (Ariès, 1996), there was increasing concern about the welfare of children as a distinct, and particularly vulnerable, social group. Social reformers campaigned to protect children from danger and exploitation and one of their key demands was that children be removed from adult prisons. This spawned a

series of reforms, advocating treatment, creating separate institutions for young offenders and, at the beginning of the 20th century, creating a separate juvenile court. Although there were some shifts in emphasis at times, the focus on 'welfarism' in British youth justice continued throughout the first half of the 20th Century (Morgan & Newburn, 2007). Between 1933 and 1969 the Ministry of Health played a major role in the development of youth justice policy, establishing the principle that young offenders should be dealt with in ways that promoted their welfare (Pitts, 2003).

In 1969 the Labour government passed the Children and Young Person's Act, which intended that the juvenile court become a welfare-providing agency but also 'an agency of last resort' (Rutter & Giller, 1983). However, the Act was not implemented fully by Labour or the subsequent Conservative government and by the late 1970s the numbers of young offenders in custody had risen sharply which led to overcrowding and increased costs to the state. The trend was reversed briefly in the 1980s when the then Conservative government, whilst maintaining a punitive rhetoric towards crime, recognised custody could be a criminogenic environment for young offenders (Home Office, 1988) . [1]

In the 1990s a series of amplified crime problems involving children and young people brought youth crime to the centre of public attention. Most prominent was the abduction and murder of toddler James Bulger by two ten year old boys in 1993. The vast media coverage of the case painted the offenders in an unsympathetic light and advocated harsh punishment, which was symptomatic of the hardening of public opinion towards young offenders. As a result youth crime became a political focus for both the Conservative government and the Labour opposition. Commentators have referred to this period as the beginning of "penal populism" in youth justice, in which penal polices forged by politicians gave way to those that resonated with popular retributive statements held by the public (Pitts, 2003 p.86). There was a bi-partisan consensus on being 'tough on crime'. In 1993 Tony Blair made his now famous statement that New Labour would be 'tough on crime, tough on the causes of crime' on BBC Radio 4 (Pitts, 2001), whilst the Conservatives advocated Michael Howard's mantra that 'prison works'.

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[1] Newburn (1997) asserts that between 1985 and 1993 the number of known juvenile offenders actually fell by 39%

In 1994 The Criminal Justice and Public Order Act 1994 doubled the maximum sentence in a YOI for 15-17 year olds and provided the introduction of Secure Training Centres (STCs) for 12-14 year olds. Research carried out at the time and funded by the Home Office suggested that it was unlikely to be an affective policy (Hagell & Newburn, 1994). However, New Labour, wanting to compete with the conservative's focus on 'law and order' and appeal to popular public sentiment, raised little objection to the introduction of STCs. There was a rise in the use of youth imprisonment during the 1990s, with numbers of children and young people serving custodial sentences rising by 122 per cent between 1993 and 1999 (Morgan & Newburn, 2007).

In addition a 'managerialist' stance to youth justice provision became prominent in the 1990s, which focused on economy, efficiency and effectiveness in public services. This was sparked by the Audit Commission's report *Misspent Youth,* which was highly critical of the youth justice system in England and Wales, arguing that it was uneconomic, ineffective and inefficient (Audit Commission, 1996). New Labour's pre-election consultation document, *Tackling Youth Crime: Reforming Youth Justice* (TYCRYJ) drew on the Audit Commission report and suggested that there was a crisis in youth justice and that the system was in need of a radical overhaul (Labour Party, 1996). This crisis in youth justice was described by Jack Straw at the launch of the document as arising from "confusion and conflict between welfare and punishment" (Newburn, 1998)[2]. TYCRYJ proposed that the solution to this confusion was to move the responsibility for young offenders from its joint position with the Department of Health to the Home Office alone, stating that the welfare needs of offenders could not "outweigh the needs of the community to be protected" (Labour Party 1996, p.9).

In 1997 New Labour came into power and in less than two months six consultation documents on the subject of youth justice had been published. Each of these documents expanded on and discussed proposals that had been outlined in TYCRYJ. The White Paper *No More Excuses: A new approach to tackling youth crime* (Home Office, 1997), presented New Labour's proposals which were later

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[2] Newburn (1998:201) quotes Jack Straw speaking at the launch of *Tackling Youth Crime and Reforming Youth Justice,* 20 May 1996

enacted in the Crime and Disorder Act 1998 (CDA). The CDA introduced the most significant reform of the British youth justice system in recent years, and led to what has been described as 'the new youth justice' (Goldson, 2000). Before the Act, youth justice teams were mainly made up of social workers, but the CDA created multi-agency youth offending teams (YOTs) which also include representatives from the police, the Probation service, education and drug and alcohol misuse services. YOTs have responsibility for assessing and working with young offenders who are serving part of their sentence in the community. The range of non-custodial sentences available to the youth court was expanded by the CDA, and included a range of measures which claimed to be influenced by restorative justice. Action plan orders and reparation orders introduced the possibility of reparation to the victim or the community at large as part of a supervision programme and reforms of the cautioning system prompted rehabilitation for warned offenders.

The *No More Excuses* White Paper also set out the first intentions for referral orders and outlined the government's definition of 'restorative principles', which it defined as promoting (Home Office 1997:9.21):

> *Restoration-* young offenders apologising to their victims and making amends for the harm they have done;

> *reintegration-* young offenders paying their debt to society and re-joining the community;

> *responsibility:* young offenders – and their parents – facing the consequences of their offending behaviour and taking responsibility for preventing further offending.

Referral orders were later introduced in section 1 of the Youth Justice and Criminal Evidence Act 1999, and were piloted and implemented nationally in England and Wales in 2002. Referral orders are compulsory where a young person aged 10-17 is

pleading guilty to a first time conviction in the youth court.[3] The youth court determines the length of the order, which can be between 3-12 months, according to the seriousness of the offence. Once a young person has been issued with a referral order they are referred to, and required to attend, a youth offender panel (YOP) which is governed by the principles of restorative justice (Ministry of Justice, 2009). The YOP is arranged and facilitated by the YOT and is made up of one member of youth offending team staff and at least two lay community panel members, who must be "representative of the local community" (Ministry of Justice, 2009:23). In addition the offender's parent, guardian or other appropriate adult is usually required by the court to attend the YOP and victims are invited to attend with a support person.

The aim of the panel is to provide a forum away from formal court proceedings to discuss the offence, and to agree and construct a contract that the offender must follow. The contract has two main aspects which are reparation, either to the victim or the wider community, and a programme of interventions to address re-offending. Reparation can be direct to the victim, in the form or an apology or some form of practical recompense for the harm caused. The offender may also carry out reparation to the wider community in the form of "community pay-back programmes", which involve practical activities such as clearing litter or social practices such as working with other young people at risk of offending (Ministry of Justice, 2009:40). The guidance states that reparative activity in referral orders should be, as far as possible, determined by the offence. The programme of interventions can involve a range of activities aimed at preventing re-offending including counselling, constructive leisure pursuits and requirements to attend school or stay away from certain places and people.

In theory the panel aims to allow the offender, the victim and their support persons to participate in the decision about what should happen as a result of the offence. During the panel meeting it is intended that the offender becomes aware of, and takes responsibility for, the consequences of their offending and has the opportunity to make amends to the victim or the wider community. Where the victim is present, they should have the opportunity to say how they have been affected by the

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[3] A referral order will not be made when the offence is so serious it warrants custody, where it is so minor an absolute discharge is made or when a hospital order is made.

offence, ask questions, receive an explanation or an apology and discuss how the offender can make practical reparation for the harm caused.

The guidance on referral orders states that the contract should not be imposed on the young offender, but negotiated with them. However, if the young offender is unwilling to agree a contract or fails to comply with it, he or she will be referred back to court, and it may revoke the order and impose an alternative sentence. Once the child or young person has successfully completed their contract their conviction is spent. This emphasises the government's aim to divert first time offenders from getting caught up in the youth justice system and in theory enables the child to reintegrate into the 'law abiding community' (Home Office 2002 p.23).

Later changes were made to referral orders under The Criminal Justice and Immigration Act 2008. The Act extends the conditions under which the court can make a referral order , specifically allowing them when the offender has a previous conviction but has not previously received a referral order or in instances where they have been bound over to keep the peace or have received a conditional discharge. In addition, the Act allows courts the power to issue a second referral order in exceptional circumstances and to revoke a referral order early for good behaviour if recommended to do so by the YOT. It also gives the court the ability to extend referral orders for up to three months, on the recommendation of the panel, in instances where the offender has been unable to comply with the contract through no fault of their own, for example because of illness or bereavement.

Contemporary Youth Justice in England and Wales

Painting a picture of the contemporary youth justice system in England and Wales is by no means straightforward. Although there has not been a specific political focus on youth crime by the coalition government, it is never far from the public eye and the political agenda. Following New Labour's reform of the youth justice system in 1998 there was little stability in legislation; 27 criminal justice statutes were passed during the 1990s and many affected youth justice (Morgan and Newburn, 2012).

Arguably, discussion and debate over how to deal with young offenders is illustrative of the long documented tension between punishment and welfare that

exists in Western criminal justice systems. Specifically, recent calls for the youth justice system to be reformed and led by the principles of 'prevention' and 'restoration' are combined with a reluctance to lower the age of criminal responsibility and a focus on the responsibilization of children (see Goldson, 2011). In addition, an increasing focus on the protection of children's rights, specifically within the context of juvenile justice, has provided a framework for looking critically at the way in which youth justice is administered in the United Kingdom.

In England and Wales children are deemed criminally responsible at the age of 10 and at age 8 in Scotland. This constitutes one of the lowest ages of criminal responsibility in Europe. For example, in the Czech Republic the age of criminal responsibility is 15 and in Bulgaria it is 14; in Belgium and Luxemburg it is 18. Not only do we hold children criminally responsible from the age of 10 but we also have comparably high rates of child imprisonment. Comparative assessment of youth justice systems internationally has highlighted the lack of adherence in England and Wales to the principle of custody as a 'last resort' as enshrined in Article 37 of the UN Convention on the Rights of the Child (UNRC) (Muncie & Goldson, 2006).

The UNRC was created in order to recognise specific children's rights internationally and in particular it advocates special protection for 'children in conflict with the law' (Muncie, 2010). As well as stating that imprisonment should only be used as a last resort, Article 3 of the UNRC also states that 'In all actions concerning children…the best interests of the child shall be a primary consideration' (United Nations, 1989). In addition, the United Nations Standard Minimum Rules for Administration of Juvenile Justice (the Beijing Rules) set out minimum requirements for the distinct treatment of young offenders and emphasise that the well-being of the child should be the primary concern.

Although, the UNRC was ratified by the United Kingdom in 1991 the UN Committee on the Rights of the Child has regularly been critical of both its high rates of youth imprisonment and the low age of criminal responsibility in the UK (Goldson & Muncie, 2012). The most recent report from Committee praised some developments in policy affecting children in the UK but stated that the 'best interests of the child' were still not reflected as a primary consideration in policy affecting children, 'especially youth justice' (United Nations Committee on the Rights of the

Child, 2008). The committee were particularly critical of the criminalization of children, disproportionately from disadvantaged backgrounds, through Anti-Social Behaviour Orders and the failure to use custody as a last resort in responding to youth crime (Muncie, 2010).

In apparent contrast to this punitive picture there is recent evidence of a decline in the numbers of children imprisoned in England and Wales between 2008-2011 (see Allen, 2011; Bateman, 2012). Bateman (2012) has drawn comparison between this decline and that of the 1980s, arguing that there was a relative de-politicisation of youth crime and a resurgence of diverting children from custody during both periods. Labour's publication of *The Children's Plan* in 2007 offered some acknowledgement of the crimogenic effects of children and young people progressing further into the criminal justice system. In addition, *The Youth Crime Action Plan,* published in 2008 by the then Labour government, formally introduced a national target to reduce the number of first time entrants to the youth justice system and prior to this local authorities were required to reduce year-on-year the numbers of children in their area sentenced to custody (Bateman 2012).

However, this does not necessarily represent a shift away from punitive approaches to youth crime. Bateman (2012) highlights the contradictory nature of the Youth Crime Action Plan, with its 'triple-track' strategy of 'enforcement, non-negotiable challenge' as well as a focus on 'prevention' and diverting children from the criminal justice system (HM Government, 2008). In addition, it is perhaps too early to accurately unpick the causes behind this decline in the imprisonment of children or to predict whether it will be sustained.

Indeed, the response to the riots in the summer of 2011 in English cities provides some recent evidence of the readiness to imprison young offenders. It was reported that Young Offenders Institutes were faced with an influx of young people after the summer riots, one in particular receiving more young people in one week than they would normally within one month (Puffet, Monday 19th December 2011,). Ministry of Justice statistics reveal that 27% of people brought before the courts for incidents related to the riots were children aged 10-17 and that these children were disproportionately from areas of social and economic deprivation. The treatment that they experienced in court was relatively harsh, thirty-one per cent of adjournments

resulting in them being remanded in custody and of those cases which reached a final disposal, one in three were sentenced to immediate imprisonment (Ministry of Justice, 2011).

There have been recent calls to reform the youth justice system in England and Wales. A prominent independent report *Time for a fresh start* was published by the Independent Commission on Youth Crime and Antisocial behaviour (the Commission), made of prominent researchers and academics as well as senior criminal justice practitioners. The report argues that "We have lost sight of the fundamental point that children and young people are still developing and of the principles that should be distinguishing our response to offending by them as opposed to adults" (Independent Commission on Youth Crime and Antisocial Behaviour, 2010: 5). The Commission advocates a 'fresh start' for youth justice in England and Wales and puts forward the idea of a new system based on 'Prevention', 'Restoration' and 'Integration' (ibid: 32). In addition, the report recognises the importance of the UN Convention on the Rights of the Child (UNRC), including the importance of considering the best interests of the child as a primary concern (Article 3) and using imprisonment as a last resort (Article 37).

The expansion of restorative justice is also recommended, particularly restorative conferencing. In a similar vein to the principles underpinning the introduction of referral orders, the report focuses on the potential for restorative processes to enable offenders to "understand the consequences of their behaviour, including its effect on victims, and discuss and decide how they can best make amends" (ibid:555). The Commission proposes the potential replacement of referral orders with a restorative youth conferencing service which they suggest would constitute a 'mainstream response when cases against children and young people are considered for prosecution' (ibid: 62).

The report raises concerns about the current youth justice system, including the confusion children are faced with when attending formal court procedures and the importance of their being able to relate to youth justice practitioners. However, the recommendations made by the report are not without criticism and it arguably displays a level of contradiction between accepting the injustices of the current youth justice system but also advocating the 'responsibilization' of children who should be

held to 'account' for their behaviour (Goldson 2011). The commission acknowledges the need to recognise the relative immaturity of children and to adhere to international conventions on juvenile justice, yet it suggests that there is no need to lower the age of criminal responsibility in order to achieve a 'humane response' to youth crime (Independent Commission on Youth Crime and Antisocial Behaviour, 2010: 91). As Goldson (2011) argues, this goes directly against the international guidelines that the commission claims to consult. Indeed, the UN committee overseeing the UNRC suggests an age of criminal responsibility below 12 to be internationally unacceptable (Muncie, 2010).

Aside from these potential inconsistencies the report does present a call for government reform of the youth justice system in England and Wales. Although the Coalition government welcomed the proposals outlined by the report it has thus far ruled out the piloting of a Northern Ireland style system of restorative cautioning in England and Wales due to financial restrictions. The Government has, however, maintained an interest in restorative justice. On 27th March 2012 they published 'Punishment and reform: effective community punishments' (Minsitry of Justice, 2012), setting out proposals for the reform of community sentencing. The consultation sets out what the Government is doing to support and enable delivery of restorative justice by local areas, with a particular focus on post-sentence restorative justice. It also describes their work to promote quality restorative practice, and asks for suggestions on what more can be done to develop its capacity within the criminal justice system.

Restorative Justice

Defining restorative justice

In recent decades, governments throughout the Western World have attempted to apply restorative principles to criminal justice policy, resulting in a variety of state sanctioned practices claiming to be 'restorative'. Restorative justice owes part of its popularity to the fact that it appeals to politicians of all stripes, the attraction of getting offenders to take responsibility for their actions holds particular political appeal particularly in the arena of youth justice (Braithwaite & Roche, 2001). Indeed,

getting children to take 'responsibility' for their offending behaviour is one of the key restorative principles underpinning referral orders. In conducting research on young people's experiences of referral orders it is essential to question what is meant by the term 'restorative justice' in theory and in practice and to consider the existing research evidence on restorative initiatives within criminal justice systems.

Constructing an all-encompassing definition of restorative justice is highly problematic; proponents of restorative justice have different ideas about precisely what restorative principles are and what type of processes achieve them in practice. However, there are key restorative principles that are largely agreed upon and a commonly accepted definition is that given by Tony Marshall (Marshall, 1999: 5): "*Restorative Justice is a process whereby parties with a stake in a particular offence collectively resolve how to deal with the aftermath of the offence and its implications for the future*".

Three core elements of restorative justice are identified within this definition. Firstly, restorative justice advocates the involvement of the key stakeholders in an offence coming together and deciding collectively what should happen after the offence has occurred. The key stakeholders are those directly involved in the offence; the victim, the offender and their communities of care and also the wider community in which the offence has taken place. Secondly, it is proposed that the key stakeholders in the offence come together and deliberate about the offence and what should happen next. For example, the victim will explain how the offence has affected them, which may enable the offender to realize the impact of their actions. In turn the offender will explain the background to their commission of the offence, which could lead to a greater mutual understanding. Thirdly, from this deliberation an outcome or resolution is established which will aim to repair the harm that the offence has caused. This could involve the offender making amends for the offence either directly to the victim or to the wider community.

Restorative philosophy

A number of proponents of restorative justice have been instrumental in the development of restorative principles, often actively in contrast to Western criminal justice systems. One such proponent is Nils Christie, whose influential paper

'Conflicts as Property' (1977) has been hugely significant in the development of restorative justice and is widely referred to in the literature. Christie (1977) draws attention to that fact that in modern criminal trials victims and offenders are represented by criminal justice professionals, and he argues that this constitutes a theft of conflict from the central parties in the dispute. He says that the conflict which occurs in the aftermath of an offence is valuable within society and represents an opportunity for participation of citizens 'in tasks that are of immediate importance to them' (Christie 1977:7). Christie states that the failure to allow the key stake holders in a criminal offence ownership of that conflict has consequences for the victim, the offender and for society.

Christie argues that the victim is a particularly heavy loser in this situation, for not only have they have suffered a loss as a result of the offence, which the state has received compensation for, but above all they have lost participation in their own case (Christie 1977:7). He outlines that a possible result of this loss of opportunity for participation is that the victim will retain stereotypes of the offender as a criminal and go away 'more frightened than ever' (Christie 1977:8). Christie's evaluation of the effect on the offender is not so clear cut. Although he acknowledges that the process of the offender meeting the victim *may* reduce the risk of re-offending and that without it the offender is missing out on receiving blame, he firmly suggests that reduced recidivism is not the basis of his reasoning. Christie (1977) also highlights that, most importantly, society loses out in the current system of criminal justice. The theft of conflict from the central parties in a dispute negates the opportunity for 'norm clarification', in that citizens are not able to discuss what is right and wrong and suggest a way forward.

Howard Zehr is also a prominent restorative justice proponent and has been extremely influential in its development. He was arguably the first to provide an integrated and comprehensive model of restorative justice (Marshall 1999). Zehr (1985), follows a similar vein to Christie in that he argues that the current conventional criminal justice system is inadequate both for victims and for offenders. Zehr argues that victims experience crime as deeply traumatic, an assault on them as 'an autonomous individual in a predictable world' (1985:69). As a result they need restoration of the power that the offender has taken away from them; a chance to speak about the offence and their feelings towards it, to know who is at fault and to

receive restitution (Zehr 1985). According to Zehr these needs are not met in the current criminal justice system.

Zehr (1985) also argues that offenders need to be able to understand the real human consequences of their actions and to be encouraged to take responsibility for making things right. He argues that the conventional criminal justice system fails to encourage a real understanding of what the offender has done and prevents the offender from experiencing true accountability for their actions. Zehr (1990) compared restorative justice with what he then referred to as 'retributive justice', but has now come to refer to as simply contemporary criminal justice. He argued that in retributive justice crime is defined as a violation of the state and that the inter-personal nature of crime is obscured through the control exerted by criminal justice professionals. Conventional criminal justice systems tend to advocate a contest between the offender and the state to determine guilt and administer punishment, often in the form of a trial or a hearing. In restorative justice crime is defined as a violation of one person by another and the value of the interpersonal conflict is recognised through the involvement of the central parties in the offence. Zehr (1990) argues that the focus in retributive justice is on establishing guilt and inflicting pain to punish and deter the offender from re-offending. In contrast restorative justice focuses on problem-solving and obligations and looks to the future rather than back at the offence.

A point of contention lies in whether restorative justice practices are compatible with western criminal justice systems. As I have outlined, restorative proponents such as Zehr and Christie actively oppose such systems. Although their work has been hugely influential in the development of restorative justice it is important to question the sharp distinction that they present between retributive systems and restorative justice. Firstly, it is important to highlight the fact that conventional criminal justice systems, such as those in Britain and the United States, are not synonymous with retributive justice. Rather, although they are influenced by retributive punishment models, they also contain elements of other penal philosophies, such as rehabilitation.

Secondly, restorative justice processes are not necessarily in sharp contrast to either retributive justice or conventional criminal justice systems. Daly (2000) argues

that restorative justice processes contain elements of both retributive and rehabilitative justice. This is evidenced by the fact that restorative processes are concerned with censoring past behaviour, in the form of the criminal act, and with changing future behaviour, in the form of attempted reintegration of the offender into the community. Restorative processes are not necessarily a "soft option" and often involve difficult and emotional processes for the offender (Walgrave 2001 p.17). This has led some writers to argue that rather than presenting an alternative to punishment, restorative processes merely present an alternative *way* of punishing offenders (Daly, 2000)

Restorative justice processes seek to engage the offender in fully understanding the consequences of their crime. Although Christie (1977) does not present the aim of restorative justice as the prevention of reoffending, it is suggested that the offender receives blame which does not happen effectively in formal criminal justice processes. John Braithwaite's work, in particular his theory of 'reintegrative shaming', has been extremely influential in the development of restorative justice practice in relation to offenders. In his seminal work *'Crime, Shame and Reintegration'* (1989), Braithwaite argues that shaming directed at offenders is essential in achieving low crime rates. He distinguishes what he calls 'reintegrative shaming' from shaming that leads to stigmatisation, arguing that the former shames whilst "maintaining bonds of respect or love, that sharply terminate disapproval with forgiveness" (Braithwaite, 1989 p.12). Braithwaite's proposed reintegrative shaming approach involves expressions of community disapproval of the offending act followed by gestures of reacceptance of the offender into the community of law-abiding citizens. Reintegrative shaming is presented in contrast to the stigmatisation and out-casting of offenders from their community, which Braithwaite argues is promoted by conventional justice practices.

Braithwaite argues that successful reintegrative shaming involves bringing together the victim, the offender and the people who respect and care most about them in a meeting or ceremony (Braithwaite & Mugford, 1994). A reintegration ceremony is said to include communication of disapproval of the bad act 'whilst sustaining the identity of the actor as good' and making special efforts to show the offender how valued they are after the offence has been confronted (Braithwaite & Mugford, 1994 p.142). It is argued that the offender is more likely to connect with the disapproval of

their loved ones and their community, particularly if it is followed by reacceptance, than they are to the opinions and actions of criminal justice professionals. In addition, Braithwaite (1994) argues that victims are a key part of reintegrative shaming because they are in a unique position to communicate the irresponsibility of the act and prompt the offender to take responsibility for their actions.

The history of restorative practices

Arguably, restorative justice is not a new concept. John Braithwaite, goes as far as to state that restorative justice was at one time the dominant model of criminal justice "throughout most of human history for all of the world's peoples" (1999 p.2). Much of the restorative justice literature argues that essentially restorative methods of conflict resolution were dominant in non-state, pre-state and early societies (Gelsthorpe and Morris 2002). It is argued that in these societies individuals were bound very strongly to social groups and conflict was resolved primarily through mediation and restitution (Weitekamp and Kerner 2002). A key argument among many advocating restorative justice is that modern restorative justice methods are associated with indigenous cultures in European colonised regimes.

Many restorative proponents argue that restorative justice methods constitute a revival of the indigenous dispute resolution practices of New Zealand's Maori and Australia's Aboriginals, as well as first nation peoples of Canada and the USA (McLaughlin et al 2003). It is certainly true that some of the most influential restorative inspired polices have come from New Zealand, Australia and Canada and have been inspired by the practice of indigenous people in those countries. In the case of Australia and New Zealand, this was largely in response to growing concern over the proportion of indigenous people involved in the criminal justice system and the failure of this system to deal with them. Similarly, in Canada circle sentencing was largely introduced to prevent the culture shock which many First Nation people experienced when they had to appear in court (Zernova 2007).

Restorative Justice in Practice

Restorative justice processes typically apply at the sentencing stage after guilt has been established. Referral orders are just one of a diverse range of criminal justice

processes claiming to come under the banner of 'restorative justice' across the globe. Victim offender mediation practices became prevalent in Canada and the United Sates in the 1970s and advocate the involvement of the victim and the offender in a meeting facilitated by a mediator, where the two parties can discuss the offence and the possibility of reparation (Zernova, 2007). However, other restorative practices such as sentencing circles and community boards advocate a wider range of stakeholders, including the families and support persons of the victim and offender and the wider community in which the offence has taken place. Many restorative practices operate at the margins of the criminal justice system, but in recent years governments in Britain, Australia and New Zealand have claimed to adopt restorative justice processes as part of mainstream responses to crime.

Until the 1990s restorative justice functioned largely by way of isolated experiments. However, the 1989 Young Persons and their Families Act in New Zealand created a new forum called Family Group Conferencing (FGC). According to many of its proponents FGC has its roots in the ancient justice practices of the indigenous Maori people in New Zealand. FGCs are attended by the offender, his or her relatives and friends, the victim (or a victim representative), a youth advocate, a police officer and possibly a social worker. In order for the conference to proceed the offender must admit involvement in the offence. During the conference all the participants are encouraged to discuss how the injuries caused by the crime could be repaired and the victim is particularly encouraged to explain how the offence has affected them (Zernova, 2007). After this has happened the offender's family deliberate in private to develop a plan concerning what needs to be done to put things right and prevent further offending, which is then presented to the rest of the group for discussion.

It is intended that the plan take into account the views of the victim and include measures to prevent re-offending, the most common outcomes being an apology to the victim or work for the community (Zernova, 2007). Evaluation of Family Group Conferences has shown a high level of satisfaction with the process among offenders and their families (Morris & Maxwell, 2000). Evaluation also revealed that the conferences could reduce re-offending when the reintegrative aspects of the conference were achieved, and particularly if the offender had a chance to apologise to the victim and felt sorry for their actions (Morris & Maxwell, 1996).

More recent research on Family Group Conferencing in New Zealand involved interviews with young offenders and victims as well as observation of conferences (see Maxwell & Morris, 2006). The research found that almost all the young people felt that the adults who were present at the conference cared about them and supported them and four out of five felt that they had been consulted on who attended the conference and that that they understood what was happening. However, only about half of the young people were involved in decision making during the conference, suggesting that the skills of conference co-ordinators could be improved in order to enable young people to feel a sense of 'ownership' over the outcomes of the process (Maxwell & Morris, 2006:253).

Family Group Conferencing (FGC) developed outside of New Zealand in 1991 through an experiment in the town of Wagga Wagga, New South Wales and later spread across Australia. Australian FGCs differ from those in New Zealand in that they have tended to be entirely Police-led. The conferences follow a script which is based on Braithwaite's *Reintegrative Shaming*, and focuses on disapproval of the offence rather than the offender, followed by forgiveness and reacceptance. Research on conferencing in Australia has revealed broadly positive results, showing a high level of satisfaction with the fairness of the process and its outcomes (Daly, 2001). An experimental study of Australian restorative conferencing, the Australian Reintegrative Shaming Experiments (RISE), which involved young offenders as well as adults has consistently found that offenders participating in conferencing reported higher levels of procedural justice (defined as being treated fairly and with respect) than those who experienced a court sanction (Sherman et al. 1999; Sherman et al. 2000).

The final report from the RISE study measured procedural justice by assessing offenders' awareness of the process, how consistent or fair it was, the amount of control they felt they had during the process and the amount of respect with which they felt they were treated (Sherman, et al., 2011). The report suggests that young offenders (specifically those who had committed a violent offence or had shop lifted) reported higher levels of procedural justice when they had attended a restorative conference than when they attended court. In particular they reported having control over the process, felt their treatment was consistent and had higher levels of trust in the police (ibid 2011).

In the mid-1990s restorative cautioning was transplanted into the United Kingdom through the Thames Valley Police experiment, which spread across the force area in 1998 and was used with both adult and juvenile offenders. The process involves the police inviting all those affected by the offence to the cautioning sessions; the participants sit in a circle and the cautioning police officer invites each party to speak according to a script derived from the Wagga Wagga model (Young & Goold, 2003). Although research revealed that participants were generally satisfied with the fairness of the process (procedural justice) and the outcomes achieved (Hoyle et al., 2002), it has also uncovered some problems which erode the restorative nature of the conferences. Young and Goold (2003) draw attention to research findings which suggest that police officers were overly dominant during conferences, which went against the aims inspired by reintegrative shaming.

In 1999 the Youth Justice Board of England and Wales funded a number of projects under the banner of 'restorative justice' (42 in total) and employed the Centre for Criminological Research at the University of Oxford to coordinate a national evaluation of the projects in conjunction with local evaluators (see Wilcox & Hoyle, 2004). A wide range of projects were funded and locally managed ranging from family group conferencing and victim offender mediation to victimless conferences, victim awareness and community reparation schemes. The authors report that for around half of the projects local evaluators were unable to interview offenders. However, those who were able to interview young people reported broadly positive results. Almost nine out of 10 offenders agreed that the intervention had helped them take responsibility for the offence and were satisfied with the outcome. In addition there was some evidence that the young people viewed the process as procedurally just, 87% agreeing that they had been treated with respect and had been listened to (Wilcox and Hoyle 2004).

In addition, in 2001 three restorative justice schemes were funded for three years by the Home Office to deliver both direct and indirect mediation as well as restorative conferencing. The schemes were evaluated by a team of researchers from The Centre for Criminological Research at the University of Sheffield (Shapland et al., 2006). The three schemes involved restorative work primarily with adults but also smaller samples of young offenders, at the pre-sentence stage, during a community sentence and prior to release from prison. The evaluation of these schemes found a

high level of participation on the part of both offenders and victims in restorative processes. Although the researchers did not generally observe conference facilitators to be dominant, they found police officers more likely to behave this way, particularly in encouraging young offenders to speak. Rather than focusing on gaining financial compensation for the offence, victims emphasised preventing reoffending and offenders often valued the opportunity to apologise (Shapland, et al., 2006).

An assessment of the evidence on restorative justice in the United Kingdom and internationally, was carried out by the Jerry Lee Centre for Criminology at the University of Pennsylvania for the Smith Institute in London. The review suggests that the results of restorative justice schemes are variable and that it works differently on different types of people. The evidence reviewed suggests that restorative justice reduces reoffending more effectively with *more* rather than less serious crimes and that it works more consistently for violent crimes than for property crimes. Further to this, research evidence suggests that it works better with crimes involving personal victims than for crimes without them (Sherman & Strang, 2007).

As I have outlined, referral orders aim to involve the key stakeholders in an offence in a deliberative forum to decide what should happen as a result of the offence. In theory the victim (or a victim representative), the offender and their support persons should attend and the wider community is represented through the use of lay volunteers (community panel members), who are in charge of facilitating the meeting. It is intended that through the panel meeting the young offender understands the effect of their offence on the victim, takes responsibility for their offending behaviour and participates in discussion of what should happen as a result. The resulting contract is intended to be negotiated with the young person and contain an element of reparation and activities geared towards preventing re-offending.

Prior to the implementation of referral orders nationally in April 2002, they were piloted in eleven areas across England and Wales. An evaluation of this process was carried out between March 2000 and August 2001 (see Crawford & Newburn, 2003; Newburn et al. 2002). The evaluation of the pilots focused on all aspects of the referral order process including their implementation and the opinions of participants and professionals. For the purposes of my research it is essential to consider here the

evaluation data which concerns children and young people's experiences and perceptions of referral orders.

During the evaluation fieldwork, members of the research team attended 163 panel meetings. Despite some commentators' fears prior to the introduction of referral orders that young people would be marginalised in a room full of adults at panel meetings (Haines, 2000), the observation data showed that most of the participants contributed significantly to the proceedings. Only 11% of young people made only monosyllabic responses or said nothing during their panel meeting, whilst almost half (49%) made lengthy and full contributions (Crawford & Newburn, 2003). Observers at the panel meetings categorised the extent to which each young person appeared to acknowledge responsibility for his or her offending behaviour, and found that the vast majority (70%) accepted full responsibility for all offending behaviour.

The vast majority of young people (91%) said that they understood what was going on in the panel meeting, but when interviewed many of the young people were unsure who was present and some were unable to distinguish between youth offending team staff and lay community panel members. When asked to put in their own words what they thought the purpose of the panel was, the majority mentioned some form of "help" or "sorting out", and only a small number mentioned punishment in any form (Crawford & Newburn, 2003). When comparing their feelings about the panel meeting and court, the evaluation revealed that a higher proportion of young people felt nervous about attending court. Over three quarters (77%) of young people said were nervous before attending court and only 18% that they were not nervous at all, this compared to 59% who said that they were nervous before the panel meeting and 36% who were not nervous at all before the panel.

The restorative value of the referral order pilots was also found to be significant. Over two thirds of young people (69%) said that they had a clearer idea about how people had been affected by their offence after attending the panel meeting, compared with 45% who said the same after attending court. There was also evidence of reintegration of the young person, with 69% of young people saying that attending the panel meeting made them feel they could put the whole thing behind them and 79% agreeing that the purpose of the panel was to help them get on with their life. In the evaluation all but one of the young people signed the contract at the

end of the initial panel meeting, and only 12% said that they felt pressured into signing it. However, when asked if they went along with what was suggested for their contract, 44% of young people agreed (Crawford & Newburn, 2003).

The evaluation also aimed to test young people's sense of procedural justice, which was measured by their level of agreement that they had been treated fairly and with respect and that they had a voice in the panel process. The findings suggest that young offenders experienced high levels of procedural justice in the panel meeting. The interviews with young people revealed that 84% agreed that they were treated with respect; 86% agreed that the panel members were fair (including a fifth who strongly agreed); 75% agreed that they did not feel pushed into anything that they did not disagree with and 87% agreed that they had an opportunity to explain their side of things (Crawford and Newburn 2003). The research also suggests that the panel meeting was experienced by young people as fairer and that they felt they were treated with more respect than in court. The greatest discrepancy between court and the panel meeting for young people was that that they had the opportunity to explain their side of things at the panel meeting and they valued the panel members listening to them.

Although the evaluation research on referral orders was broadly positive, more recent research has been more critical of the orders and their appropriateness for younger offenders. Newbury (2008) draws on her research involving interviews with young offenders going through the referral order process, with particular emphasis on respondents under the age of 13 and how far they understand the notion of 'taking responsibility' (Newbury, 2008). She draws on two case studies of young offenders aged 10-12, and argues that the referral order process is too complex and demanding both in terminology and requirements on time and attention for a child of this age. The young people involved in her case studies were not involved in a meaningful way in the panel discussions and the community panel members had great difficulty in engaging them. Newbury (2008) concludes by questioning whether referral orders are able to achieve their restorative aims when dealing with very young offenders.

In addition, her latest work outlines the inherent tensions in attempting to involve victims in youth offender panels. Specifically, Newbury (2011) outlines examples from her own research in which young people were often reluctant to meet

the victim. She also outlines a small number of case studies in which the victim did attend and the young person showed no remorse for their offence, causing more harm to the victim. Newbury questions the suitability of the referral orders as a 'catch all' for first time offenders and argues that restorative interventions should rather be 'reserved for cases where the time and resource input gives a good chance of success' (Newbury, 2011: 263).

Critical issues in restorative practice

As I have highlighted in discussing the history of restorative justice, it is thought to represent a resurgence of indigenous justice practices. A common theme in the restorative literature is that restorative justice practices are a return to an ancient or 'pre-modern' way of tackling criminality. In particular Braithwaite suggests that restorative practices are grounded in traditions from ancient Arab, Greek and Roman civilisations (Braithwaite, 1999). However, there is some criticism of this construction and a questioning of restorative justice as a return to 'ancient' practices, largely through the work of Kathleen Daly.

It is argued that rather than writing an authoritative history of justice, restorative proponents such as Braithwaite seek to construct a myth about the origin of restorative practices (Daly, 2002). Daly argues that in constructing restorative justice as linked to a superior form of 'ancient' justice that was present before retributive justice was imposed, a strong oppositional contrast between retributive and restorative justice is maintained. Therefore, in order to make restorative justice appealing and move it forward in a policy arena it has been useful for advocates to link it to ancient, and in many cases indigenous, forms of justice (see Blagg, 1997) .

This argument can be illustrated with reference to the introduction of conferencing in New Zealand. It is claimed that modern ideas of conferencing have their roots in indigenous Maori culture (Shearing, 2001). However, as Daly (2002) highlights, the introduction of conferencing in New Zealand arose in the 1980s as a result of political concern over providing culturally sensitive justice processes for indigenous people. Although the conferencing process was designed to be flexible and accommodating towards cultural differences, conferencing itself does not necessarily represent an 'indigenous justice practice'. Rather conferencing is better understood as

a mixture of traditional bureaucratic justice with elements of informal, and in some cases non-western, forms of justice (Daly, 2002).

A further point of contention lies in the distinction between restorative and retributive justice processes. As is outlined by Cunneen (2010), restorative practices are held up as the ethically right or 'good' way of doing justice. This is often argued by framing restorative and more retributive forms of justice as opposite and opposing models. Cunneen argues that this dichotomy is part of the problem and that it simplifies the highly complex social relations in which justice, and in particular punishment, are embedded. Restorative justice processes should therefore be examined in the ways in which they reproduce inequality and in particular the way in which offenders and victims are defined.

Like Cunneen, Daly's work strongly questions the supposed dichotomy between restorative and retributive justice. Daly (2002, 2000) argues that this contrast is a highly misleading in that it promotes an idea that justice systems are pure and of one type only. Restorative proponents tend to present retributive justice as synonymous with hostility and therefore reject retributive principles, presenting restorative justice as an alternative. Daly's argument is that the apparently contrary principles of retribution and reparation should in fact be viewed as dependent upon one another. Retributive censure or 'holding offenders accountable' must happen before it is possible to 'repair the harm' or 'reintegrate offenders' (Daly 2002:60). In this sense restorative processes by their very nature contain elements of retributive justice and therefore the two cannot be in simple opposition with one another.

Cunneen (2010) takes this criticism further and argues that, in operating *within* traditional criminal justice systems restorative processes fail to be critical and to challenge the exclusion caused by criminalisation. It is argued that restorative literature is largely unquestioning about the way in which the law constructs particular social groups as offenders or the role of the law in transmitting certain values and beliefs (Cunneen 2010). Restorative processes focus on the offender taking responsibility for their crime and render the victim responsible for participating in a process to restore the harm caused by the crime. In this sense restorative justice can be seen as furthering a neo-liberal agenda and can be argued to promulgate an 'us' and 'them' division between victims and offenders (Cuneen 2010). Such a division

ignores the complex relationship between victimisation and offending as well as having the potential to further alienate offenders. In particular, holding young people 'responsible' for their offending behaviour can be done in a manner which labels them and further alienates them from society.

Essentially, there is nothing 'inherent' within restorative justice that prevents it from being used alongside repressive crime control strategies (Cunneen 2010:108). Therefore, it is essential that restorative processes operating within the criminal justice system are considered in a critical manner. It is important not to assume that restorative processes are a metaphor for 'better' or more ethical ways of doing justice. Most restorative justice advocates strive to include restorative justice approaches as part of a mainstream criminal justice response to crime. However, this is not without its potential problems. For example, there is arguably a danger that policy makers have a very narrow view about what restorative justice is and may as a result misapply its principles. It has been suggested that the spread of programmes claiming to be 'restorative' has been combined with a distortion or watering-down of its core principles (see Gelsthorpe and Morris 2000).

There was particular concern about the purported 'restorative' principles presented in the Crime and Disorder Act (CDA), and later in the introduction of referral orders in 1999. It was argued that the CDA signalled an ideological shift on the part of New Labour in favour of punishment and crime control (Gelsthorpe & Morris, 2000). The Act included the abolition of doli-incapax, which effectively raised the age of criminal responsibility to 10, the creation of the detention and training order as well as the introduction of the purportedly restorative referral order. It was suggested that this 'melting pot' of competing ideologies led to a dilution of restorative principles within referral orders (Gelsthorpe & Morris, 2002: 247).

Specifically, the fact that referral orders are compulsory has been criticised; Ball (2000) argues that this coercive element goes against restorative justice which is based on cooperation on the part of the offender and the victim. It was suggested that the type of compulsory restoration involved in the Youth offender panel meeting (panel meeting) could make young people feel marginalised in a room full of adults and potentially lead to a ceremony of public shaming and degradation (Haines, 2000; Muncie, 2001). Wonnacott (1999) goes as far as to say that the whole idea of a

contract within referral orders is a sham because it is based on a fundamental imbalance of power. She argues that in practice the panel are able to dictate the terms to the offender and that they have no bargaining power, their only choice being to sign and agree the contract or to go back to the court for re-sentencing (Wonnacott, 1999).

This concern over the rights of offenders has been raised in relation to restorative justice practices more generally. Ashworth (2002) raises concerns over restorative justice and in particular the procedural safeguards afforded to offenders during the process. He argues that it is the primary role of the state to administer justice and to ensure the proper standards of procedural protection. Therefore, it is essential that restorative processes are ensured to be impartial, proportionate and equal in their treatment of offenders. Ashworth (2002) calls for strong safeguards to protect offenders in restorative processes and in particular argues that provision should be made for legal advice 'before and after any restorative process' (ibid:591). In order to ensure these safeguards are being met he calls for extensive testing and evaluation of restorative processes and their effect on victims and offenders.

As I have outlined such evaluation of the piloting of referral orders suggests that many of the above concerns have not been realised in their application and that youth offender panels have established themselves as deliberative forums in which children feel able to participate. However, Newbury's (2008) research does raise concerns about the participation of very young offenders. Further to this both Newbury's research and the evaluation of the referral order pilots suggests a very low level of victim attendance at panel meetings. There is a large amount of debate over what constitutes a restorative process and whether the victim, offender and the community must be involved in order for the process to be 'restorative'.

McCold (2000) distinguishes 'fully' and 'partly' restorative processes, arguing that in order to be fully restorative the process must involve the offender, the victim and their communities of care. Programmes that address the needs of offenders, victims and their communities of care are deemed 'restorative'. McCold (2000) argues that programmes that address only two of the three stakeholder's needs are more restorative than those that address only one, but neither constitutes an ideal model of restorative justice. However, McCold (2000) states that although it is ideal to address the needs of all three stakeholders this is not always possible and partly

restorative programmes can be a feasible alternative and are preferable to non-restorative approaches. Therefore, a youth offender panel attended by the young offender, their support person and the community panel members has the potential to constitute a partly restorative process.
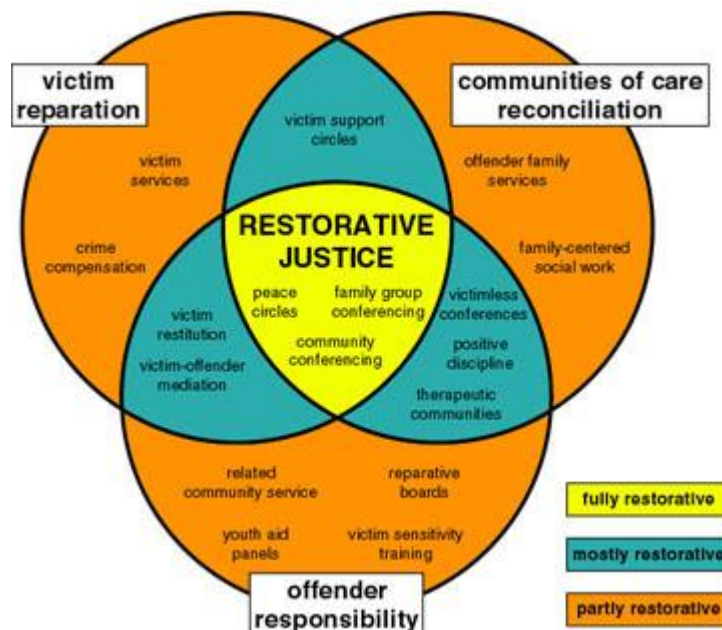
McCold and Watchel (2003)

Procedural Justice

Procedural justice and restorative justice

I have highlighted above that some of the research and evaluation of restorative justice processes has revealed high levels of procedural justice among offenders, in that they often feel that they have been treated fairly and with respect. The initial evaluation of the referral order pilots revealed that young people perceived the

process as fairer than the youth court, and that they felt that they were treated with respect (Crawford & Newburn, 2003). In addition, the most recent data from the reintegrative shaming experiments (RISE) in Australia found that young offenders reported higher levels of procedural justice when they had attended a restorative conference than when they attended court (Sherman, et al., 2011). Research has shown that informal legal procedures are viewed as particularly fair. In civil cases defendants rate mediation to be fairer than a formal trial, and it is typically rated more satisfactorily (Tyler, 1988, 1997). This suggests that in order to increase levels of procedural justice, legal authorities should use more informal legal procedures, such as restorative justice.

However, many legal scholars have raised concerns about the use of informal legal procedures because they challenge conventional ideas of justice. Ashworth (2002) applies this caution to restorative justice, arguing that the lack of procedural safeguards challenges the basic legal rights of offenders. He argues that it is important to maintain basic legal standards of consistency, impartiality and proportionality in restorative processes. When referral orders were first introduced there was much controversy over the 'fairness' of the procedure, particularly related to the fact that young offenders do not have legal representation during the panel meetings and may feel coerced into signing the contract (see Ball, 2000; Wonnacott, 1999).

Tyler (2006) argues that procedural justice and restorative justice models are similar in that they both seek to motivate rule breakers to become more self-regulating in their future behaviour. Rather than altering offenders' behaviour through the threat or delivery of sanctions, both restorative justice and procedural justice models of dealing with law-breaking behaviour seek to motivate the offender to comply voluntarily with the law in the future through the activation of 'social values' (Tyler 2006:310). In theory restorative justice processes achieve this by focusing on the offender's relationship with, and responsibility to, their community. Through appreciating the effect that the offence has had on their family, the victim, and the community, the offender feels shame and is at the same time supported to take responsibility, make amends for the offence and re-join the law-abiding community. The procedural justice model advocates the use of fair procedures to encourage the social value of legitimacy in relation to the police and courts, leading people to voluntarily comply with the law. A research study using longitudinal data from the

RISE project has revealed that where restorative conferences are perceived by offenders to involve both aspects of reintegrative shaming *and* procedural justice offenders were more likely to view legal authorities, such as the police and the courts, as legitimate and feel they deserved to be obeyed (Tyler et al. 2007).

Research on procedural justice and the criminal justice system

Research has found that procedural justice judgements are extremely important in shaping people's law related behaviour. Early social psychological experiments by Thibault and Walker (1975), revealed that people were more likely to perceive a legal process as fair if they had some control over that process. They also argued that it was control over the *process* rather than the outcome or *decision* of legal procedures which was important in fairness judgements, and that people were willing to allow legal authorities control of decision making as long as they had some control over the process itself (Thibaut & Walker, 1975).

Tom Tyler has built on the work on Thibaut and Walker and produced a body of work relating to procedural justice over the past decade. Tyler's influential book *Why People Obey the Law* (1990) reports research involving telephone interviews with a random sample of citizens in Chicago, asking them about their experiences with, and views of, the police and legal courts. Tyler (1990) found that in forming judgements about their experiences, respondents focused on their opportunities to state their case more than the influence which they had over the decisions of the police and courts. An important factor in respondents feeling that the procedures used by police and courts were fair was that they had an opportunity to take part in the decision making of those authorities. This included: having an opportunity to present their arguments; being listened to; and having their views considered by authorities (Tyler, 1990). Tyler also claimed that the effects of having these opportunities remained constant, regardless of the outcome of the respondents' encounter with the police or courts.

Tyler takes his argument further, drawing on his empirical research, and suggests that judgements of whether police and court controlled processes are fair or just (referred to as procedural justice) have an effect on whether people are willing to accept the constraints placed upon them by these authorities (Tyler & Huo, 2002). Tyler argues in much of his work that people are more willing to accept the rules of these legal authorities if they believe that those authorities act in ways that are procedurally just. In later work he explores the mechanism behind this and argues that if people experience fair procedures, they are more likely to view legal authorities as legitimate and hence as being entitled to be obeyed. Tyler defines legitimacy as "the

property that a rule or an authority has when others feel obligated to voluntarily defer to that rule or authority" (Tyler, 2006 p.311).

Tyler's research suggests that legitimacy has an independent influence on compliance with the law, even when controlling for risk of being caught, morality of law breaking, performance evaluations of authorities and demographic characteristics. In addition, the research reveals procedural justice to be the aspect of personal experience that has most influence on legitimacy (Tyler 1990). Therefore, in essence Tyler is arguing that if people experience what they view as fair procedures, exerted by the police or courts, they are more likely to view those authorities as legitimate and hence are more likely to obey them.

Tyler and Huo (2002) also demonstrate that legitimacy changes the basis upon which people decide whether to cooperate with legal authorities. Their work suggests that there are two main reasons that people defer to decisions made by legal authorities; because the decisions are viewed as desirable (in that they are a fair resolution and provide desirable outcomes), and because the legal authorities are seen as exercising their authority in a manner that is fair. Their findings show that those who view legal authorities as more legitimate rely more heavily on procedural justice judgements than outcome based judgements when deciding whether to accept decisions (Tyler & Huo, 2002).

Therefore if people view legal authorities as legitimate they are more likely to cooperate with them, which makes a strategy of process-based regulation more achievable and in turn reinforces their legitimacy. On the other hand if people do not view authorities as legitimate they are less likely to cooperate with them and hence a force-based sanctioning process becomes necessary, which means that people are less likely to view the authorities as procedurally just and in turn this damages their legitimacy. Tyler describes this as a favourable or unfavourable spiralling effect in which each personal contact with a legal authority makes it progressively more or less likely that the authority will be able to gain deference through the use of fair procedures (Tyler, 2003).

Tyler also argues that there are a number of factors which contribute to judgements about fairness. Four elements of procedures are put forward as the primary factors that contribute to fairness judgements by Tyler (2004). Firstly, people

feel more fairly treated if they are allowed to participate in the resolution of their conflict by presenting their suggestions about what should be done. The effects of participation on procedural justice have been found since the early work of Thibaut and Walker in 1975 and later work on procedural justice in legal settings has confirmed these findings (Shapiro & Brett, 1993; Tyler, 1990). The positive effect of participation on procedural justice is not dependant on the effect that it has on the outcome of the dispute. Evidence suggests that people value the opportunity to express their views to decision makers even in situations where they believe what they are saying has little or no influence on the decisions being made (Lind et al. 1990; Tyler, 1987).

Secondly, people think procedures are fairer if they believe the authorities governing them are neutral. If people believe that authorities are following impartial rules and making factual, objective decisions then they think that procedures are fairer (Tyler, 2004). Thirdly, judgements about the trustworthiness of authorities are primary factors shaping evaluations of the fairness of procedures (Tyler & Lind, 1992). Tyler (2004) states that disputants' views of trustworthiness are shaped by whether the authority is seen to be caring, concerned about their situation, considers their arguments and tries to do what is right for them. He argues that people must trust that the authority has sincerely considered their arguments, even if they were rejected, in order for participation to have an effect on procedural justice (Tyler, 2004). Lastly, Tyler argues that people must feel that they have been treated with dignity and respect in order to view procedures as fair. I will return to these four features throughout the thesis.

Children and Research on Fair Procedures

As a society, we assume that children under the age of 18 are different from adults in their cognitive and behavioural processes, which is why we have a distinct youth justice system. The UN Convention on the Rights of the Child (UNRC) and subsequent international conventions on the treatment of young offenders (see the Beijing rules) promote procedural safeguards for children, including that their welfare is a primary consideration in criminal justice processes and that they are able to participate in decision making that directly affects them. Despite this, and the large body of research in this area with adults, there is comparatively little research which

looks at children's experiences of the criminal justice system, and specifically the importance of procedural fairness in making up their judgements of justice processes. For children, procedural safeguards largely relate to the manner in which adults, interact with them, whether at home in school or in the criminal justice system. It is therefore important to question how young people perceive their interactions with police officers, court officials and other authority figures and to consider what is important in forming their judgments of these authorities.

Quantitative Research

Research studies in contexts other than the criminal justice system have suggested that children's perceptions of procedural fairness (or justice) are very important in determining whether they comply with rules. Studies in the United States, looking at disciplinary measures within the family, show that if a child views these measures as unfair they are more likely to lack respect for the disciplinary figure and continue to break the rules (Fondacaro et al. 2004; Jackson & Fondacaro, 1999). This research also suggests that adolescents care about being treated with respect and having their voices heard during a family's decision making process, regardless of whether it actually has an effect on the outcome (Fondacaro et al., 2004).

A small number of studies have looked at the importance children place on fair procedures in the context of the criminal justice system, predominantly in North America and Australia. Fagan and Tyler (2005) conducted a quantitative face to face survey, using a random sample of children aged 10-16 in two neighbourhoods of New York City. Children involved in the research were asked various closed questions about their experiences and perceptions of the police and courts system. In order to measure how legitimate respondents felt the police and courts were they were asked to indicate their level of agreement with 11 statements such as "overall the police are honest", and "the basic rights of citizens are protected by the courts". A score of legitimacy was then calculated for each respondent by taking the mean rating of the 11 statements (Fagan and Tyler 2005:228). Children were also asked about their own experiences with the police, and authority figures at school and that of their friends and family. Their answers were measured and scored in accordance with a procedural justice scale that had been devised in earlier research with adults.

The research suggests that how children experience the law, or how they believe others experience the law has an effect on how they view 'legal actors', such as the police and court officials (Fagan and Tyler 2005:231). The study measured the quality of children's interactions with police and court officials, according to a pre-defined scale which included asking whether or not the children felt that they had been treated fairly, consistently and with respect. The findings revealed that when the children felt that they had been treated in this manner they were more likely to feel that these authority figures should be obeyed (that they were legitimate). Conversely, when children felt that they had not been treated fairly, consistently and with respect they were less likely to view the police and court officials as legitimate. Therefore the research supports that, as with adults, fair and respectful treatment leads to more positive evaluations of the police and the courts among children (Fagan & Tyler, 2005).

The research does not focus on children who are convicted offenders and therefore have extensive experience within the criminal justice system. Although the study involved young people from inner city areas, some of whom self-reported delinquent behaviour, there is no information on whether or not these young people had been convicted for their behaviour and whether this had an effect on their perceptions of the police and courts. It should also be noted that the research relies on established scales of measurement from previous psychological studies with adults. Because very little research has been done in this area with children, it is important to question whether these scales are appropriate for use with respondents aged 10-16, and whether the same results would be produced without their use.

Research in Australia has supported some of the claims made in Fagan and Tyler's study. Hinds (2007) reports on data collected from a written survey of 328 high school students, aged 14 to 16 years and living in a medium-sized Australian city. The survey asked children about their views of services provided by the police, their perceptions about police-youth relationships, how effective the police were at controlling crime and their safety concerns (Hinds 2007:199). The research suggests that children's perceptions of whether the police deserved to be obeyed were positively correlated with them feeling the police made fair decisions.

Legitimacy was gauged by measuring the extent to which young people agreed with statements such as 'I have confidence in the police', 'Police relationships with young people are very good' and 'If I had a problem I would seek help from the police' (Hinds 2007:209). The extent to which young people felt the police made fair decisions was measured by children's level of agreement with four statements including: 'police use unfair methods to get information' and 'police treat young people differently from the way they treat adults' (Hinds, 2007:209) . As in Fagan and Tyler's (2005) research the questions and measurement scales were constructed from those used in previous studies with adults (specifically those used by Lind, MacCoun et al 1989 and Paternoster 1997). The research suggests that young people's perceptions about whether the police make fair decisions have the largest effect on children's feelings that the police were legitimate. Respondents who believed that the police used fair procedures in their dealings with young people, 'had more positive attitudes about police-youth relationships, higher expectations of police service, and believed police performed their job well' (Hinds 2007:201), as well as believing that the police are more legitimate.

Hinds (2007) does not report whether any of her sample were convicted offenders but she does include a measure of ' prior negative police contact' in the survey (ibid 2007:199). The results revealed that negative police contact was associated with low levels of legitimacy, in that respondents who reported prior negative contact with the police also viewed them as having less legitimacy. However, the survey does not outline the nature of this contact and does not distinguish between contact that was initiated by the young person and that initiated by the police. Therefore, it tells us nothing about the nature of the respondents' contact with the police and the processes and behaviours involved. In addition, Hinds (2007) does not report how many of the survey sample (328) had actually experienced negative police contact which leads one to question how significant the results are. If this number was very low then the statistical significance of any correlation between negative police contact and low levels of perceived legitimacy is negated.

As I have outlined earlier, it is important to question the use of scales and measurement that were devised for research with adults on procedural justice and legitimacy. Hinds (2007) outlines this as a limitation to the findings of her study, stating that 'there is no settled literature on the suitability of using adult measures to

study the views of young people' (ibid 2007:203). Despite the fact that these measures have not been agreed as suitable for use in research on children's attitudes and perceptions of legitimacy and procedural justice, they are used without question in the majority of quantitative studies in this area.

A small number of studies have focused specifically on young offenders and their views of the criminal justice system. Fagan and Piquero (2007) carried out quantitative survey research with a large sample of adolescent felony offenders in the United States, who were interviewed at six-month intervals for two years. As was the case with the previous studies that I have outlined, Fagan and Piquero (2007) used questions and scaling procedures that had been developed in previous studies with adults. They found that, like adults, young offenders views about the legitimacy of the police and courts system were 'influenced by procedural justice judgements about their own and others' experiences with the police' (ibid 2007:740 as quoted in Birkhead 2009).

Similarly, Sprott and Greene (2008) conducted survey interviews with a sample of 242 children and adolescents appearing before the youth court in Canada. Respondents were interviewed once at their first court appearance and asked about their feelings about how they had been treated by their lawyer, other courts officials and the judge, as well as their views on the legitimacy of the legal system as a whole. The respondents were then interviewed again after they had been sentenced using the same questionnaire in order to explore changes in their views over time. In order to measure procedural justice the researchers used measures developed by Tyler (1989) in studies with adults. To find out how respondents felt they were treated by different authority figures in court, respondents were asked to rate their agreements with various statements seen to indicate procedural justice such as whether: their lawyer believes in them, listens to them, fights hard in court, behaves honestly, gives good advice, and treats them with respect. They were also asked to what extent they agreed that the judge 'behaves honestly, follows the rules, considers their innocence, acts in an impartial way' (Sprott and Greene 2008:9-10). Scores were then calculated for respondents depending on the level of agreement with these statements.

The research revealed that respondents' procedural justice judgements about the Judge during sentencing had the most effect on their views of whether the overall

justice system was legitimate. Those who believed that the judge treated them with respect and listened to their case were 'more likely to view the overall justice system as legitimate' (Sprott and Greene 2008:13). Respondents' views about their lawyer were also significant, and those who felt they were treated with respect and that their lawyer was honest were more likely to view the whole system as legitimate. This was the case even when controlling for the outcome of the respondents' case.

Work published more recently from this study suggests that independently of how fairly young people felt they were personally treated the overall atmosphere of the court room is also important in shaping their views of the justice system (Greene et al. 2010). In addition to the interviews with young people a second researcher in the team observed and recorded details of the day-to-day operation of the court, including recording court room organisation, time delays and the presence of relevant court actors. The researcher also observed the behaviour of court officials and whether it was professional, taking note of 'derogatory remarks, sighing, eye-rolling and sarcasm in communication with young people' (Greene, et al., 2010:533). The research showed that when the court operated in a disorganised way, for example there were delays, and court actors such as judges were observed to act in an unprofessional manner this contributed to a negative atmosphere in the court room. The interviews with young offenders showed that when this was the case they tended to view the court as less legitimate.

The research outlined above suggests that how fair or just children believe criminal justice procedures to be (procedural justice) has a strong effect on whether they see the overall criminal justice system as an authority which deserves and should be obeyed (legitimacy) in accordance with similar research with adults. The existing research is useful in that it draws on large samples of young people; this is particularly the case with Fagan and Piquero's (2007) and Fagan and Tyler's (2005) research. However, each study uses defined measures proven to work in previous studies carried out with adults. There is a definite need for qualitative research which helps to unpick whether these measures are appropriate and explores in detail the way in which young people form judgements about their experiences.

For example, in the study by Sprott and Greene (2008) the statements with which young offenders were asked to rate their agreement tell us nothing about *which*

of these specific aspects of fair treatment were important to them and why. Because respondents were fed these statements and merely asked to state to what extent they agreed with them, they were not able to articulate how their lawyer actually treated them and what they thought about this. It is also possible that the qualities of 'behaving honestly' and 'treating with respect' would not have occurred to respondents had they not been introduced in the research.

Recent research in Australia investigated whether young people and legal professionals have similar or different criteria for safeguarding procedural fairness for young offenders (Hicks & Lawrence, 2004). The researchers interviewed around 800 young people aged 14-16 from two schools in lower middle-class areas of Melbourne, as well as over 800 legal professionals, including judges, magistrates, solicitors, and barristers in Melbourne. Legal professionals were found to emphasise the function and demeanour of court officers while the young people emphasised being given relevant information and having a say and some control over the proceedings (Hicks & Lawrence, 2004:414). The researchers emphasise the need for further research into young people's understanding of what is procedurally fair, particularly the extent and manner in which they wish to be involved in criminal justice processes.

<u>Qualitative research</u>

A small number of qualitative studies on young people's experiences of policing have explored the importance of police officers treating them fairly.

Brunson and Miller (2006) and Gau and Brunson (2010) report on a small-scale research study looking young men's perceptions of policing in disadvantaged neighbourhoods in St. Louis, United States. Rather than using pre-defined scales or questions to measure procedural justice the research project used a combination of qualitative in-depth interviews and surveys with 45 males aged 13-19, which resulted in a more nuanced picture. The study sampled young men who were either currently involved or were at risk of involvement in delinquent activities, as it was assumed that they would have had more involuntary contact with the police. The surveys were carried out first and then probed during qualitative interviews which explored the young men's experiences of policing in detail through open questions (Gau & Brunson, 2010). The study found that harassment and disrespectful treatment from police officers had a serious and cumulative impact on the young men's perceptions

of the police. Regardless of their involvement in delinquency the young men in the study felt themselves to be tainted by universal suspicion, which they tied most explicitly to their race but also to their presence in public neighbourhood spaces, how they dressed, who their peers were, and previous contact with the police.

Although the young men understood the need for police in their local area they objected to frequently being stopped when they were doing nothing wrong and felt that this suspicion was tied to their status as poor urban males. They particularly objected to the physically obtrusive and overly aggressive way in which they were searched by the police. Black respondents in particular spoke of the police using aggressive and some cases racist language towards them. The authors suggest that this mistreatment eroded police legitimacy in the eyes of the young people and increased their animosity in future encounters with the police (Gau & Brunson, 2010). The broad conclusion of the research analysis being that 'aggressive order maintenance manifesting in the form of widespread stops-and-frisks can compromise procedural justice and, therefore, undermine police legitimacy' (Gau & Brunson, 2010: 273).

Similar research was carried out in the United Kingdom, involving interviews with 47 young people from Black and Minority ethnic groups (Sharp & Atherton, 2007). The study explored police encounters among young people aged 15 to18 from black and other ethnic minority groups in the West Midlands. Sharp and Atherton found that the encounters reported by the young people contained an element of 'over exposure' to the police, which resulted in their discounting the police as a suitable agency to deal with crimes committed against them or their families. There was a belief among the young people that police officers largely acted on racial stereotypes or prejudices. This belief was in part generated from shared understandings in the communities which they were part of, but was also a result of negative police encounters that the young people themselves had experienced (Sharp and Atherton 2007:755).

Sharp and Atherton (2007) also argue that the findings of their study present a serious challenge to the idea of reassurance neighbourhood policing. Their research reveals a lack of police engagement with young people from black and ethnic minority communities, in that they perceive themselves to be the focus of 'a service that regards them only as problems' (Sharp and Atherton 2007:758). This leads the

authors to pose the question of who is being 'reassured' through neighbourhood policing, and to conclude that the police service is facing a huge difficulty in its relationship with young people from black and other ethnic minority communities (ibid:759).

A recent study was also carried out by researchers from the Metropolitan Police Service (MPS) Research and Analysis Unit looking at young people's perceptions of the police (Norman, 2009). Researchers carried out eight qualitative focus groups with young people in London, their sampling comprising 98 young people under the age of 18 who had been involved with the police in some capacity. A wide range of young people took part in the research and around half the focus groups were conducted with young people on the MPS cadet programme, while half were separately conducted with young people who were either involved in or at risk of being involved in crime.

The research revealed that all respondents felt that the police perceived them as a 'problem' and held negative stereotypes about them related to their age and their appearance (Norman, 2009). The young people also objected to being stopped and searched frequently and felt they were an easy target for the police, who embarrassed them during stop and search and targeted them for no reason. As was the case in the previous studies, this treatment eroded young people trust in the police and made them less willing to approach them for help. The authors argue that this displays the importance of fair procedures in forming young people's judgements of the police. In particular, they point to the need for police to explain the reason they are stopping young people and how stop and search practices work more generally so that they do not feel unfairly targeted. In addition, the young people described feeling vulnerable to victimisation and therefore emphasised the importance of the police as a 'legitimate resource for managing young people's local conflicts and for promoting young people's safety' (Norman, 2009).

This tension between young people needing the police for protection but also objecting to the way in which they are treated by them confirms findings from earlier research on young people's perceptions of policing in Edinburgh in which young people felt over-policed but under protected (1994). Loader (1996) found that young people felt they needed the police for protection but also objected to the way in which

police officers treated them. As was the case in much of the research reported above, young people objected to being targeted by police on the basis of stereotypes about them as 'local youth' and valued the police talking to them and explaining why they were moving them on, rather than dispersing them unthinkingly.

Procedural justice, restorative justice and referral orders

Restorative processes, such as youth offender panels, have the potential to display many of the features that are associated with procedural justice. They allow offenders the opportunity to participate and potentially have an influence over how the case is resolved, as well as allowing them to evaluate how trustworthy authorities are and give authority figures an opportunity to 'communicate respect for offenders as people and for their rights' (Tyler, et al., 2007:557). This is arguably particularly important for young offenders who are in a powerless position in relation to adult authority figures by virtue of their youth as well their status as an offender. Through the use of reintegrative shaming, in which the act rather than the young person is defined as bad, there is the potential for young people to feel that they are respected by the panel members and that they want to do what is best for them. However, as I highlighted at the beginning of this section, there has been much concern over young people feeling marginalised in a room full of adults at the panel meeting and coerced into signing the contract (Ball, 2000; Haines, 2000). In addition, research on referral orders has suggested the panel process may not be appropriate for all children, particularly those under the age of 13 (Newbury, 2008).

Therefore, processes such as referral orders, which aim to engage the offender, must be examined in terms of their ability to do so. Referral orders aim to engage the offender; both in their responsibility to their community and family and in their experiencing the process as just. One of the aims of referral orders is that young offenders have an opportunity to participate in decision making and are more able to understand what is happening than in the detached setting of the courtroom. These outcomes have been outlined above as important factors contributing to procedural justice judgements. Referral orders also aim to engage the offender in taking responsibility for their offending behaviour and voluntarily re-joining the law abiding community. Research into referral orders must therefore consider both the potential

restorative aspects of the process and those which effect how fair young people view the processes to be.

Evaluation research of restorative justice practice offers an insight into young offenders' experiences of restorative processes. However, this research does not look in detail at how children judge these processes or why they make these judgements. My research aims to explore the ways in which children and young people understand sanctioning of their behaviour by authority and how this relates to their judgements about justice in legal settings. Referral orders are a useful arena in which to look at this because they involve both a formal court process, and importantly the less formal panel process, which aims to engage the offender in voluntarily complying with the law in future. Through exploring children's experiences and perceptions of the referral order process I can begin to uncover what is important in making up their judgements of legal processes, and provide the basis for a deeper understanding of the referral order system.

In addition, the research outlined in this section suggests that how children feel they have been treated by authority figures has an effect on how they view criminal justice processes. Specifically, the way in which authority figures such as police officers and court officials interact with them is important in shaping their overall judgements about their experiences. Therefore, the quality of the interaction between young people and adults in the criminal justice system is extremely important in determining how they feel they have been treated and subsequently their overall perceptions of institutions such as the police and the court system. It is therefore essential to consider what is important to young people in making up their judgements of different authority figures and to compare and contrast how this varies in different contexts.

Chapter Three
Research Methodology

Introduction

Conducting social research is not a straightforward, neat process. It is messy, unpredictable and extremely demanding in terms of both time and energy. There is a tendency among researchers not to talk in detail about these aspects of research, preferring instead to present a 'textbook' type account which skims over the problems they faced. However, it is important to discuss the realities of conducting research, to delve into the difficulties of gaining access and approaching interviewees. Not only does this provide the reader with clarity over the research process, it can prove a useful resource for future researchers.

Recent work has highlighted the particular challenges that are faced by researchers of crime and justice; both in terms of securing access to research sites and interacting with research participants (see Westmarland, 2011). These challenges were abundant in my own research and I aim to provide an honest discussion of them in this chapter, as well as demonstrating the robustness of my research methodology.

I will start by outlining my research questions, following on from my previous chapter which highlighted relevant literature and research. I will then outline the research methods that I used, including how I collected my data and sampled my respondents. I go on to discuss some of the issues that arose in the research process, both in gaining access to interviewees and conducting interviews. This leads me to discuss the ethical issues that I considered throughout my research and outline the particular safeguards that are required in research with children. I finish the chapter by outlining how my research data was transcribed and analysed.

Research Questions

Overarching research question:

"How do children and young people experience and perceive the referral order process and how does this compare with their understanding of the processes exerted by authority figures more generally?"

In order to explore the above, the following subsidiary questions were addressed:

1- How do children and young people experience and perceive their dealings with legal authorities prior to the imposition of the referral order:

- Initial sanctioning of the offence (arrest)

- Sentencing in the youth court

2-

(a) How do children and young people experience and perceive the different stages of the referral order process:

- Youth Offender Panel meeting

- Referral order contract at the Youth Offending Team

(b) Within these different stages, how do they experience what are generally presented as being the 'restorative principles' underpinning referral orders (Home Office 1997:9.21):

- *Restoration*- apologising to their victims and making amends for the harm they have done;

- *Reintegration*- paying their debt to society and re-joining the community;

- *Responsibility:* facing the consequences of their offending behaviour and taking responsibility for preventing further offending.

3- What are children and young people's perceptions and experiences with authority figures outside of the referral order process, specifically teachers and police officers?

4-

(a) What does this tell us about the way in which children and young people formulate judgements of their experiences with different legal processes and different sources of authority?

(b) How does this fit with current research literature on the importance of procedural justice?

Research Method

I took a qualitative approach to addressing my research questions, and my reasons for this were twofold. Firstly, in order to address my research questions it was necessary to explore children and young people's perceptions and experiences in depth. I was interested in uncovering the ways in which children form judgements about their experiences of criminal justice processes and was therefore concerned to look at the process through their eyes. It would have been very difficult to gain such an understanding through the prescriptive categories of a questionnaire because I would not be able to follow up on respondents' answers with probes or clarification. I did not want to elicit young people's responses to pre-defined categories but rather aimed to ask them open questions that would enable them to talk freely about their experiences

in their own words. Because I was interested in *how* judgements were formulated rather than in *measuring* judgements, a qualitative approach was required.

Secondly, there were practical reasons for avoiding the use of questionnaires. Low response rates are a general problem with self-completion questionnaires, but would have been exacerbated in my research because respondents were accessed through youth offending teams. Due to the inevitable bureaucracy of organisations such as YOTs, it would have been difficult to ensure individual questionnaires were passed onto case workers and then onto young people completing referral orders. In addition, I anticipated that some young offenders were likely to have problems with literacy which would impair their ability and, probably, motivation to complete a questionnaire.

Therefore, I carried out semi-structured qualitative interviews with children and young people who were completing a referral order (my sampling approach is explained in the next section). Semi-structured interviews allow for the same interview guide to be used in all interviews, but unlike structured interviewing allow the researcher to deviate from the guide, ask questions in a different order and follow up on interviewee's responses by asking additional questions that are not included in the interview guide (Bryman, 2008). Because I had a clear idea of the areas of questioning that I wished to employ in my interviews, semi-structured, rather than completely unstructured interviews were appropriate. In addition, literature on conducting research with children and young people suggests that whereas adults are more likely to speak at length during qualitative interviews and need few probes, children need more probes and structured questioning (Harden et al. 2000).

I constructed a draft interview guide and sought comments both from my supervisor and from ex-colleagues at the National Children's Bureau who regularly conduct research with children and young people. I wanted to ensure that the language I used was accessible and that the guide allowed enough freedom for children to talk about their experiences in their own words, whilst also ensuring that I included relevant prompts to answer my research questions. I spent a large amount of time designing the interview guide with these concerns in mind. I conducted a small number of what I initially planned to be pilot interviews with young people in January

2010. However, the interview guide worked very well and did not require significant revision. I therefore included these pilot interviews as part of my main sample.[4]

I aimed to interview 29 young people twice: once directly after their initial youth offender panel meeting, and again toward the end of their contract. Second interviews were not possible with all respondents and I explain the manner in which I made up for these 'missing' interviews in the next section on sampling. In addition, I interviewed fifteen youth offending team staff members including two referral order coordinators and victim liaison staff as well as a number of case managers. In their first research interview, I asked young people about their experiences with teachers and police officers. Through a series of open ended questions I attempted to understand what was important to them in making up their judgements of these adults. These responses also enabled comparison of their experiences with other authority figures throughout the referral order process, including magistrates, panel members and youth offending team staff.

I began the first interview by asking young people about their experiences at school. To serve as an ice breaker I asked them first about their favourite subjects, before moving on ask about their experiences of getting into trouble. I asked them how their teachers dealt with their misbehaviour and how they felt about this, specifically asking them if any teachers were better than others and why. This enabled me to explore what young people valued in their interactions with teachers. After asking about their experiences at school I moved on to ask young people about their general contact with the police in their local area. Specifically they were asked about their experiences of being stopped by the police and how they felt about this. The majority of young people described some police officers who treated them better than others without being prompted. However, in cases where they did not mention any positive experiences with the police I asked them specifically if there were any times when they felt the police had been 'good or okay' in their dealings with them and what had happened. This enabled me to analyse how they distinguished between 'good' and 'bad' policing and specifically identify which factors were important in forming their judgements. Young people were then asked about what happened when

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[4] Interview guides are included in the Appendix of this thesis

they were arrested for the offence that resulted in their referral order, including their experiences of being held at the police station.

In the next part of their first interview respondents were asked about their experiences of court and the youth offender panel, both what it was like, how they felt and what they thought was the purpose of each process. Specifically I was interested in uncovering the amount of choice respondents felt they had in each of these processes, whether they had the chance to tell their side of things, and to what extent they felt that they were listened to. In addition, I was interested in the extent to which their experiences had resonance with the restorative aims of youth offender panels. At the end of their interview, young people were asked to compare their experiences in the youth court with that of the youth offender panel. The first interviews lasted between 40 minutes and an hour, and this was dependent on how talkative the young person was.

In their second interview, towards the end of their referral order, young people were asked about what they had done at the youth offending team during their order. Specifically, they were prompted about their experiences of completing reparation and victim awareness work and what they felt the purpose of this work had been. They were also asked about their experience at the youth offending team overall, what if anything had been useful, and whether it had made them feel differently about anything (their behaviour, their future etc.). Young people were also asked about their relationship with their case worker and other adults at the youth offending team and to compare teachers, police and youth offending team staff. This enabled me to explore how young people viewed these different authority figures and why. These interviews tended to be slightly shorter and most lasted between thirty and forty-five minutes with a smaller number lasting an hour.

In addition to interviewing children and young people about their experiences I also conducted fifteen interviews with YOT staff. It was useful to uncover staff's views on where the strengths and weaknesses of referral orders lie and hear their experiences of engaging young offenders in the process. I was unfamiliar with the working environment of YOTs when I started my research and therefore these interviews were vital in providing a contextual background for my core research interviews with young offenders. The bulk of these interviews took place near the

beginning of my research and a small number were conducted at the end of the fieldwork period. I used a semi-structured interview guides in all interviews with staff, composing additional questions for victim liaison staff and the referral order coordinators. However, I found that I needed far fewer prompts in these interviews and our discussion tended to deviate far more from the interview guide than in the research interviews with young people. Staff interviews tended to last just over an hour.

In addition, I observed six youth offender panel meetings, after which I wrote up detailed fieldwork notes. As I discuss in the section 'managing the research process', gaining access to potential young interviewees at the YOTs was far from straightforward and required that I spent a large amount of time 'hanging around' at both of my fieldwork sites. This meant I had copious time to make detailed fieldwork notes, which were supplemented in the evenings when I returned home. Although, these notes were not analysed in the same way as my research interviews they did inform the analysis and interpretation of my research data. As I had not spent any time in youth offending teams prior to my research and was unfamiliar with the working environment it was useful to build up knowledge both to aid my analysis and to help move the research process along.

Sampling Respondents

My research aims to look in-depth at perceptions and understandings, and I therefore sampled a *range* of young offenders within two YOTs, but did not select a representative or probability sample. As a result my research is not representative but aims to offer an in-depth insight into my research topic. I chose to employ a purposive sampling approach, which is a common strategy in qualitative research (Denzin & Lincoln, 1994). This type of sampling strategy is based on the researcher's need to interview people who are relevant to the research questions posed. In the case of my research, I chose to interview a range of young people who were completing referral orders.

I made the decision to conduct my research across two youth offending teams for two reasons. Firstly, although all YOTs follow national standards they are likely to differ in certain respects. For example, reparation projects are locally based and different projects will be run in different YOTs. In addition, the way in which YOTs

go about involving victims is often dependent on the approach taken by individual victim liaison staff. Therefore, I felt it would be useful in answering my research questions to conduct the research across two different YOTs. This would potentially enable me to explore young people's experiences of different projects which would allow me to compare and contrast their perceptions. Secondly, I intended to interview 30 young people twice and wanted to represent a range of ages and order lengths within my sample as well as interviewing both males and females. I anticipated that this would be easier to achieve across two YOTs as this would give me access to a larger number of potential interviewees.

I chose to conduct the research in YOTs that were within relatively quick and easy travelling distance of my home by public transport. I anticipated that I would need to attend both YOTs on a regular basis and that it would enable the research process to run smoothly if my fieldwork sites were nearby. This was a fortunate decision as it took me far longer than I had initially anticipated to recruit interviewees and conduct the research (as discussed in the next section). Living relatively close to both the YOTs meant that I could get to them at short notice when the opportunity of an interview arose, which was hugely beneficial throughout the research.

Both of my fieldwork sites were YOTs in inner London boroughs with relatively high levels of socio-economic deprivation, crime and a high proportion of ethnic minority residents compared to the rest of the United Kingdom. The vast majority of young people who attended both YOTs were from ethnic minority backgrounds. Of the 29 young people that I initially sampled 24 identified themselves as being from an ethnic minority group. Thirteen of the young people were of Asian origin, 8 were Black, 5 were of Mixed Ethnic origin and 5 were White. Full details of my sample, including the ethnic origin of young respondents are included in 'Appendix 1' of this thesis.

It was integral to answering my research questions that I explore respondents' perceptions and experience of all stages of the referral order process. Therefore, I aimed to interview around 30 young offenders twice, once as soon as possible after they had had their panel meeting and once when they were near completion of their contract. It is likely that if I had interviewed respondents only once, say toward the end of their referral order, they would have been unable to remember the details of

their initial panel meeting. In addition, limiting contact to one interview would have minimized the likelihood of capturing any potential change in views that could occur between the panel meeting and when offenders are near completion of their contract.

However, interviewing young respondents twice in this situation is problematic for a number of reasons. Firstly, it is likely that a proportion will breach their order either through non-compliance with their contract or because they have committed another offence. Secondly, it is possible that the young person or their case worker may be unable or unwilling to fit in another interview before they leave the YOT. Respondent 'drop off' of this type is an issue in all longitudinal research but was particularly pronounced in my research. I was unable to interview eight of my respondents a second time; five of them had breached their order before they reached the end either because they failed to attend their compulsory appointments at the YOT or because they had committed a further offence. Three of the young people were unable to be interviewed a second time because their case worker felt it could not be fitted around their compulsory appointments at the YOT.

This meant that I could compare across interviews for 21 of my respondents but that I would have fewer second interviews, relating to young people's experiences of completing their referral order at the YOT. Therefore, in order to replace these 8 interviews I sampled further young people who were near the end of their referral order and conducted one interview with them about their experiences at the YOT. I ensured that the extra interviews I conducted to make up for 'missing' second interviews were comparable to those they replaced in terms of age, gender and whether their sentence was over or under 6 months in length. I also used the same interview guide that I used for all second interviews with other respondents.

There were a number of factors that I took into account when sampling young people to interview for the research. I consulted monitoring data at the time of designing my research which showed that around 79% of young offenders receiving them are male, and that the majority are aged between 15 and 17 (Youth Justice Board, 2008:22-23). I wanted to create a sample that enabled me to explore the views of both male and female respondents of different ages. In order to do this I aimed to sample around one third (10) female respondents and two thirds (20) male. However, in both my fieldwork sites the number of females completing referral orders was

extremely low and despite my attempts to sample 10 female respondents, I was able to access only 7. The remainder of my sample (22) was male.

It has been argued that research with children under the age of 14 requires a very different set of methods to those aged 14 and above. The argument is that younger children may be more intimidated by a traditional research interview and more likely to require 'task-based' activities to get them talking (Harden et al 2000). In addition, Newbury (2008) found in her research on referral orders that it was very difficult to engage children under the age of 14 in one to one interviews. I therefore decided only to sample children aged 14 or over to participate in my research. However, when I conducted my research in the YOTs very few children who attended were under fourteen and I did not actually exclude any potential interviewees on this basis. Within these age groups I had initially planned to try and sample roughly equal numbers of 14, 15, 16 and 17 year olds. However, both the YOTs in which I conducted my research had a large number of seventeen year olds completing referral orders and relatively small numbers of 14, 15 and 16 year olds. Therefore my sample reflects this distribution.

I anticipated that the type of offence committed by respondents could potentially affect how they experience the referral order process, particularly in terms of the restorative aspects such as victim awareness work. The monitoring data that I consulted when I designed my research showed that referral orders were issued for a number of different offences ranging from serious offences, such as violence against the person, theft and burglary, to minor motoring offences and criminal damage (Youth Justice Board 2008). The length of a referral order is determined by the seriousness of the offence and can be between 3 and 12 months. However, the initial evaluation of referral orders revealed that over 80% of orders were issued for between 3 and 6 months (Newburn et al 2002:6). Therefore, I chose to sample young people on orders of a range of lengths, anticipating that I would access fewer young people on orders of more than 6 months. My final sample included 8 young people on orders lasting more than six months and 21 whose order lasted six months or less.

In addition, the conditions under which the courts can make a referral order were extended under The Criminal Justice and Immigration Act 2008. Therefore, the young people I sampled could have been completing a second referral order or have

had their referral order either revoked early or extended. I did not sample any young people who had received a second referral order and none of the young people in my sample had their referral order revoked or extended.

I chose to interview the victim liaison staff and referral order coordinators at both YOTs because I anticipated that these interviews would aid in answering my research questions. In order to understand the operation of youth offender panels, and the other restorative practices at both YOTs and provide context for the interviews with young people it was very valuable to interview these staff members. I did not experience any difficulty in arranging these interviews as they were arranged at the start of the research by members of the senior management team of the YOT. However, interviewing case workers was more challenging as they were often away from the office and were extremely busy. Therefore, case worker interviews were sampled largely through one or two staff members in each YOT who then put me in touch with other case workers who they encouraged to talk to me. This type of 'snowball' sample in which researchers rely on social contacts to access respondents is frequently used in qualitative research, particularly in cases such as this where interviews are hard to come by (Bryman 2008).

At the end of my fieldwork I achieved a total sample of 73 in-depth semi-structured interviews 58 of which were with young people and 15 were with YOT staff. Equal numbers of interviews with young people were carried out at both YOTs. However, 9 staff interviews were carried out at YOTB and 6 at YOTA. This was due to the greater success of my snow ball sampling approach at YOTB, in that I was able to make more personal contacts with staff.

Twenty-nine young people were interviewed after their initial panel meeting, 5 of these respondents were 14 years old, 4 were aged fifteen, 5 aged sixteen, 13 aged seventeen and 2 were eighteen. Twenty-one of these young people were completing referral orders of six months or less and 8 were completing an order of over 6 months. Seven of the young people interviewed were female and 22 were male. In addition, 24 of these respondents were from ethnic minority groups; 13 were of Asian origin, 11 Black or Mixed race and five were White.

A second interview was carried out with 22 of these young people and I sampled a further 7 young people (who were comparable in terms of age and gender) to make up the missing interviews. All of these respondents were from ethnic minority groups, 5 were of Asian heritage and 2 were Black.

Of the total 15 staff interviews 2 were with victim support workers; 2 with the referral orders coordinators at both YOTs; 2 with senior case managers; 1 with the reparation worker at YOTB; 1 with the deputy head of service at YOTB and 7 were with case workers. Full details of my research sample are included in the Appendix.

Managing the Research Process

Access

My research took place in closed settings, two local authority controlled youth offending teams. The difficulties of researchers gaining access to such settings has been highlighted in research literature and is often viewed as requiring a combination of hard work and luck (Westmarland, 2011). In particular the difficultly of arranging interviews with children in YOTs has been described by other researchers (for example, Newbury 2008). I began the process of negotiating formal access by writing a letter to the head of two YOTs in the summer of 2009. I heard back from one of the YOTs (YOTA) very quickly and attended an initial meeting with a senior case worker, Mark, who was very interested in my research and keen to help me. I subsequently met very briefly with the head of YOTA who informed me that I was very lucky that Mark had a particular interest in my research and that the YOT received frequent requests from researchers who were usually rejected. At this point in the research I began to realise the vital importance of personal contacts in the fieldwork process.

By the time of my second meeting with Mark I had still not heard back from the second YOT that I had written to (YOTB). I mentioned this to Mark in our meeting and he informed me that he had previously worked there and could encourage them to be involved in the research. The next day he sent out an email, copying me in, to the acting head of service at YOTB encouraging their participation in the research. Following a subsequent meeting with senior staff at YOTB they agreed to take part in the research. I was required to prepare a short research proposal,

which included evidence of my consideration of ethical issues in the research, to both YOTs. This proposal was then officially approved by both sites and I was given the go-ahead to begin my research.

I thought at the time that this initial stage was to be the most difficult part of organising my fieldwork and that arranging and conducting the actual interviews would be relatively straight forward. However, I needed to secure the co-operation of a number of other 'gatekeepers' before I was able to begin my interviews. I came to realise that there was a big difference between gaining formal access to my research sites and actually getting practical access to potential interviewees. Once access was approved by the senior management at the YOTs I was put in contact with the referral order coordinators and had subsequent meetings with them to arrange the research interviews. Both of these staff members were very supportive in the first few meetings, and both voluntarily looked at my consent forms for young people and my interview guides to give advice on whether the language was appropriate and accessible. Both YOTs also agreed that I could conduct my interviews with the children as part of their compulsory appointments, subject to the agreement of their case worker and the young person themselves. Interestingly, the power structure of the YOTs was such that the individual case workers had the ultimate discretion over whether I could speak to the young people they worked with.

At both YOTs I was invited to a weekly team meeting of all YOT staff where I did a short presentation about my research and handed out information sheets to all staff along with my contact details. Initially I asked staff to contact me with potential interviewees, however, I quickly realised that due to the high work load experienced by YOT workers this was not a fruitful strategy and that *I* needed to contact *them* by telephone in order to arrange interviews. Because the referral order coordinators were both extremely busy, throughout the remainder of the research it was largely up to me to figure out the best strategy for recruiting interviewees. Luckily one very helpful caseworker suggested that I identify young people to interview through the administrators who tended to be available and at their desks more often than other staff. This worked well and at both YOTs I telephoned the administrators each week to identify possible interviewees and then followed this up with the relevant case workers.

However, there was no guarantee that case workers would get back to me. They had an extremely heavy workload and very rarely responded to my emails or telephone messages. Therefore, I tended to go to both research sites at least three times a week in order to follow up with case workers in person. This was extremely time consuming, although both YOTs were within easy travelling distance of my home they were around an hour and a half travelling distance from each other. This was particularly challenging when I needed to conduct interviews or meet with staff at both of them in one day, which was often the case. In addition, interviews often fell through either because the young person had changed their appointment or because they had failed to attend their appointment. These are inevitable hurdles in conducting research of this nature but often meant that I found myself investing large amounts of time arranging interviews and rushing to get to the YOT on time, only to find that I'd had a wasted trip.

The closed nature of the YOTs themselves also made it very difficult to 'drop in' without having an appointment. There was a high degree of security in both YOTs and the reception desk controlled access to the case workers offices through locked doors. This meant that it was very important that the receptionists knew who I was and had been informed by senior staff that I had access to the building because of my research. Although this had happened at the start of the research one of the YOTs was part of a large office block containing a number of council offices and the receptionists changed frequently. I therefore ensured that I had a number of contacts within this YOT who I could ask the receptionist to telephone in order confirm that I had permission to access the building.

I soon realised that securing personal contacts with both the case workers and administration staff was vital and that my research would not succeed without it. I cooed over photographs of children, discussed holidays and shared many a tea break with staff. This was an enjoyable part of the fieldwork and I was even able to advise two social work students on their dissertations. I found that once I had built these personal contacts case workers were far more likely to be willing to help me in conducting my research. Because they remembered who I was and in many cases liked me and wanted to help me out, they were far more likely to respond to my calls and remember to inform me if a young person's appointment time had changed.

Building personal contacts with staff at the YOTs was not always straightforward, I got the impression that my status as a PhD student at the LSE marked me out as 'different' and as a result I tended to play this down. Finding some common ground with the case workers was essential and I began to think carefully about the clothes I wore and the way I spoke. I sometimes adapted my accent slightly so that I was less 'well-spoken' than normal and I also dressed in casual clothes as most of the staff did. At one point in the research, discovering that I had attended the same school as the wife of one of the case workers (a state comprehensive) was an important turning point and helped secure a large amount of further interviews with staff and children.

Building personal contacts with staff at the YOTs and gaining their trust enabled me access potential interviewees far more easily and by spring 2010 my research was progressing well. However, unfortunately this was not the end of my access issues and in the summer of that year one of the YOTs moved site and went through a restructuring process, including a change in the staff team and in procedures imposed by the local authority. Part of these procedures affected the way in which research projects were approved by the team and the new head of service insisted that I suspend my research fieldwork until I had fulfilled these procedures.

Over a period of two months I submitted various documents, including copies of the ethics review and approval carried out by the LSE and a summary of my research project. I was also required to meet with several senior members of staff in order to answer any questions that they had about the research. After these meetings the new head of service was happy to approve the research and allowed me to continue my fieldwork. These issues and those I faced in arranging interviews at the YOTs meant that my fieldwork took longer than I had initially anticipated and I conducted my last interviews in January 2011, well over a year after gaining formal access to my fieldwork sites.

Conducting research with young offenders

There is often a reluctance to talk about the problems that arise in carrying out research with children and young people. However, recent literature has drawn attention to the potential difficulties that can occur in research with 'hard to reach' children and teenagers, specifically their potential reluctance to take part in research

interviews or to share their views once in the interview situation (see, Curtis et al 2004; Connolly 2008). As result these 'hard to reach' children, such as those who have behavioural problems or are excluded from school, tend to be involved in research less than children who are easier to interview. For a number of methodological and practical reasons, children who communicate well, or who regularly attend school are more likely to be given a voice in research (Curtis et al 2004).

My research aims to give children who have offended a voice. Children from deprived socio-economic backgrounds, those who achieve poorly in education and those who have experienced family breakdown are overrepresented in the youth justice (Yates, 2011). I anticipated that carrying out research interviews with them would not be straightforward and carefully considered the methods I used and the questions I asked in my interviews. Prior to starting my PhD I had worked with children both as a researcher and in out-of-school provision for children on a social housing estate. This meant that I had experience of both conducting and designing research with children and young people and working with them as a practitioner. However, by the time I began to arrange my fieldwork I had not worked directly with young people for a number of years and therefore decided to gain some up to date experience.

The summer before I began my fieldwork I got a job as a youth worker on a summer scheme in Newham, East London for children aged between 8 and 16. The scheme aimed to include the most vulnerable children in the local community and several were recent refugees to the UK, had behavioural problems, or had suffered trauma and neglect. It was extremely challenging; some of the children were verbally aggressive and many were disaffected and difficult to build a relationship with. However, over the five weeks I was able to build a rapport with these young people and the skills that I build up over this time were invaluable in helping me carry out my research at the YOTs.

Firstly, this recent experience combined with previous work experience as a researcher enabled me to feel confident in communicating with the young people, both in explaining the research and engaging them in conversation during the interviews. I always took the time to talk to the children before the interview and

establish a rapport and was able to do this more easily because of my experience. In addition, I was used to talking to young people and this helped me immensely during the interviews, enabling me to use my judgement to re-phrase questions or probe children's answers appropriately.

Secondly, working with children with challenging behaviour prior to my fieldwork meant that I was able to diffuse situations in which the young people got frustrated or angry. Although, my interviewees were on the whole very polite and keen to be involved in the research, several got frustrated with waiting around for their case worker particularly when this was following a forty minute interview with me. In one instance a young man was verbally aggressive towards the secretary at the YOT and I was able to calm him down by distracting him and talking about his bike. I would have found this situation far more difficult to manage without the recent work experience I had had.

Thirdly, my experience and abilities in working with young people helped me gain access to interviewees. When case workers saw the way I interacted with young people, and when I told them about the experience I had they were happier for me to interview the young people they worked with. In addition, it helped me persuade case workers that it was okay for me to interview the young people alone. Some of the young people at the YOT had emotional or behavioural problems and when the case workers saw that I was not shocked or intimidated by their behaviour they seemed far more comfortable for me to interview them without a staff member present.

Despite my prior experience of working with young people, it is important to acknowledge that I come from a very different background to that of my research participants. The effects of interviewer identity on social research have long been discussed and debated. In particular, evidence from US survey research has focused on 'white' researchers interviewing 'non-white' respondents and suggests that, in response to 'sensitive' questions with explicit racial content or regarding opinions of political institutions, respondents tend to try to satisfy the racial expectations of the interviewer and are less genuine in their responses (Schaeffer, 1980). As a result some writers have argued that the participants in research interviews should be matched in terms of their ethnicity. However, this position has been criticized on a number of fronts, particularly in its assumption that there is a single objective 'truth'

to be gained through research interviews and that one is more 'accurate' than the other (Hoong Sin, 2007).

I do not have the scope within this thesis to discuss this debate in detail. However, it is important to note that the vast majority of young people I interviewed did not mention racism on the part of the police, school or court system. This is somewhat surprising as research studies have pointed to the disproportionate extent of negative behaviour and misconduct on the part of the police toward young people from black and other ethnic minority communities (Norris et al 1992, Bland and Miller 2000). In addition, previous qualitative research in this area found that young people frequently described the police as 'racist' (see Brunson and Millar 2006). It is therefore possible that the young people I spoke to may not have felt comfortable sharing these thoughts with me as a 'white' interviewer.

Research Ethics

In recent years there has been a growing recognition of children as valuable research subjects in their own right (James et al. 1998). This has increased the volume of research with children and prompted a growing body of literature considering the ethical safeguards required. Research with children and young people poses similar issues to those that are important in all social research including confidentiality and informed consent (Morrow, 2008; 1996). However, it also requires researchers to take account of children's immaturity and vulnerability relative to adult research participants.

The unequal power dynamic between researcher and respondent is a particular issue in research with children and young people, even more so with those who are socially excluded (Connolly, 2008). It was essential in my research that I was able to engage the young people in conversation and build a rapport with them so that they would feel comfortable sharing their views. Importantly, I also wanted them to feel that they could freely choose whether or not to be involved in the research. As I have mentioned earlier in this chapter, I previously worked with young people both as a researcher and as a youth worker. The skills that I built up over this time enabled me to feel confident in communicating with the young people, which meant that I was both able to explain the research effectively and engage them in conversation during the interviews.

My research involved vulnerable respondents who were both children and young offenders and I therefore considered ethical safeguards very carefully. I considered ethical issues throughout the research design, consulting a wide range of literature on ethical issues in research with children during the first year of my PhD. I also attended an ethics seminar at LSE and in line with the school ethics policy completed an 'Ethics Review Questionnaire' form which I submitted to my supervisor for consideration. In agreement with my supervisor I submitted the research to be approved by the school's independent Research Ethics Committee. The committee concluded that the appropriate ethical safeguards would be in place and approved my research before I began conducting interviews with young people.

In considering appropriate ethical safeguards I consulted a wide range of academic literature on carrying out research with children and young people as well as the guidelines produced by the British Educational Research Association (BERA) in 2004 on conducting research with children. In line with these guidelines I considered the potential harm to my research participants, the importance of informed consent and the assurance of confidentiality and protection of the research data.

Considering harm to participants

Weighing up the benefits and harms of any research is complex and it would be insincere to suggest that all my respondents gained something from taking part in the research. Research involves collecting, analysing and reporting data and this may or may not benefit the children taking part, therefore it essential that researchers ensure that their respondents are not adversely affected by the research process (Alderson, 2005).

My research did not involve processes which placed young people at risk of physical or psychological harm. The interviews with young people were devised with open questions that enabled them to explain their experiences in their own words. As opposed to a lengthy questionnaire I designed the interviews to engage the young people and empower them to express their views and experiences of the criminal justice system and specifically their referral order. I discussed the interview questions with YOT staff and consulted them on all aspects of the research process to ensure that it ran as smoothly as possible and was a pleasant experience for the children and young people involved.

My prior experience with children enabled me to build a rapport with participants and helped them feel comfortable during the interviews. In addition, when a potential interviewee was identified I always discussed their involvement in the research at length with their case workers before approaching them, often showing them a copy of the interview guide. If a case worker felt that it was not appropriate for the young person to take part in the research, normally because they had suffered recent trauma and were not comfortable speaking to new people, I did not approach them to be involved in the research.

Informed Consent

Informed consent is important in all research but can be particularly difficult to achieve in research with children, particularly when those children and young people are vulnerable or socially excluded. In line with the research literature in this area and the BERA (2004) guidelines I gained informed consent from the young people and for those who were under the age of sixteen, their parent or guardian.

I provided information sheets to the young people and staff members who were interviewed, with attached consent forms. The consent forms read 'I have read and understood the information sheet and I give my consent to take part in the research', with a space for them to sign. The information sheets for young people and YOT staff taking part in the research interviews included:

- stating that I was conducting a research project and an explanation of who I was (a student);
- a sentence about what the project was looking at;
- an explanation of exactly what the research involved;
- an assurance that the information they gave would be completely confidential;
- and a clear statement that their participation in the research was completely voluntary and that they could withdraw at any time.

In addition, the information sheet made it clear that withdrawing from the research or refusing to take part would have no negative effects for their work at the YOT. Each information sheet also included my contact details; including a telephone number and

an email address. I also gave this information verbally and gave each participant the opportunity to ask any questions in person before they were interviewed.

Both information sheets were written in simple and easily understandable language but I was particular concerned that the young people understood what the research was about and were able to give truly informed consent to take part. This was a particularly pertinent issue in my research as young people were at the YOT as part of a court order and could easily have felt coerced into taking part in the research. I showed the information sheets to the referral order coordinators at both YOTs before I approached the young people. They checked them to ensure that they were accessible and easily understandable.

When access to young respondents is gained through adults there is a potential danger that the young people will feel coerced into taking part in the research (Curtis et al. 2004). This was a particular consideration in my research because the young people were under a court order to attend the YOT and could potentially have felt the interview was a requirement of their order. I discussed this issue with staff at the YOT prior to approaching potential interviewees and they were also very keen that the young people understood the interview as being separate from their work at the YOT and that they had a choice whether or not to take part. In many cases YOT staff members explained this to the young person before I spoke to them.

In addition to the information sheets, I spoke to the young people at length before starting the interview and made sure they had the opportunity to ask any questions. I made it very clear that I did not work for the YOT, that I was student and that talking to me was not part of their order. Young people were also reassured that deciding not to take part in the research would not have any adverse effects on their work with the YOT. A small number of young people did decline to take part in the research, which is evidence that they did feel they had a choice. However, the majority of young people I approached were very happy to be part of the research and said that they enjoyed being interviewed.

Following the guidelines of the BERA, in instances where potential interviewees were under the age of sixteen the approval of those who acted in a guardianship role for

them was sought. The BERA guidelines state that this person should be a 'responsible other', for example an adult who has responsibility for the welfare of the participant such as a parent or a social worker (BERA 2004:7). Therefore, in these instances I also gained the consent of a parent or guardian through the young person's case worker. I prepared information sheets for both parents and case workers on the research using appropriate language and made sure that I answered any questions that they had. Case workers then relayed this information onto parents and got their consent (mainly verbally via the telephone) before I interviewed these young people.

Data protection and confidentiality

Following the ethical guidelines of the British Society of Criminology and the ESRC I ensured that the names and personal details of interviewees were securely stored and kept separate from the interview data that I collected (both recordings and written transcripts). Each interviewee was assigned a number at the start of the research which I used to distinguish between cases, in the place of their name. In writing up my research for this thesis, the names of young people have been replaced with pseudonyms in order to protect their identities. In addition, the names of the YOTs involved in the research have not been revealed. This further protects the identities of the young people and also that of the YOT staff who could have been easily identifiable had I named the YOTs involved in the research. Where respondents mentioned street or place names in their interviews I either did not include this information in quotations in the thesis, or I used pseudonyms in order to protect their identities.

I made the decision at the start of the research to interview young people alone, without their case worker present. This was to enable them to feel comfortable sharing their views honestly and to reinforce the fact that the interview was not part of their work at the YOT. However, I did ask the young people if this was okay with them and in one instance a particularly shy young man asked for his case worker to be present during the interview. All other respondents were happy to be interviewed without their case worker present. I made it clear to the young people that what they told me in the interviews would remain confidential and that their names would be changed in any writing that came out of the research.

Guidance on conducting research with children states that researchers should have regard for child protection issues and make provision for the potential disclosure of abuse (BERA 2004). I therefore made it clear to the YOT staff at the start of the research that I would report any such disclosure to them. Fortunately, this was not an issue in my research and none of the young people that I spoke to disclosed anything of this nature during the interviews.

Considering potential risks to the researcher

The ethics review questionnaire which I completed for the LSE review board, emphasized the importance of considering any potential risks to the researcher in conducting their fieldwork. This includes the requirement to consider physical as well as emotional harm.

The majority of young people that I interviewed as part of the research were not violent offenders and most had committed relatively minor crimes. However, it was important that I considered my own safety when I interviewed them alone. The YOTs were clearly very aware of safety concerns and each of the meeting rooms in which I conducted my interviews had an alarm in case of emergency. In addition, many of the rooms had security cameras which were monitored by the reception desk. I did not encounter any trouble during my interviews and found the young people to be polite and respectful towards me on the whole. However if I had encountered problems, strict safety measures were in place.

Data Analysis

I recorded all my research interviews using a digital Dictaphone. I transcribed many of the interviews myself verbatim but also used a transcription company in the later stages of the research. The company had been recommended by other researchers and I was assured that they had high standards for ensuring confidentiality. The quality of the transcripts I received from the company were very good but I checked each one against my recordings in order to correct any mistakes that had been made and ensure the quality of my data.

I undertook thematic analysis of my research data, informed by my research questions. I identified themes and subthemes which were essentially recurring motifs in the text (Bryman, 2008). I then used these core themes and sub-themes as a

framework for analysing my interview data. I took an iterative approach to data collection, transcribing and beginning to consider emerging themes during the research process. This enabled me to start analysing my data at an early stage and to consider emerging themes and theoretical concepts in subsequent interviews. For example, it became apparent after the first few interviews that young people were keen to speak at length about their experiences with the police, and particularly that this was a useful arena in which to explore their perceptions of good and bad policing. I therefore ensured that I allowed the required time for these discussions in the interviews and encouraged young people to talk about any positive experiences that they had with the police and the differences between these experiences and more negative ones.

In the early stages of analysing my data I used excel and Microsoft word in order to start identifying emerging themes. Throughout this process I submitted a number of pieces of writing to my supervisor, which began to tease out explore particular themes related to my research questions. This helped me to develop my ideas gradually throughout the research process and enabled me to identify additional literature that was relevant to the research. In addition, I used fieldwork notes taken throughout the research process to aid my analysis.

When I had collected around 20 of my first 29 interviews with young people I began computer-assisted analysis using the software programme NVivo to formalise the emerging themes from the interviews. As is outlined by Silverman (2010) , this type of computer-assisted analysis of qualitative data can both ensure rigour and speed up the data analysis process. It enabled me to identify themes that were common across my interviews and ensured that I did not base my analysis on anecdotes from one or two interviews. The software also enabled me to group first and second interviews with young people under a 'case' to represent each respondent. I could also record information about each respondent or case, including their age, gender and referral order length. This enabled me to look across cases and identify common themes along the lines of these characteristics, for example that young women were less likely to have been stopped by the police.

Interviews with YOT staff were also analysed using a thematic approach and later added to NVivo. As you will read in my empirical chapters, staff interviews are used

to help answer my research questions relating to young people. Therefore, I analysed these interviews using the framework that had emerged from my interviews with young people. Using the software programme NVivo enabled me to store all 73 of my interviews in one place and to look at themes across all of my research data.

Conclusion

In this chapter I have attempted to provide an honest account of the challenges I faced in carrying out my research fieldwork and the ways in which I overcame them. Conducting interviews with young people in youth offending teams (YOTs) is not straightforward and it took a large amount of time and energy to achieve the 73 in-depth qualitative interviews that make up my final sample. Perseverance, hard work and the development of strong interpersonal skills were all vital to my gaining access to research participants and successfully completing my research.

Conducting interviews with young people brings particular challenges in terms of both ethical issues and the manner in which interviews are conducted. My prior experience of working with young people enabled me to have the skill to engage respondents in the interviews, make them feel at ease and ensure the research was explained in a way that they understood. In addition, this expertise helped me to enlist the support of YOT staff in the research and enabled access to interviewees.

Further to providing an honest account of the research process I have also demonstrated the robust research methodology employed in this study. My research aims to look in depth at young people's perceptions and experiences and I therefore employed a qualitative approach to my research. I have justified my choice to employ qualitative methods in detail at the start of this chapter and also explained the reasons why semi-structured interviewing was appropriate for this study. I have explained in detail my approach to sampling respondents for the research and outlined the key characteristics of my final sample. Finally, I have highlighted the fact that all 73 of my interviews were transcribed verbatim and have described the way in which I undertook a thematic analysis of my interview data.

Chapter Four

Exploring young offenders' perceptions of teachers and police officers

Background

In this chapter I use an analytical framework taken from Tyler's work on procedural justice in order to explore young people's experiences of teachers and police officers. Young people were asked about their experiences of getting into trouble at school as well as their experiences with the police, including their arrest and detention at the police station. What emerged very strongly from this analysis was that what was important to young people in their encounters with these authority figures was very different. This chapter provides a point of comparison for looking at young people's experiences with other authority figures in the following chapters.

Research with adults in the United States has shown that whether the processes used by the police and courts are perceived to be fair or just (referred to as procedural justice), has an effect on whether people are willing to accept the constraints placed upon them by these authorities (Tyler, 1990, Tyler and Huo 2002). Tyler's research suggests that if people experience what they perceive as fair procedures in their dealings with the police and courts, then they are then more likely to view these authorities as 'legitimate'. Tyler defines legitimacy as "the property that a rule or an authority has when others feel obligated to voluntarily defer to that rule or authority" (2006:311). Importantly, this feeling of obligation is not simply linked to the fear of getting caught but constitutes a moral or ethical feeling that the authority should be obeyed.

Tyler (2004) also argues that there are a number of factors which contribute to judgments about fairness. Firstly, people feel more fairly treated if they are allowed to **participate** in the resolution of their conflict by presenting their suggestions about what should be done than if they are not. Secondly, people think procedures are fair if they believe the authorities governing them are **neutral.** If people believe that authorities are following impartial rules and making factual, objective decisions then they are more likely to think that procedures are fair (Tyler, 2004).

Thirdly, judgments of the **trustworthiness of authorities** are important and are shaped by whether the authority is seen to be caring, concerned about their situation, considers their arguments and tries to do what is right for them (Tyler & Lind, 1992). Tyler (2004) argues that people must trust that the authority has sincerely considered their arguments, even if they were rejected, in order for participation to have an effect on procedural justice. Lastly, it is argued that people must feel that they have been **treated with dignity and respect** in order to view procedures as fair (ibid: 2004).

The majority of research that has been done in this area focuses on adults. However, there is a growing body of research on children and young people's perceptions of what is procedurally fair (see Birkhead, 2009). Studies of disciplinary measures within the family structure show that if a child views these measures as unfair they are more likely to lack respect for the disciplinary figure and continue to break the rules (Fondacaro, et al., 2004; Jackson & Fondacaro, 1999). Specifically, in evaluating the fairness of decision making procedures, young people have been found to focus on being treated with respect by their parents and in a way that was unbiased and allowed them to participate in decision making (Jackson and Fondacaro 1999).

A small number of studies have looked at children's procedural justice judgments in the context of the criminal justice system. For example, Fagan and Tyler's quantitative research with children aged 10-16 in New York, suggests that how children experience the law, or how they believe others experience the law has an effect on how they view 'legal actors', such as the police and court officials (Tyler and Fagan 2005:231). The study measured the quality of children's interactions with police and court officials, according to a pre-defined scale which included asking whether or not the children felt that they had been treated fairly, consistently and with respect. The findings revealed that when the children felt that they had been treated in this manner they were more likely to feel that these authority figures should be obeyed (that they were legitimate). Conversely, when children felt that they had not been treated fairly, consistently and with respect they were less likely to view the police and court officials as legitimate. Therefore, as with adults, the research supports that fair and respectful treatment leads to more positive evaluations of the police and the courts among children (Fagan & Tyler, 2005).

Research in Australia on young people's interactions with the police has supported some of the claims made in Fagan and Tyler's study. The survey asked children about their views of services provided by the police, their perceptions about police-youth relationships, how effective the police were at controlling crime, and their safety concerns (Hinds 2007:199). The research suggests that children's attitudes towards police legitimacy (whether they deserve to be obeyed) are positively linked to them feeling that the police treated them fairly. Respondents who believed that the police used fair procedures in their dealings with young people, 'had more positive attitudes about police-youth relationships, had higher expectations of the police service, and believed that the police performed their job well' (Hinds 2007:201), as well as believing that the police were more legitimate. Legitimacy was measured by analysing the extent to which young people agreed with statements such as 'I have confidence in the police', 'Police relationships with young people are very good' and 'If I had a problem I would seek help from the police' (Hinds 2007:209).

Quantitative studies looking at the importance children place on procedural justice are conducted using pre-defined measures that were devised in previous studies with adults. Research in this area is still in its infancy and the lack of settled literature on the suitability of these measures for research with young people has been acknowledged as a limitation of such studies (Hinds 2007). In addition, these studies suggest that being treated fairly is important to young people but they do not offer any detail of what constitutes 'fairness' in their eyes. There is very little research which looks in depth at young offenders experiences of criminal justice processes and considers what they value in these processes and their interactions with authority figures.

A limited number of small-scale qualitative studies on young people's experiences of policing have suggested that fair procedures are important to them (see Brunson and Millar; Gau and Brunson 2010; Sharp and Atherton 2007). This research suggests that young people often view the treatment they receive at the hands of the police as unfair. What they perceive to be unfair targeting and excessive use of stop and search leads young people to distrust the police and in some instances discount them as an agency of social control (see Sharp and Atherton 2007).

The way that children experience policing and other criminal justice processes is largely reliant on the way that they are treated by adult authority figures. If we are to apply Tyler's framework of what makes a 'fair procedure' then the extent to which authority figures, such as teachers and police officers, are viewed as neutral, trustworthy and respectful by young people is important. The research on procedural justice suggests that if young people view them as such then they are more likely to comply with their rules in the future.

It is therefore very important to consider what young people value in their interaction with authority figures and what distinguishes 'good' or 'fair' from 'bad' or 'unfair' treatment. In order to understand what was important to young people in making up their judgments of different authority figures, I asked them about their experiences with teachers and police officers. In using an analytical framework taken from Tyler's work, I looked at how important **participation, neutrality, trustworthiness** and **respect** were in making up young people judgments of these authority figures. This enabled me to compare and contrast what young people valued in their experiences with authorities throughout the referral order process. Specifically, this chapter provides a context with which to look at young people's perceptions of authority figures in court, at the panel meeting and at the youth offending team in the following chapters.

I began my first interview with young people by asking them about their experiences of school and specifically the way that they were treated when they got into trouble. I then went onto to discuss their experiences of policing, both prior to and during their arrest for the offence that resulted in their referral order. I chose to look at both young people experiences outside of the criminal justice system with teachers as well as their experiences of policing because this offered some comparison of what young people valued in their experiences with authority figures in two very different contexts.

In both cases young people distinguished teachers and police officers who they felt were better than others and I encouraged them to explain why this was. What came out very strongly in this analysis was that what was important to young people in their experiences with these two authorities was very different.

In talking about their experiences with teachers, young people focused on the importance of having a trusting and participative relationship with them. They valued teachers who spoke to them 'on a level', made a connection with them and showed they cared through encouragement and persistence. They wanted their teachers to deal with their misbehavior calmly as opposed to shouting or screaming at them. In particular, young people valued teachers who would come and talk to them when they were in trouble and gave them an opportunity to speak. Many respondents described having positive relationships with particular teachers that were built on these characteristics.

In contrast to this young people had a largely conflictual relationship with the police, and were concerned about whether the police showed neutrality and treated them with dignity and respect. Young people distinguished between 'good' and 'bad' policing on the basis of whether they felt they had been treated with respect, which included both the way they were treated physically and the way in which the police spoke to them. In addition, it was important to them, particularly when they were stopped and searched, that the police acted on the basis of facts rather than targeting them because they fitted with a stereotype of the troublesome youth.

I will now go to look at young people's experiences with teachers and police officers in more detail and to illustrate the ways in which these different factors were important. Young people's discussion of policing took up a far larger proportion of their interview than their discussion of teachers and is therefore afforded a fuller discussion in this chapter.

Young people's experiences at school

Background

Although the reasons for offending behavior are complex, there are numerous research studies exploring the correlation between lack of participation or engagement in education, in particular truanting and school exclusion, and offending behavior in young people (see Berridge et al. 2001; Stephenson, 2007). In addition, the majority of young people in my research were from ethnic minority backgrounds and all of them lived in areas with higher than average rates of social and economic deprivation. Poverty is still the largest driver if differential achievement at school and black

Caribbean children, in particular young men, have been consistently identified as underachieving at secondary school level (Cassen & Kingdon, 2007).

Most young people in my research said that they got into trouble at school on occasion and a significant proportion (around one third) described getting into trouble on a regular basis. Many got into trouble for relatively minor misbehavior such as 'messing around', wearing the wrong uniform or talking in lessons. A minority described more serious situations in which they were verbally or physically aggressive to teachers or fellow pupils or had been found to be using alcohol or drugs at school. Young people's descriptions of what happened when they got into trouble at school were dependent on how serious their misbehavior had been. Those who described relatively minor misbehavior said they have been given detention, been put in isolation (where students were made to do their school work alone in a separate room) or had been sent out of class, as well their teacher contacting their parent or carer.

Just over a third of the young people in my research had been excluded or expelled from mainstream education and spent time in a Pupil Referral Unit (PRU). This is not surprising and accords with research on young people supervised by youth offending teams which revealed that 41 percent of them had been excluded from school and 87 percent had missed significant periods of their schooling (Youth Justice Trust, 2003).

A small number of young people in my research reported having a Special Educational Need (SEN) and two specifically mentioned that they had Attention Deficit Hyperactivity Disorder (ADHD) and that this affected their behaviour at school. Several of these young people said that they had left school with few qualifications and six were not in any form of education, training or employment at the start of their referral order. This also fits with statistics on young offenders which have found that 32 percent of young people supervised by YOTs had a special educational need and 38 percent were described as having behavioural problems (Youth Justice Trust 2003).

However, most of the children who were still in compulsory education described their aspirations after their GCSEs and said that they wanted to do well at school. Eight of the older respondents were in post-16 education, two studying for

their A-levels and the remainder for a range of lower level qualifications at college. Those who had left school with few qualifications often expressed regret at not having made more of their time at school and were keen to improve their prospects and get into training or employment schemes.

Factors affecting young people's judgements of teachers

When they were asked about school and their experiences of getting into trouble, many young people had negative perceptions of 'school' as an institution but were positive about particular teachers. In discussing their experiences at school young people were asked about the teachers that they did and did not like and the reasons for this. In looking at their responses to these questions I attempted to unpick what was important to them in forming these judgments.

I found that having a positive relationship with their teacher was extremely important to young people and that this was shaped by a number of factors including: whether their teacher was perceived to care about them and whether they were open and approachable. These findings confirm those of previous educational research which suggests that teacher-student relationships are a crucial factor affecting young people's engagement with school (Archer et al. 2010). In particular, research with children who are at risk of exclusion from school has outlined the importance of pupils feeling that their teachers care about them (Harris et al. 2006, Archer et al 2010).

Clearly this links to research on procedural justice which outlines the perceived trustworthiness of authorities as an important factor in determining whether people think they were fair (Tyler 2004). Young people trusted and confided in teachers who took the time to build a connection with them and who they felt saw them as someone who had made a mistake, rather than defining them by their misbehaviour. In line with the suggested importance of participation in procedural justice research; being able to talk to their teachers when they got into trouble was also really important to young people. Many described being sent out of the classroom when they misbehaved and they valued teachers who came and spoke to them about their behavior in these instances and allowed them the space to talk.

In the remainder of this section I will consider the importance of trustworthiness and participation in more detail, illustrating my argument with quotes from my interviews with young people.

Trustworthiness

Research on procedural justice suggests that young people are more likely to view the procedures enacted by authorities such as teachers as fair if they trust them, and that they are more likely to view these authorities as trustworthy when they think that they care about them and are concerned about their situation, consider their arguments and try to do what is right for them (see Tyler 2004). Having a positive and trusting relationship with their teachers was really important to young people in my research. Young people valued teachers who showed that that they cared about them, were willing to support and help them and were open and approachable.

A prominent example was sixteen year old Ruma, who had been in care for a number of years and had missed a lot of school through truanting. She described getting into trouble throughout her time in secondary school and had been expelled from mainstream education and attended a pupil referral unit (PRU) in the run up to her GCSEs. Ruma said she preferred the PRU to the mainstream school she had attended beforehand and explained to me what she liked about her teachers at the PRU.

> *Like, you know, if we do our coursework, they check it, they say look you've got spelling mistakes here, you write this like this, and you know they will help us. You know, without them I think I wouldn't have been able to get the grades that I got. And it was wonderful to have them teachers. And we have support workers; I had an individual support worker because where I'm in care and she was part of it, and she was good... the amount of support I got there I doubt I'd ever be like that if I was in a mainstream school, because in mainstream school they've got too many kids to deal with; here they've only had like a few. Even if they had a lot of kids to deal with in the PRU, I think, you know, they'd do it; like they're really nice people and*

they're down to earth, like they're proper on your case like yeah, if you don't come in in the morning they're calling your phone – where are you – you know. And if you're... if you're trying to say you're ill, they will come and check up on you and see if you're really ill.

Earlier in her interview Ruma told me that her parents had asked for her to be taken into care because her behavior was so problematic that they could not cope and she also described her teachers in mainstream school as being 'too scared' of her to challenge her behaviour. Therefore, the perseverance of her teacher's at the PRU in not giving up on her and being 'on her case' was very significant to her and showed her that they cared.

Young people like Ruma who have been let down by adults in the past may find it difficult to build trusting relationships and it is therefore important for adults to be consistent. Research on children leaving care found that consistent relationships with adults were an important factor in enabling them to go onto education or employment. Specifically, young people who had coped well with the challenges of young adulthood tended to have one or more person in their lives who was consistently available to provide support (Allen, 2003).

As well as feeling that teachers cared about them, it was also important to young people that their teachers were open and approachable. As Tyler (2004) acknowledges trust is often linked to the particular personal connections and relationships that people have with authority figures. Ruma described the teachers at the PRU as being 'down to earth', and many young people in the research used similar phrases, describing their teachers as 'friendly' and often saying that they had a 'relationship' with them.

For many young people, the way in which teachers spoke to them was really important. The teachers who they had a good relationship with were described as talking to them 'like a friend' or 'on a level'. On the other hand young people often described disliking teachers who shouted at them or 'spoke down' to them and made them feel patronised:

> *They spoke to me as if I was a... an animal and I didn't like it. They...*
> *they would say stuff like "you do not do that James, that is bad, you...*
> *that is very naughty" or.....but they spoke to me ....like a little baby I*
> *don't like it. They could've spoke to me like an adult and said*
> *"Listen... it's not that good to do that, why don't you stop it?" I*
> *would've said "Yeah, okay" and because they spoke to me like a child*
> *I carried on.*

(James, seventeen years old)

James had been expelled from school in his GCSE year and had very negative perceptions of school, likening it to prison and teachers to prison officers. He told me that he had been in care when he was younger and now lived with his grandparents and that he did not like the 'social workers' at the YOT. He was adamant that he hated all teachers at the start of the interview but later went on to talk about one teacher that he did like who had left the school shortly before he was expelled. The following is an extract from the interview when he was asked what it was about *this* teacher that was different.

> *She would speak to me like one of my normal friends, she'd say "Listen*
> *stop pissing around just do your work and then you can go home". I*
> *was like "yeah, true" and then I'll do my work and then it'll be happy,*
> *but when she left I was a bit angry, so I went a bit mad [laughs].*

This teacher clearly made a real connection with James and as a result he was happy to do what she asked of him. When the teachers he did not like told him off he felt that they were talking to him 'like a baby' and did not want to listen. This is likely to have been about more than the way they spoke to him; James did not have a relationship with these teachers and therefore when they told him off he met their requests with hostility. This supports research emphasising the importance of student-teacher relationships in securing young people's engagement and co-operation within the education system, particularly for those who are at risk of school exclusion (Archer, et al., 2010).

Young people also valued teachers responding to their misbehavior in calm and measured way. Teachers whom they had a good relationship with were able to

respond to their behaviour calmly asking them to leave the room and coming to talk to them about what had happened. On the other hand some teachers shouted or screamed at them when they got into trouble, which several young people said made their behaviour worse, the following quote is from an interview with 15 year old Brian about his experiences of having his behaviour sanctioned by teachers:

> *They don't shout at me no more, coz when they shouted at me I just used to shout back and it never got anywhere, like they realised that shouting don't work on me coz like the argument just gets even more heated so......when they shout I just blank out really, I don't really care if they shout at me, and if I'm angry I'll just shout back, it's just worse for me.*

Brian later told me that when his teachers had been shouting or screaming at him, he was less willing to communicate with them, and like several other young people he valued a calm response to his behaviour. This is in line with recent educational research with young people identified by their schools as 'unlikely' to progress to post 16 education. Respondents in this research defined 'good' teachers as those who could maintain discipline in their classrooms without resorting to shouting (Archer, et al., 2010).

Further to this, research with children who have been excluded from mainstream education has highlighted the importance of teachers adopting a non-confrontational manner in order to challenge behaviour without provoking an angry or defensive response (Frankham et al. 2007). Respondents in my research who had been excluded and placed in a pupil referral unit (PRU) all said that they liked this better than mainstream education and felt that teachers dealt with their behaviour 'better' than teachers in mainstream school. Several respondents mentioned it being *'calmer'* at the PRU which they said was down to the smaller number of pupils, but also the way in which teachers reacted when they misbehaved. The following quote is from a discussion with a 14 year old girl about why she preferred her teachers at the PRU.

> *They just generally got along with me because like ...we had the same taste and that. And they'd know that if I was in a situation then they'd know not to like yell at me or anything, they'd just calmly say "if you*

want to walk out of the room then you can". Just gave me options basically that made it simpler.

Allowing children breathing space in order to confront unacceptable behaviour, as the respondent describes above, has been found to be an effective way of working with children who have been excluded from mainstream education (Frankham et al 2007). The research suggests that when teachers lose control or shouts at children this can cause the situation to escalate, making the young person's behaviour worse. Allowing them time alone and then coming to talk to them calmly was found to be a more effective response, (ibid: 2007).

When young people described getting into trouble at school they valued teachers who were open and approachable. For example, the following is from a discussion with a 14 year old boy named Josh, who attended mainstream school but described getting into trouble on a regular basis. Like many of the young people in the research, Josh was positive about some of his teachers, and described the characteristics of 'good' teachers during our discussion:

Somebody who cares. Somebody I can talk to when I'm in need of help, when I'm angry or something they'll be there to talk to me and like give me advice on what I should do, and what I should prevent from doing, and basically some of them just get me out of trouble, and pull me out of class, and just help me with things.

Josh described his teacher giving him 'advice' on how he should behave and helping him, rather than telling him off and as a result had a more positive perception of them. This links to previous research with vulnerable young people, which suggests that they are less responsive to overly directive approaches (Trotter, 2006). Josh values having a trusting relationship with his teacher in which can talk to them when he gets angry and as a result he is willing to listen to their guidance.

Like Josh, many young people in the research valued being able to talk and explain their side of things when they got into trouble at school. Seventeen year old Ashton reflected on his experiences at school and what distinguished the teachers that he liked from those he did not.

Just having a relationship with them, I remember I could talk to them. Obviously they might like send me and like say 'Ashton get out of class' but they wouldn't just leave me there like some other teachers or just say 'oh, forget about him' and send me to the head teacher. They came and like I could talk to them.

Ashton defined having a positive relationship with his teacher partly in terms of his ability to talk to them when he got into trouble. This links strongly to research in the area of procedural justice, which suggests that people view procedures enacted by authorities as fairer if they are allowed the opportunity to participate in decision making (see Tyler, 1990). However it is also linked to the positive and trusting relationship that Ashton has with his teacher. The teacher shows that he cares about him by coming and talking to him rather than leaving him outside the classroom. In addition, because Ashton has a relationship with the teacher he feels able to talk to them about his behaviour.

Conversely a number of young people described situations in which their teacher punished them but failed to talk to them about their behavior or show that they cared. This resulted in respondents refusing to do what the teacher asked of them and in some cases choosing to commit further acts of misbehavior. For example, 14 year old Rowena said the following during a discussion of a particular teacher who she frequently got into trouble with.

She used to scream at me. She used to send me out of class. She'd make me stand outside when it was raining. I used to ...I used to say, "No, it's raining." And she used to go, "No, stand outside." And I used to say, "No way" and I used to just stand outside the classroom in the corridor instead... and then sometimes I just used to sit on top of the table because she used to annoy me that much.

Rather than sending her out of the classroom, allowing her to calm down and then coming to talk to her as Ashton's teacher did, Rowena describes her teacher screaming at her and dispensing a harsh and potentially humiliating punishment. There are two key points to be made in relation to Rowena's experience. Firstly, as I have mentioned in the previous section exploring the trust young people had in

teachers, they valued a calm response to their behaviour. This is clearly not what Rowena describes above.

Secondly, Rowena did not feel that the punishment was fair and therefore choose to ignore her teacher's request to go outside. Research on young people's experiences of school has found that it is important to them that their teachers care about them as people and show them respect (Noddings, 2003). This also links to procedural justice research which suggests that people feeling respected by authority figures is an important factor in determining whether or not they see processes as fair (Tyler 2004). For Rowena, her teacher screaming at her and asking her to stand outside in the rain is unlikely to signal such respectful treatment. She views the punishment as harsh and humiliating and as a result chooses to protest in the only way she can, by disobeying her teacher.

Young people's experiences with the police: Background

After asking young people about their experiences at school I moved on to discuss their general experiences with the police. In analysing these discussions I attempt to highlight what was important to young people in making up their judgments of police officers and to identify if there are common patterns in the way they form judgments of teachers and police officers. I began by asking them whether they ever saw police officers when they were out and about in their local area and if so, what contact they had with them. I then moved on to ask young people about their experiences of arrest and detention at the police station.

Similar to their perceptions of school, young people tended to view 'the police' as an institution in an extremely negative light and many said that they 'hated' or did not trust 'the police'. However, almost without exception, young people had positive assessments of *some* individual officers.

Public spaces, and particularly local streets, have long been a prominent site for young people to spend their leisure time (Muncie, 2009). In the 2009/10 British Crime Survey 81% of 10 to 15 year olds said that they hung around in public spaces with friends and around half (51%) said that they did this at least once a week (Scribbins et al., 2011). However, young people's use of these spaces is increasingly contested and the policing of their behaviour in these areas has expanded over the past

decade, with the introduction of a range of measures including curfews, Anti-social behaviour orders (ASBOs), Dispersal Orders and in some areas the 'Mosquito' deterrent alarm, only audible to those under the age of twenty-five. Research has displayed the potential of such legislation to alienate young people and cause them to feel unfairly stigmatised by the police in their use of public space (Crawford & Lister, 2008).

Most respondents in my study described spending time outside in their local area on a regular basis. My research took place in two boroughs with high levels of socio-economic deprivation, many of the children lived in high rise social housing estates and described the 'block' or stairwell as a prominent place to socialize with their friends. However, there was a strong awareness of the danger that this entailed and most young people described the high level of violent and drug related crime that went on in their local area, particularly in the stairwells.

In addition to being arrested for the offence that resulted in their referral order, young people described being stopped and searched on a regular basis by police officers in their local area. However, there were some notable exceptions. Of the six young women involved in the study, three reported having never been stopped and searched by the police before, whereas of the thirteen boys only two had never been stopped and searched.

A large number of male respondents reported being stopped and searched repeatedly in their local area and some said that they had been stopped more times than they could count. A number of young men described having a shoe box full of stop and search forms and many said that there had been periods of time (lasting up to a few months) when they were stopped by the police every day. All the young people I interviewed had some contact with the police before being arrested for the offence that resulted in their referral order; those who had not been stopped and searched had been told off by police officers or told to move on.

The level of contact with the police that they had experienced is not surprising. Evidence suggests that adversarial police contact is common amoung young people (Anderson, et al., 1994) and that this is particularly the case for children who are serious or persistent offenders (Flood-Page et al. 2000). In addition research suggests that factors such as being male, hanging around frequently in public spaces and

coming from a lower socio-economic background, place children at greater risk of adversarial police contact (Aye-Maung, 1995; Flood-Page, et al., 2000; McAra & McVie, 2005).

The extension the British Crime Survey in 2009, to include questioning children aged 10 to 15, provides some recent data about children's experiences of policing. The BCS survey in 2009/10 asked respondents aged 10-15 about their experiences and attitudes towards the police, personal safety and spending time in public spaces (see Scribbins, et al., 2011). Around a quarter of the children surveyed reported having had contact with the police in the last 12 months, which was most commonly initiated by the police. The survey found that children who were disengaged with education, and had either truanted or been suspended from school were more likely to have had contact with the police (Scribbins, et al., 2011).

In addition, research studies have pointed to a disproportionate extent of negative behavior and misconduct by police towards young people from black and other ethnic minority communities (Norris et al 1992, Bland and Miller 2000b), displaying that race is a significant issue in police/suspect encounters. Recent statistical evidence shows a clear over-representation of ethnic minorities in stop and search statistics. Black people were stopped and searched 7 times more than White people in 2009/10 and Asian people 2.2 times more (Ministry of Justice, 2010). In addition, research has documented and explored the over-representation of children from ethnic minority groups at all stages of the youth justice system (Feilzer & Hood, 2004; May et al., 2010).

Echoing findings from a qualitative study by Sharp and Atherton (2007), on the experiences of policing by ethnic minority youth in the UK, my research reveals young people's anger and frustration at the poor treatment that they received from police officers. Respondents' perceptions of the police were formed cumulatively, largely by their own experiences with the police but also by the experiences of friends and family, as has been revealed in previous studies of youth and policing (Sharp and Atherton 2007, Loader, 1996). A small number of respondents mentioned serious incidents of police brutality, and many described being treated badly by the police during stop and search. Despite their negative experiences with the police, most young people recognised that not all police officers behaved in that way and that some

of them were *'alright'*. However, these officers were very much seen as the minority amongst a majority of officers who treated them badly.

Qualitative research carried out in the United States with 'at risk' and delinquent African American youth aged 13-19 found that, despite tensions and mistreatment on the part of the police, the majority of young people still felt that the police had an important role to play in their communities (Brunson and Millar 2006). This also comes out very strongly in Loader's (1996) research on young people's experiences of policing in Edinburgh. A number of respondents in my research said that the police were *'just doing their job'* and recognised the need for a police presence in their local area. However, the power police officers had over young people, and the fact that their contact with them often resulted in stop and search, particularly for the young men, meant that their appreciation for the police having *'a job to do'* was complex.

There was a strong sense in the research interviews that the children felt a tension between needing the police for protection and also feeling angry and frustrated at the way in which police officers treated them. The following extract is from an interview with a 14 year old male, during a discussion of his experiences of being frequently stopped and searched by the police.

> *To tell you the truth, I can't see, without the police, then more people would be dying because it would just be reckless. But then again, that's like me getting stabbed and the police is not there to try and save my life, so I can't... I'm not beating on the police like obviously it's their job and stuff like that, but I will never like the police, but then again they should be about, but they're just too many right now.*

The fact that he felt there were 'too many' police is related not just to the fact that there are lots of police officers physically in the local area but to his own experience with them. Because he is stopped and searched on a regular basis he views their presence as 'large'; this is unlikely to be the case for people who have little contact with the police. Research has revealed that where officers pursue highly proactive and adversarial styles of policing, targeting defined groups of young people thought to be

involved in crime, this compounds alienation and disaffection among these young people (May, et al., 2010). The young man quoted above described earlier in his interview how he was frequently stopped by the police on his way home from school and felt harassed, frustrated and angry about this.

Despite his frustration at being constantly stopped and searched by the police the young man quoted above was fearful about what would happen if the police were not there when he needed them, and as a result wanted police to patrol in his local area. This tension between feeling over policed but wanting to be protected was present in the majority of my interviews with young people.

Recent research, resulting from an extension of the British Crime Survey to include those under the age of 16 for the first time, suggests that children aged 10-15 are more at risk than adults and older teenagers of being a victim of personal crime (Millard & Flatley, 2010).Specifically, children living in social-rented housing had a higher risk of being victims of violence than those who lived in owned accommodation and boys aged 13 to 15 had the highest risk of being a victim of theft from the person (ibid: 2010).

Further to this, research suggests that young offenders are particularly at risk of victimsation and that there is a strong link between offending behavior and becoming a victim of crime (Smith, 2004). The research suggests that the most important factors explaining the link between victimization and offending are getting involved in risky activities and situations and having a delinquent circle of friends. It is argued that this is because the same activities, situations, and social circles lead both to victimization and to offending (ibid: 2004). It is therefore likely young people's fears of victimisation were well founded and it is not surprising that they felt they needed the police for protection.

"Some of them are alright": Factors affecting young people's judgments of the policing

Interestingly young people tended to distinguish between 'good' and 'bad' police officers not on the basis of whether or not they stopped them but on the way in which they were treated during the stop, particularly during stop and search practices.

Specifically, whether they were treated with dignity and respect and whether they felt the police were impartial and objective in targeting their powers.

The vast majority of young people described some better experiences of policing in which police officers were polite and treated them in a respectful manner physically. They also felt that their stop and search was more justified when the police explained that they were acting on the basis of facts rather than on assumption about them as a troublesome youth. Despite these more positive experiences, young people's overall perceptions of the police tended to be extremely negative. These positive encounters were often viewed as exceptions to the largely poor treatment they received at the hands of the police. This is in line with previous research which suggest that bad experiences with the police have a greater impact than good experiences in forming people's judgments of them (Bradford et al. 2009; Skogan, 2006)

Treatment with dignity and respect

Although young people did not specifically use the phrases dignity or respect, they objected to the way that many police officers treated them. Specifically the way in which police officers spoke to them and treated them physically during stop and search was important. Respectful treatment is a key element of a fair procedure and has been revealed as particularly important in shaping people's overall judgements of the police (see Tyler & Wakslak, 2004). Tyler (2004) suggests that in dealings with authorities like the police, people value having their dignity as people and members of society respected and acknowledged. This was extremely important to young people in my research many of whom felt they had been treated badly during arrest and stop and search.

Young people often distinguished between 'good' police officers and 'bad'. Good policing was when the officer was polite, friendly and carried out the search without being unnecessarily rough with the young people. On the other hand in young people's accounts of bad policing the officers shouted, swore at the them and used excessive physical force. The following extract, from an interview with a 15 year old boy, is similar to many others in the research.

Um, it's like it's... it's odd, cause there are some that are like um, sort of they speak to you and they're... they're friendly and they just…. and they just get on with it and there's some that are just straight on top of it and they're just really rude, sort of think you're scum and just treat you really badly. But there's some that don't.

This young man values police officers being friendly in the way that they talk to him, but also the fact that they 'just get on with it'. By this he is referring to the fact that these officers do their job and search him but do not make him feel degraded or disrespected; they treat him with dignity. In contrast to this he describes other officers as being rude to him and says that they are 'straight on top of it' which he later went on to describe as the police using excessive physical force during stop and search. Importantly, this mistreatment combines to make him feel as though the police have no respect for him as a human being, that they think he is 'scum'.

Young people were very aware of the unequal power dynamic between them and the police. As well as objecting to being treated badly they were also frustrated by the fact that the police could treat *them* however they wanted, largely without consequence and that they often exercised double standards.

They will say yeah..... you might as well go from there, yeah, obviously you're going to be in trouble, you're going to end up in like a cell and stuff, you might as well go from there innit. If they say it nicely to me, yeah, obviously I'll go; but someone... police officer, you might... I will give you... I'll count to three, if you don't go you'll get yourself arrested, they will say that. And they will say F word as well when they're talking. Obviously if they're saying F word, obviously like... like obviously like us, yeah, we will say it, do you get me? They're saying F words to us yeah. If I say F word to them yeah, obviously I'll get myself arrested; they got the right. But they ain't got the right to swear at us though. That ain't good.

(Seventeen year old male)

This young man objected to the way in which police officers spoke to him and stated that if they had said *'it nicely'* he would have cooperated with them. He particularly objected to them swearing at him but recognised the unequal power dynamic between himself and the police officers, in that they had '*the right'* to arrest him if he retaliated. He also felt that is was unfair that police officers were able to get away with swearing at him when he was not allowed to swear at them.

Several young people in the research shared this feeling and the reasons for their frustration were twofold. Firstly, they objected to the fact that the police were able to treat them badly and that there was little they could do about it and secondly they were angry that the rules of the game were very different for the police than they were for them. This links to the importance that young people placed on the neutrality of the police, which I will go on to explore further later in this section.

Several respondents described situations in which police officers tried to wind them up and encourage retaliation, which they felt was aimed at getting them into more trouble. The following quote is from a discussion with a 17 year old female respondent about the way that the police treated the boys in her local area.

> *The way they talk to people, I have been there when my friends are getting stopped and searched and certain officers yeah they will whisper rude comments in their ear that no one else hears but the children hear. Um, yeah they are just cocky, very cocky.*

On the other hand several male respondents described experiences with police officers who they felt treated them well because they did not try to wind them up or encourage them to retaliate.

> *Yeah, they're just more polite. They just do the stop search and get on with it. They don't really like... they won't be talking to you and saying like, "Oh, what gang are you in?" and stuff like that. They don't say none of that stuff. They'll just do the search and then drive off.*

(Fifteen year old male)

There was a strong sense throughout the research that children and young people were willing to engage with the police, indeed cooperate with them, if the police treated them with respect. Several respondents said they just wanted to be treated like human beings and they particularly objected to police speaking to them in a derogatory way for *'no reason'* when they were cooperating with them. For example, 17 year old Amy expressed her anger and frustration at the way police treated her and other young people in her local area.

> *Interviewer -Do you think the police could do anything differently that would make things better?*

> *Respondent -Umm, I don't think that they will change, (laughs). They probably wouldn't change, but just be a bit more....obviously at times you have to be rough because people don't listen, but when people are listening and they are cooperating like just talk to them like they are human beings and not something off the street, you know? Everyone has manners and everyone should use them.*

By using the term 'rough' Amy is referring to both the way that the police physically treat young people and also the way in which they talk to them. Interestingly, she accepted that police officers sometimes needed to be 'rough' in order to control situations in which the public were not cooperating with them. However, Amy felt a sense of injustice because even when she and her friends cooperated with the police they had not been treated with respect.

Young people placed a high level of importance on the physical nature of their contact with police officers and whether they were *'rough'* with them. A number of other studies have outlined children and young people's experience of physical force in their encounters with police officers, and its importance in determining the way in which they view the police (Sharp and Atherton 2006, Loader 1996). Several respondents described the police as being *'rough'* with them and using *'force',* and

distinguished between police officers who searched them *'nicely'* and those who didn't. Respondents described police searches as *'rough'* where police officers had ripped or pulled at their clothing during stop and search or arrest. For example the extract below is from an interview with a 14 year old male.

> *Some of them are polite but then some of them are rude and they use force and stuff. [Interviewer: Ok. What do you mean by 'they use force'? What sort of things do they do?] They just grab you by the collar and they stop and search you for no reason. They could easily say, "I want to search you now," but some officers grab you on the collar here and they think they'll search you.*

There is a sense in the above extract that the police could behave in a proper or respectful way but that on occasion they choose not to. The respondent says that the police could *'easily'* explain to them that they want to search them but instead they chose to be rough. This perception of the police choosing to use their power over children to intimidate them was present in the majority of research interviews and has been found in other research on young people's perceptions of policing (Brunson and Millar 2006, Sharp and Atherton 2007).

The police are required under Code A of the Police and Criminal Evidence Act 1984 (PACE) to carry out all stops and searches 'with courtesy, consideration and respect for the person concerned' and that 'every reasonable effort must be made to minimise the embarrassment that a person being searched may experience' (Home Office, 2010:3.1). This legislation is designed to ensure that members of the public feel fairly treated and to help secure public confidence in the police. However, it is clear that young people's experiences of stop and search did not meet with these guidelines and that they often faced disrespectful, and in some cases physically and verbally abusive behaviour, at the hands of the police.

Many young people also described what they viewed as being respectful treatment during stop and search. The following extract is from an interview with a 17 year old boy about his experiences of being stopped and searched by police officers in his local area.

> *Well... well the nice ones, like cause they know us like, they will do it nicely. The ones that were rude and that, they will just like pull you over and just do it rough and all that. [Interviewer: When they do it nicely, what do you mean by that..?] Like they'll talk to you while they're searching and then like they won't go in all your pockets and leave them all hanging. They'll pull it back and everything.*

This respondent attaches a large significance to the police officers that search him *'nicely'* tucking his pockets back into his trousers and talking to him while they search him. When the police search him in this respectful way, he feels that his rights are respected and that his status as a member of society is acknowledged (see Tyler 2004). To return to the language used in the first quote of this section, when he is treated in this way this young man does not feel like he is 'scum'. Through the simple act of tucking his pockets back into his trousers, the police communicated to him that they had respect for him and that he was a member of society who deserved to be treated well.

Neutrality

As well as distinguishing between good and bad police officers on the basis of the way in which they were treated, young people also objected to the way in which the police targeted their stop and search powers. According to research in the area of procedural justice, people are influenced by judgments about neutrality of authorities; how honest, objective and impartial these authorities are (see Tyler 2004). In line with this research, young people were concerned that the police decided on who to stop on the basis of facts rather than personal bias. Young people tended to feel that they were targeted by the police because they were young, came from an area known to the police and wore particular clothes. They felt that these aspects of their identity and demeanor caused the police to stereotype them and assume they were involved in crime or troublesome behaviour. This is in line with other research on children and young people's experiences of policing, which suggests that young people feel labeled by the police as criminal or anti-social on the basis of their status as poor urban young men (Gau & Brunson, 2010).

In addition, it links to quantitative research carried out in Edinburgh which suggests that among the available population of young people who spent time in

public spaces, the police were consistently more likely to target those from less affluent backgrounds; multivariate analysis revealing that this was at an individual level rather than police targeting of deprived areas. This leads the authors to conclude that whilst having an active 'street life' and spending time in public spaces in their local areas rendered young people more available for policing it cannot alone explain their elevated rates of adversarial police contact (McAra & McVie, 2005: 28). It is argued that police may label and keep under their surveillance a permanent group of suspects; young people from less affluent areas. Therefore the signifiers of such identity, such as the way young people dress, may render them more likely to be stopped by the police.

The majority of young people in my research did not mention that they felt targeted because of the ethnicity. My findings are in contrast to previous qualitative research on youth and policing by Sharp and Artherton (2007) in the UK. Young people from ethnic minority groups in their research frequently used the terms 'racism' and 'racist' when describing their experiences with the police and felt that they were targeted because of their ethnicity. Similar research in the United States has revealed that young people feel the area in which they live and their youth are important factors in police targeting in addition to the colour of their skin (Brunson and Millar 2006).

In addition, recent research into the English riots in the summer of 2011 has involved interviews with 270 people who were directly involved in riots in cities across the country. The report revealed frustration and anger at the police and policing practices; with 85% of the interviewees identifying policing as an 'important' or 'very important' factor in causing the riots. Researchers found that the most acute and longstanding mistrust of the police was among black interviewees and many referred to incidents in which black people had died in police custody or during police raids (LSE & The Guardian, 2011).

In my own research there was an understanding among young people of the need for police stops in order to keep people in their community safe; as mentioned in the previous section the vast majority of young people understood that the police had a job to do. However, respondents objected to the way in which police decided who to stop and most felt that they were unfairly targeted at least some of the time. The

following quote is from an interview with a 14 year old Asian girl during a discussion of her feelings about the police stopping young people in her local area.

> *I mean, I know it's like for them to like keep the other people safe around the area, but I don't find it necessary for them to target everyone that's in a gang or, like, if they're wearing a hoodie. Or if they're wearing, like, big jackets, it might just be cold. You can't do that, they have to deal with it another way.*

A number of young people said that they felt the police targeted on the basis of stereotypes about *'bad'* or *'criminal'* children. Respondents were frustrated by this and several specifically said it was not *'fair'*. The following extract is from an interview with a 17 year old Aisha during a conversation about the way police treated young people in her local area.

> *I don't know they just probably...oh it's just, it's just stereotyping really coz they hear oh kids are bad so they treat all kids like they are bad, Once they see one child that's bad, then they start stereotyping, that's the way I see it. No, it's not fair the way they treat us is not nice whatsoever.*

This illustrates that unfair targeting and perceived stereotyping was important in contributing to young people's judgments of whether they were treated fairly. When police officers were seen to target young people when they were doing nothing wrong they tended to feel that they were being unfairly labeled or stereotyped and this led to feelings of anger and frustration towards the police.

Several of the young men in the research said that they were known to the local police and this often meant that they were stopped on a regular basis by the same officers. Although, the young people in my research had been involved in criminal activity (leading to their referral order) many of them said that the police stopped them repeatedly even when they found nothing.

> *... like those police officers see me like everyday and they stop me everyday, they know I don't have anything on me but they stop me*

anyway they keep persisting. [Interviewer: They don't find anything, but they just keep coming back?] Yeah. Like one time I must have been in front of my area and there was loads of people smoking weed but like they didn't go to the people smoking weed they come to us, and there was three of us and they just jumped out the van and said they were gonna search us for possession of cannabis and I was like what "come on". They saw people blatantly smoking in front of them but they chose to umm stop the youth.

(15 year old male)

In this situation the respondent felt that he and friends were unfairly targeted by the police because of their reputation. He felt that this was unfair and not justified because he was not doing anything wrong at the time and the same police officers had stopped and searched him before and found nothing. In addition, he felt further injustice because other people who he later described as *'adults'* were committing a crime that the police chose to ignore. Respondents displayed a strong awareness of their role as children and the lack of power that they had at the hands of the police. As has been revealed in other research on youth and policing (Sharp and Atherton 2007, Brunson and Millar 2006), a number of respondents felt that the police targeted them again and again for stop and search even though they repeatedly found nothing. It was this persistent targeting, in their eyes without justification, which constituted harassment for the young people in my research.

A fairly small proportion of police stop and searches result in arrests; research has revealed that only 8 percent of arrests for notifiable offences resulted from police stop and search in 2009/10 (Povey et al. 2011). Therefore, it is unsurprisingly that few of the stop and searches experienced by young people resulted in arrest. However, this does not change the effect that repeated stops and searches had on young people perceptions of the police. Research has revealed the negative effects of intensive police targeting of stop and search powers on small numbers of young people known to the police. Young people from ethnic minorities were over-represented in the groups targeted by such stop and searches and this compounded their alienation and

disaffection, eroding whatever commitment there was to the rule of law (May et al., 2010).

As was the case in Loader's (1996) research respondents described 'bad' police targeting as that which devoted a disproportionate amount of attention to young people in public space. The majority of young people in the research spent most of their free time out and about in their local area and this left them particularly vulnerable to contact with the police (see Aye-Maung 1995, Flood-Page et al 2000, McAra & McVie, 2005). Although young people objected to being stopped on the basis of their reputation in the local area, at the same time they often had an appreciation for the fact that the police were needed in order to target serious crime.

Cause where people complain about us and cause they know us from the estate and the community officers, like if they see us they'll stop and search us. Even if... even if I just go into the estate they'll be there ready and I'll get called over and stopped and searched all the time. [Interviewer: What do you think about the stop and search? Do you think that they should be doing it or...?] Well they should, but obviously where at the time I weren't doing nothing I was thinking it's just a waste of time, but like I see why they do it....to like cut down on people that are carrying knives and like selling weed and all that So yeah, it's good.

(17 year old male)

The combination of the police targeting them when they were doing 'nothing wrong' and the perceived risk of violent crime in their local area appeared to lead young people to feel that the police were targeting the wrong people. The young man above felt over policed personally but understood the need for the police to use stop and search practices more generally. Young peoples' perceptions and feelings about being policed were complex; although they understood the need for police stop and searches in their local area the constant and repeated experience of being stopped and searched when they were going about their day-day business built frustration and anger toward the police.

Young people also said that they favoured experiences with police officers where the officers explained what was going to happen and why they were searching them, rather than assuming they were guilty. This supports quantitative research which suggests that when young people are given a reason for their stop and search they are more likely to have positive assessments of the police and say that they treated them fairly (Flood and Page 2000, Aye Maung 1995, Anderson et al 1994). The following extract is from an interview with a 16 year old male respondent during a discussion about the police officers that treated him well in his local area.

> *They would explain uh... um, like the situation with they've had um, complaints from local residents and there was like um, cannabis smoking in the area. So they... that officer was like, "Oh, I just wanna search you in case you've got anything." And I was like, "Alright then. sir. Go ahead." Just searched us, wrote our names, didn't find anything on us.*

The reason that young people valued the police explaining why they were stopping them is linked to the value they place on the neutrality of the police and the belief that they are making decisions based on facts rather than personal bias. The young man says that because the police explained to him that they were searching him based on a complaint of cannabis smoking in the area he did not object to being searched. Young people also stressed the importance of officers investigating complaints or situations rather than jumping to the conclusion that they were guilty. For example the following extract is from an interview with a 15 year old boy during a discussion of the police officers the he felt treated him well.

> *Uh, yeah they just speak to you and they're like, like um... like, "We..." Like, "We don't... like we're not at... like after you or anything, we just wanna know what happened." And they often say, "The role of the Police isn't to accuse you it's to work out what... what... like what happened" not to just like arrest you and grab you and stuff. So those ones kind of explain to you what's gonna happen and the other ones just get on with it.*

Importantly, when the police explained why they were stopping young people and it was happening for what they perceived to be a valid reason, they tended to feel

unfairly targeted to a lesser extent. This displays the importance of police officers having a good reason for stopping and young people and communicating this reason to the young people effectively.

Young people's experiences of arrest and detention at the police station

Many young people were unwilling to talk at length about their arrest and detention at the police station, and I got the impression that for many of them it had been a traumatic experience. Younger children were particularly reluctant to talk about their experiences and responded to questioning with one word answers. As a result, there is considerably less research data on the children and young people's experiences of arrest and detention than there is of their general experiences of policing in the local area.

When they were asked about their arrest several young people described the police as using excessive force. A small number of young people described how the police came to arrest them at their home in the early hours of the morning and one young man said that police officers had broken down his front door in order to search his bedroom for stolen goods. For one girl who had never been in trouble with the police this was a particularly traumatic experience and she felt that the six officers, one police car and a 'bully' van that they sent to her home were unnecessary, she was visibly upset when talking about it and said she felt *'violated'*.

Some young people complained about the treatment that they received from police officers during arrest. The most common complaint was that they had put them in hand cuffs when it wasn't needed. Several respondents described being in pain when they were handcuffed and for most this led to feelings of anger towards the police and often verbal retaliation. The quote below is from an interview with a 17 year old female who felt she had been wrongly arrested for assault.

> *Like how could they do that? And do you know what yeah, they had the handcuffs on me so tight that it was actually starting to uh, rip my skin. I... I was just... cause of that pain and cause of, you know I'm in a police van for something I didn't do, I was just going mental. And yeah, I... you know when they asked me in court, "Did you swear at 'em?" I said, "Yeah, I did, because I was angry."*

Another respondent, a 16 year old young man, described his experiences of arrest and detention during which the police were seemingly guilty of severe malpractice:

> *Some were actually quite rude because I remember well... you know, they sit you in the van, it's really bumpy, and I was telling them I'm in pain, and they're like oh don't worry man, and they made me sit in that van an hour just sitting there for no reason. I was telling them look man, my head's hurting, my head's hurting. Yeah, and do you know like when they put me into the cell, from... from... from the night, eleven o'clock, I was telling them can I call my mum; and then they kept going yeah you're fourth in the line. Even by the time it got to six o'clock in the morning they kept on telling me I was fourth in the line...*

Under code C of the Police and Criminal Evidence Act 1984 (PACE) this young man should have been able to make a call to his mother and should certainly have been seen by a medical examiner. In addition, as a child under the age of seventeen an appropriate adult (parent, carer or social worker) should have been contacted to come and be with him at the police station as soon as possible.

Many young people said that they had been detained in a police cell for long periods of time and in several cases said that they had to stay overnight. Several respondents described having their clothes taken from them and having to wear a white garment which they said was thin and they felt cold. When asked how they felt being in the police cell the vast majority said that they were scared, alone and that it was horrible. When they were interviewed at the end of their referral order several young people said that being detained in a police cell had been the worst part of their experience. Seventeen year old Chris reflected on how it had felt being detained in a police cell:

> *You've got no window so you can't see light or you don't know if it's night or day. You've got a bed that's made of metal and you've got a mattress that's pretty ... two centimetres thick and you've got a camera watching you all the time, like no clock, you don't know what the time is, you've got no privacy. It's really, really discomforting, it's really nasty, you've got all these concrete walls around you, not a nice place.*

When asked about their experiences of arrest and detention in police stations, respondents spoke of police officers who were *'alright'* or *'good to them'* these officers attended to their needs by providing them with food and water, ensuring that their parents were called and helping them if they were in pain. Although these experiences were in the minority, as in Brunson and Millar's (2006) research, a small number of young people spoke positively about officers who expressed some regard for their well-being. The following quote is from an interview with a 16 year old girl, about her experiences with a police woman who she felt had been good to her:

> *She explained why I got arrested. She explained the behaviour that I'd done; I was crying. I had lots and lots of family problems, I was kicked out, I had to stay with my brother; my brother was kicking me out so I didn't know what to do, I just...She was listening to me and she was wiping my tears, she was hugging me. She was really, really good.*

Procedural Justice and Compliance with the Police

Research suggests that people's judgments about how fairly they have been treated by authorities such as the police has an effect on whether or not they view these authorities as legitimate and therefore whether they are likely to obey them or comply with their rules (Tyler 2006, Tyler and Huo 2002).

Similar to their experiences with teachers, respondents described situations where *the way* in which police officers *treated them* caused them not to comply with police officers or to challenge their authority. These situations were linked to the factors affecting their judgment of police officers; specifically if they were treated in a disrespectful way. A number of respondents described situations in which police officers spoke to them in a derogatory manner or swore at them and they retaliated and challenged the authority of the officers. The following quote is from an interview with a 17 year old boy who had been arrested for a drug related offence, during a discussion of his arrest.

> *And they're taking the piss; they're saying yeah like I swear to God yeah they're saying yeah "sonny boy, sonny boy"; they're saying like proper taking the piss, innit. "You're going to do something to me now"; and I'm saying "I ain't gonna do nothing"; but obviously I got*

> *nicked yeah. They were like saying proper like cussing me and stuff. I was saying right you might as well cuss me; I did cuss them like back. I said bare stuff to them because obviously I know I'm gonna get in shit, so I might as well cuss them and finish it off, do you get me? They did, they hit me with that stick yeah, and I was saying like it was proper hurting, innit, proper. Obviously when you're drunk, yeah, you ain't gonna feel nothing; when you sober up like well you're gonna feel something like...*

This respondent feels that because he is already in trouble, and the police are talking to him in a derogatory way he *'might as well'* retaliate. He recognises the power that the police officers have over him but rather than deferring to this power he reacts to it and *cusses* them back. A number of respondents also described incidents in which police officers were physically aggressive towards them and they retaliated. The following extract is from an interview with a 17 year old male respondent.

> *They approach you literally like nose to nose and they will just try and act... well they try and look tough and big and if you do square up to them, they'll start getting a bit violent and start pushing you back. And then obviously if you done... if you haven't done anything wrong, you would think why is he pushing me back, you push him back and then the next thing you know they have pulled out the cuffs or the CS gas or the baton and they start getting violent.*

In this situation, as in several others described in the interviews, physical retaliation towards the police resulted in escalation of the dispute and the police using further force. There was a strong sense in the interviews that respondents learnt from these encounters and were more reluctant to challenge the authority of officers after these experiences. Sharp and Atherton (2007) reported young people in their study to 'play a game' when it came to their encounters with police officers, in which they used their former encounters with the police to develop a strategy to prevent them from getting into further trouble. There is evidence of this in my research; many respondents developed an understanding built on their encounters with police officers and recognised the importance of *'going along'* with what the police asked them to do in order to avoid making the situation worse.

A number of respondents said that they preferred to go along with what the police said and this was based on an understanding that the police had the power to *'make things worse'* if they retaliated. The following extract is from an interview with a 15 year old male respondent, where he articulates the *'abuse of power'* by police officers that he has witnessed.

> *It depends, some of them just hate you, and like some of them are alright. There's some alright ones that don't take the piss or nothing, but there's others that....they just wanna arrest you and well they don't follow their code and just do whatever they want and abuse their power. [Interviewer - Yeah? So umm give me an example of the ones that behave badly or don't follow their code?] The ones that throw you around, kick you about and stuff because they know you will just get done for assaulting a police officer. I've had times where police have come to me and been like, I was like "I don't have to give you my name blah blah blah", and they are like "Do you want me to plant this weed on you, blah, blah, blah". It's just, I'm used to it by now.*

This respondent describes his powerlessness to defend himself when police officers are physically rough with him and his recognition that any retaliation will result in him getting into more trouble. When the police had a good reason for stopping them respondents were willing to comply with the police and be searched without complaint. Good reasons for police stops were related to the prevention or detection of violent crime or that relating to drug dealing. It is likely that this acceptance is related to respondents living in what they perceive to be a high crime neighbourhood in which these types of crime are common (indeed both the YOTs in my sample are situated in high crime inner city areas). The following extract is from an interview with a 17 year old boy in which he talks about his willingness to comply.

> *There's some police officers like they'll say to me 'oh you're a respectful child your mum brought you up well' coz like I'm polite with them and that. Obviously that's their job you can't not like them because they are police officers, even like with previous experiences with my friends where the police have taken the mick like they know*

that they are in control and we can't do nothing like they take advantage. But like if they're doing a random check-up, it's like obviously if they didn't do that I could be like someone with a weapon or something like that, so anyone else..... like obviously they're just trying to stop crime right so if they didn't do that the world would be just messed up. So when they do stop me like that then if I know that I haven't got nothing on me then I shouldn't have nothing to worry about, so I'll just let them search me. Some of them are alright..

This respondent distinguishes between situations in which the police stop him and take advantage and those where they are stopping him for what he perceives to be a valid reason. Similar to the previous respondent he suggests that police officers know that they are in control and that they use this unequal power dynamic to control the behaviour of young people. However, he also describes a situation in which the police are stopping him in order to stop crime and he sees himself as a viable suspect, as someone who *could be* carrying a weapon, and in this instance he is happy to comply with the police and sees nothing wrong with them stopping him. This illustrates the tension that was present in many of my research interviews between young people appreciating the need for police stops, but objecting to the impact that this practice had on them, both in terms of frequency and disrespectful treatment.

Conclusion

The importance that young people place on being treated with respect, particularly during stop and search or arrest has been found in other studies on youth and policing (see Gau & Brunson, 2010; Brunson and Millar 2006; Loader 1996).My research reveals that children's judgments about the processes exerted by authority figures (teachers and police officers) are important in shaping their perceptions of these authorities. These findings support research which suggests that, as studies have shown with adults, fair and respectful treatment leads to more positive evaluations of the police among children (Fagan and Tyler 2005, Hinds 2007).

This chapter focuses primarily on young people's experiences with the police as their discussions of these experiences were fuller and yielded richer, more comprehensive research data. However, the accounts of young people's experiences at school are also important and reveal that the way in which they formed judgments of

their experiences with teachers and police officers were very different. This is not surprising as the nature of young people's interaction with teacher and police officers varies significantly. Young people have regular contact with teachers and are therefore able to build relationships over a period of time. Further to this, the role of teachers, as a support and help with young people's learning and pastoral care is vastly different to the role of the police force in maintaining order. Much of the work of police officers is conflictual, therefore building a trusting relationship with young people is likely to be challenging. In addition, the young people in my research had all been arrested and most had experienced stop and search at the hands of the police on a number of occasions. There was a strong tension in young people's feelings towards the police, in that they needed them for protection but also felt extreme anger and some cases hatred towards them for the degrading and disrespectful way they treated them.

The research reported in this chapter suggests that elements of all four factors, suggested by Tyler's (2004) work as contributing to judgments about fairness, are important to young people. In their experiences with teachers, young people focused primarily on the importance of trustworthiness and participation. Whereas, in judging their experiences with police officers young people tended to focus on the importance that they were shown respect and treated with dignity, particularly during stop and search, and that the police were neutral in their decision making.

The relationships that young people had built up with some of their teachers were very important to them. Young people described good teachers as those whom they had a trusting and participative relationship with. This trust was built on their perception that the teachers cared about them, wanted to help them and that they were open and approachable. The fact that these teachers were open and approachable, and had built a relationship with them, meant that young people felt able to talk to them when they got into trouble. Young people valued opportunities for participation in situations when they had misbehaved and described the teachers that they liked coming and having a dialogue with them about what had happened.

In contrast to this, young people felt it was important that they were treated with respect and dignity during police stops, particularly those that resulted in a search or arrest. Young people were very aware of the power that police officers had

over them and were frustrated and angry that there was little they could do to in retaliation when the police treated them badly. In contrast to their experiences at school, young people had come to expect very little from their encounters with the police and therefore focused on not on their ability to participate but on basic standards of respect. The way in which police officers spoke to them and how they treated them physically was important in communicating respect. Young people felt disrespected and degraded when they were shouted at, sworn at and when the police were physically rough with them. Their perceptions of respectful policing constituted basic standards of decency such as speaking to them politely and taking care with the physical nature of the search.

In addition, it was important to young people that the police were seen to be acting neutrally. Their perceptions of neutrality were shaped both by whether they felt the police to be stopping them based on facts rather than bias and whether they felt the police followed their code. Firstly, young people objected to the police not following their code, particularly in situations where the police could get away with shouting and swearing at them and being physically aggressive but similar behavior on the part of young people would result in their getting into further trouble. This feeling that there was one set of rules for the police and another for them, coupled with the fact that this rendered them largely powerless to do anything about the poor treatment that they received, made young people very angry and frustrated.

Secondly, young people felt it was important that the police were neutral in that they stopped and searched them on the basis of information that they had received rather than because of bias. Young people tended to feel stereotyped because of their youth, the area in which they lived and the type of clothes they wore, all of which caused them to be under the 'universal suspicion' of the police (see McAra and McVie 2005). When the police explained to young people why they were stopping them they were more likely to feel that their search was justified. This was in contrast to what they viewed as bad policing, where officers approached them without explaining what was happening. In some cases this was without warning and with the use of excessive physical force, which often resulted in young people getting angry.

Respondents described situations in which the aggressive treatment that they experienced from police officers led to retaliation on their part, which often escalated

the situation. Young people suggested that, in line with Tyler and Huo's (2002) research they were more likely to comply with police officers who treated them respectfully and who they felt were stopping them for a valid reason based on facts rather than stereotyping. This suggest that relations between young people and the police need to be strengthened and that respectful and transparent treatment could lead to increased cooperation with the police on the part of young people.

Overall, the research in this chapter suggests that elements of participation, neutrality, trustworthiness and treatment with respect and dignity are extremely important to young people in their encounters with authority figures. The context of young people's interaction with authority figures affects which of these factors they feel are most important. In particular, the research suggests that when young people have a conflictual relationship with authority figures such as the police, they are more likely to focus on whether they are treated with dignity and respect and whether the authority is neutral. Whereas, when young people have a less conflictual relationship with authority figures who have the scope to build a relationship with them, they place more importance on the trustworthiness of authorities and whether they are able to participate in decision making. In the next two chapters I will go on to compare young people's experiences in court and at the youth offender panel, and to explore their perceptions of their time at the YOT. As well as focusing heavily on the restorative justice elements of these processes I will also look at young people's perceptions of authority figures. This chapter provides a context for comparison of young people's perceptions of magistrates in court, panel members and youth justice staff at the YOT.

Chapter Five

Comparing young offenders' perceptions of court and the youth offender panel meeting

Background

As well as achieving its intended restorative outcomes, the panel meeting has the potential to display many of the features that are associated with procedural justice. However, concerns have also been raised about the coercive nature of the panel meeting. The majority of the research that has been done on procedural justice has been conducted with adults and there is very little research that focuses on young offenders experiences of both restorative and criminal justice processes more broadly. Therefore, this chapter considers how young people experience the formal court process and how this compares with their experiences of the comparatively informal panel meeting. Further to this, I consider what is important to young people in making up their judgements of these processes and of the different authority figures involved.

Once a young person has been issued with a referral order they are referred to, and required to attend, a youth offender panel (panel meeting) which is purportedly 'governed by the principles of restorative justice, responsibility, reparation and reintegration' (Ministry of Justice 2009:9). The panel meeting is arranged and facilitated by the youth offending team and is made up of one member of youth offending team staff and at least two lay community panel members, who should be representative of the local community (ibid:2009). In addition, the offender's parent, guardian or other appropriate adult is usually required by the court to attend the panel and victims may be invited to attend with a support person.

Restorative justice proponents argue that the passive non-participatory role that offenders have in court does not fully bring home to them the reality of the offence. Formal court processes fail to encourage an understanding of what the offender has done and prevent them from experiencing true accountability for their actions (Zehr, 1985). Arguably this is particularly the case for young offenders who, because of their youth, may find it more difficult to understand what is happening in court and feel detached from proceedings as a result.

Referral orders seek to address this and enable young offenders to participate fully in panel meetings. In theory the panel aims to allow the offender, the victim and their support persons to participate in the decision about what should happen as a result of the offence. Its aim is to provide a forum away from formal court proceedings to discuss the offence, and to agree and construct a contract that the offender must follow (Ministry of Justice, 2009). The referral order guidance states that the contract should be negotiated with the young person rather than imposed on them and they should have an active role in deciding what is in it. The panel meeting is intended to be an informal environment and offenders are encouraged to take an active role in talking about the offence in contrast to court where this is done through their lawyer. In being actively involved in the panel meeting, through talking about the offence and considering the effect of their actions on the victim and the wider community, it is intended that the offender will take responsibility for the offence (ibid:2009).

Evaluation of restorative processes has revealed high levels of procedural justice in offenders, in that they feel they have been treated fairly and with respect (Crawford and Newburn 2003, Sherman et al 1999;2000;2011). However, there has been concern raised about such informal procedures because they challenge conventional ideas of justice (Ashworth 2002). When referral orders were introduced there was concern over the 'fairness' of the procedure, particularly that young people would experience the panel meeting as coercive and punitive (Gelsthorpe & Morris, 2002; Ball 2000). In particular, it was suggested that the young offender would be powerless to negotiate the contract and would feel coerced into signing it (Wonnacott 1999). This chapter explores the links between procedural and restorative justice further in considering young people's perceptions of the panel meeting compared to their experiences of court, as well as considering the restorative aspects of the panel meeting.

During my research I interviewed children about their experiences and perceptions of court and the panel meeting. In their first interview children were asked about their experiences of being sentenced in court and what happened, who was there, how they felt and what they thought was the point of court. Respondents were also asked about their experiences at the panel meeting; firstly to describe what happened and then specifically about victim awareness work, agreeing the contract

and what they thought was the purpose of the panel meeting. At the end of the interview respondents were asked to compare their experiences in court to their experiences in the panel meeting.

In allowing children the space to talk about their experiences in court and at the panel meeting I was able to attempt to see things through their eyes. Respondents were able to tell me how it felt being involved in both processes and the way in which they viewed the adults who were present. The panel meeting is intended to be an informal environment away from the court room in which the offender is encouraged to take responsibility for the offence and participate in deciding what they will do during their time at the YOT. In this chapter I attempt to uncover how young people view this purportedly restorative process and how this compares to their perceptions and experiences of court. I will look particularly at which process is favourable to young people and what is important to them in making this judgement. I will also consider young people's experience of the restorative aims of the panel meeting, including the involvement of victims and the aim of encouraging them to take responsibility for the consequences of the offence.

Children's experiences of court

Experiencing the unfamiliar

For most of the children involved in the research, being given their referral order was the first time that they had ever been to court. They described feeling nervous, scared and confused about what was going on and frustrated at the amount of time that they had to wait before going into court. Children described waiting hours outside the court room before they were seen and some said that they had waited up to five or six hours before their hearing. For many respondents, their actual time in court was very short and some were frustrated that they had waited what they felt was '*all day*' to be seen for five or ten minutes.

The issue of children waiting for long periods of time to go into court was also raised in staff interviews. One case worker who worked in the court team and spent a large portion of her job at the youth court said that young people often had to wait before going into court.

> *I think for a lot of young people the waiting to go into court is the most*
> *frustrating thing. By the time they get in there, they're just so relieved*
> *that their time is up, because some of them will be sitting there from*
> *half nine until three o'clock in the afternoon.*

Waiting outside the courtroom prolonged children's experience of court and for many exacerbated their feelings of fear and anxiety. The following extract is sixteen year old Ruma's reflection on her time waiting to go into court and is typical of sentiments expressed in other interviews.

> *It was scary. It was scary because it was my first time, and I was just*
> *sitting there all nerve-wrecked, and I was just like thinking what was*
> *going to happen. Because you just don't know; you don't know what's*
> *expected, because they could easily just say I'm putting you into*
> *custody, and I just thought... I would sit there and cry, I would cry.*

This quote highlights a number of themes that were prominent in children's accounts of court. Ruma is scared because it is her *'first time'* in court; it is an unfamiliar environment for her. She describes feeling *'nerve-wrecked'* whilst sitting in the courtroom and this phrase captures a sense of anxiety that was shared by many of the children in the research. As well as being in an unfamiliar environment Ruma sees herself as being at the whim of decision makers in court who can '*easily just say I'm putting you into custody'*. Ruma had been arrested for shop lifting a t-shirt from a discount clothing shop, it was her first offence and there was no likelihood of her receiving a custodial sentence. However, she felt at the time, and still believed when I interviewed her, that she could have been sent to prison.

This fear of receiving a custodial sentence was shared by many children. A small number of these children had committed more serious offences and their fears of going to prison were warranted. However, for the majority of children there was little or no likelihood of this happening yet many of them still said they had feared a custodial sentence. The main reason for this appears to be a lack of information and support given to children and their parents prior to attending court.

Many children described receiving no information or support prior to attending court and were therefore left in a situation where neither they nor their

parents knew what would happen or what the likely outcome of the court hearing would be. As a result the child, and their parent or guardian, were left feeling anxious and confused. The anxiety experienced by parents whilst waiting to go into court was also highlighted in the staff interviews.

> *It's about their parents as well isn't it? A lot of the parents are not used to that kind of setting or whatever. It can be frightening for them. Obviously there's so many people there in a day getting sentenced or appearing at court. If you're there with your young person for the first time, you don't know what anyone else has committed, what crime anyone else has committed. You see people going into court and you don't see them coming back out again. It must frighten people who are not used to it, not used to the system. That young person who doesn't come out of court might have committed 20 robberies. But, as a mother, if you're there with your son or whatever for the first time and you don't know what's going to happen, it must be very frightening for them to see that and to see what's going on around them - people crying, people kicking off. It's not a nice place to be.*

(Youth Offending Team Case Worker, part of the court team)

The above insight, combined with the experiences of the children in my research, suggest that adequate information and support about the likely outcome of the court hearing could help to make the experience of court less traumatic for both young offenders and their parents. This is particularly important when children are attending court for a first time offence and do not know what to expect.

The purpose of having a separate youth court is to provide for the specific needs of young people so that they are better able to understand the process and can be treated in a manner consistent with their relative immaturity. This is consistent with a rights based approach to youth justice which advocates young offenders being treated in a manner consistent with their age and with their best interests as a primary consideration (Muncie, 2010). The United Kingdom ratified the Convention on the Rights of the Child in 1991 but has been criticized on several occasions by the UN committee for failing to adhere to its principles. In particular the committee report in 2008 suggests that the best interests of children are still not reflected as a primary

consideration in 'all legislative and policy matters' relating to them, especially in the area of juvenile justice (United Nations Committee on the Rights of the Child, 2007).

The lack of information and support that was revealed in my research, exacerbating fear and anxiety among children and their parents is not consistent with a rights based approach to youth justice. However, there is legislation in place to provide this support. Youth Offending Teams have a duty to engage with young people and their parents and provide information about the court process (National Standards for Youth Justice Services). The Youth Justice Board (YJB) recognises that it is important that children are 'prepared and aware of what is going to happen to them' and that, as well as receiving support from YOT staff , they should receive a leaflet about going to court (Youth Justice Board, 2009). However, none of the children in my research described being given this support and information from the YOT prior to their appearance in court or whilst waiting to go into the courtroom. This reflects the findings of a recent national report which suggests that YOTs are failing to fulfill this role for children and their parents (Criminal Justice Joint Inspection, 2011). For a small number of children, their fears of custody were allayed by their solicitor who explained what would happen in court and the likely outcome of the hearing. However, for many children like Ruma the absence of information or support made their experience of court all the more scary and confusing.

Perceptions of authority figures: Trust, neutrality and respect

In a similar vein to the discussion of their experiences with the police, young people cared about being treated with dignity and respect in the courtroom and were concerned that they were treated without bias. This links strongly to research on procedural justice, which suggests that the perceived neutrality in the decision making of authority figures and whether they are viewed as trustworthy are important factors in shaping people's judgements about the fairness of criminal justice processes as well as their feeling they were treated with dignity and respect (Tyler 2004).

When they were asked what it was like in court, many children said that it did not look *'how they expected'*, and they thought that court would be similar to the adult (and largely Crown) courtrooms that they had seen in films or on television. Some common misconceptions among the children were that the 'judge' would have a gavel (in their words *'that hammer thing'*) and that adults would be wearing wigs or robes.

When children were asked to describe who was present in court, the first people they focused on were the 'judge' or 'judges' who they described as being at the front of the court room. Interestingly, with the exception of a few, respondents did not identify these adults as magistrates and only two respondents, both of whom were seventeen, identified magistrates as lay volunteers. This suggests that the children's perceptions of the court room having characteristics of the Crown Court, which were expressed in their assumption that the adults would be wearing wigs or have a gavel, lead them to identify all adults in this position of authority as a 'judge'.

However, I uncovered in my research interviews with YOT staff that where a particular case was serious enough to warrant a district judge that judge would serve all day in the youth court. Therefore the youth courts attended by my respondents would have had both a bench of lay magistrates and a district judge serving, and a respondent could have encountered either. YOT staff members also tended to refer to these adults in court as 'judges' which may explain the term being used by the young people.

Children also mentioned their family, usually parents or older siblings, and their solicitor being present in the court room but most were confused about who the other adults in court were. A small number of respondents mentioned the court recorder who they described as the lady who *wrote everything down'* or 'kept *typing'* but they were unsure of why she was there. Linked to their perception that they could be taken into custody, a number of children identified the police or security staff at the back of the court room and were worried that they had the power to take them away.

> *A bit, a bit nervous cause I was… there was a couple of security people standing behind me and I didn't know if they were going to take me away or not, in case they said guilty, so I was like oh. [Interviewer: Yeah. So you kind of thought they had the power to take you away or…?] Yeah, yeah, because… well usually that's what happens in films, so I thought oh it might happen here, so there you go.*

(17 year old male, serving a three month referral order for criminal damage)

The judge or magistrates were viewed by many children as adults so removed from their own lives they could not have anything worthwhile to say to them. Indeed the

judges and magistrates serving in the youth court were of a very different social and ethnic background to most of the children in the research, and this point was made in the majority of staff interviews. The following quote is from an interview with a case worker who worked with young people at court as a representative of the YOT.

> *The judges that we have at x are quite good, but they are your typical white, middle class judges, a lot of them are anyway, most of them are. A lot of the young people that we work with here are not from that same cultural or ethnic background. I think if you're doing it in your own area and you've got panel members who are from x or from the surrounding areas, I think it's quite useful.*

The children themselves picked up on this difference between the 'judges' and themselves. The following exchange is from an interview with a seventeen year old young man, Ryan, who was serving a twelve month referral order for a drugs related offence.

> *Interviewer: Did you... would you have like to have spoken?*

> *Respondent: No, I didn't want to [speak]. Like, why... like why is a judge like a posh person gonna wanna talk to me? That's the way I see it as.*

What was particularly interesting about this conversation was that in his second interview Ryan told me that his opinion of the 'judges' had changed and that they had visited the YOT to congratulate some of the young offenders on raising money for charity (through selling the furniture they restored as part of their reparation). He described speaking to the judge for ten or fifteen minutes and said that *'he was asking me about what I do and stuff'*, he felt that this had made him feel differently about the judge and when I asked in what way he said *'That they're all right. They're just normal people.'* I later asked him about how he would feel if he saw them again in court and he said that he might feel more able to talk to them.

This is significant and suggests that away from the formal court room, if young people are given the chance to engage with authority figures their perceptions

can alter significantly. The socio-economic characteristics of the judge had not changed but this young man no longer viewed him as an inaccessible *'posh person'* because he had spoken to him and taken an interest in his life. In this situation Ryan was able to build a connection with the magistrate, in a similar way to those that many of the young people described having with their teachers. As procedural justice research suggests, when authority figures show that they care and are concerned about people's situation, they are more likely to trust them and as a result view the process as fair (see Tyler 2004). Ryan did not feel this way about the 'judge' in the formal court environment but had the opportunity to establish this connection in a more informal meeting.

As with teachers and police officers, respondents said that the way in which the judge spoke to them was important. Many children described judges speaking to them in a way that made them feel they were looking down on them and they were angry and frustrated by this. In particular respondents felt angry where they felt the judge or magistrate had made assumptions about them because they were a young offender. The following quote is from an interview with a sixteen year old girl, in which she had been asked to clarify why she felt the 'judge' was rude.

> *It was because of the way she was talking towards you, you just think, all right love, I'm sorry what I did, for... but you don't need to go that hard on me. Because you... It was just she was just being rude, like, she just thought she was bet[ter]... do you know when someone thinks they're better than you, and like yeah "I'm just sitting here, like, you know, da-da-da-da, look at you, look at where you're standing." And I just thought don't even think like that please.*

For this respondent it was not only the way in which the judge spoke to her that she objected to but also that she felt the judge was looking down on her in her position *'standing'* as an offender in court. In addition, she felt that the judge was 'rude' and was not treating her respectfully. Like their objections to the police stopping and searching them on the basis of stereotypes, many young people felt that the judge looked down on them and made an assumption about who they were as a young offender. Many young people alluded to the fact that the judge saw them in a negative light and described feeling degraded and isolated in court.

Derogatory behaviour toward young offenders on the part of judges has been revealed to be an important factor shaping how legitimate they view the court to be (Greene, Sprott et al. 2010). In addition, in contrast to restorative justice processes, court can be stigmatising for young people and this particularly relates to the actions of the judge (see Lemert, 1971/2000). If young people sense that adults in court harbour feelings that they are better than them or judge them on the basis of negative stereotypes then arguably they are more likely to feel stigmatised.

There was a strong sense in my research that children felt that the judge made assumptions about them as soon as they came into the court room and they were concerned that the judge or magistrates did not act on any stereotype or prejudice. For example, Brian, a fifteen year old African Caribbean boy discussed his feelings about the magistrates he encountered in court.

> *Yeah but, three people yeah, like it's three people, I don't know, they could have been sexist they could have been racist you don't know so it's kind of weird being in front of three people that you don't know how they are. They are meant to be respectable within the community but you don't know who they are so how do you know that.*

Brian had committed a robbery and could potentially have received a custodial sentence. He was therefore particularly concerned about the decision making process of the magistrates in court. He felt that the magistrates were making judgements about him and had, earlier in the interview, suggested that he did not know why but one of them *'hated'* him and that he *'could tell, she was trying to convince the other ones'* to give him a custodial sentence. Although Brian recognised that the magistrates should be *'respectable within the* community', he said that he did not know who they were and therefore he questioned their suitability to judge him. In Brian's eyes the magistrates were detached from his life, he did not know who they were and did not trust that they were *'respectable'.* This lack of trust in the magistrates led him to believe that they could be acting on the basis of stereotypes about his race or sex.

Again this links to research suggesting that the perceived neutrality and trustworthiness of authorities are important in determining whether people view the procedures enacted by them as fair (Tyler 2004). Previous research in this area has found that when young people view 'judges' in court to behave honestly and act in an

impartial way are more likely to view the court process as fair and hence believe the court system to be legitimate (Sprott and Greene 2008). Brian's concern with the impartiality of the magistrates supports the findings of this research and suggests that, as has been shown in research with adults, the neutrality of authorities is important to young people.

Participation

Research in the area of procedural justice has suggested that people are more likely to view criminal justice processes as fair if they are able to participate in decision making (Tyler1990; Shapiro and Brett 1993). As I outline below, it was important to the young people that they were heard in court. However, for many the formal nature of the courtroom and the perceived detachment of the 'judge' meant that they did not feel comfortable speaking in this environment.

The atmosphere of the court room and the unapproachable nature of the judges and magistrates had an effect on the extent to which children felt able to talk. Most children and young people said that they did not speak very much in court and that they merely confirmed their name and said their plea of 'guilty'. When I asked them whether they would have liked to have spoken more, many said no. Respondents felt that it was inappropriate or unwise for them to speak in court and that their solicitor knew how to speak to the magistrates and should therefore do the talking. There was an assumption on the part of the young people that they did not know how to speak to the 'judge' and that they might act out of turn. For example a seventeen year old boy who was completing a four month referral order, said the following during a discussion about why he did not want to talk in court.

> *Obviously when I'm talking with the judge, obviously I'll get bit, you know, and I'm saying like when I'm talking with the judge, imagine I say something dodgy, like something like obviously she will say "get out from my... get out from the room" and stuff. "Get your appointment date." So might as well let my solicitor talk for me.*

However, this is not to say that it was unimportant to these young people that they were heard in court. Many children who had not spoken in court described how they had explained to their solicitor their personal circumstances and those behind the case

and that this had been passed on in court via their solicitor. In some cases respondents believed that this had a favourable effect on the outcome of court.

> *My lawyer helped me though…..He really, really... told them that she's sick and that she didn't mean... so they were going to give me more if he didn't say that.*

> *(Female, Sixteen years old)*

This young woman suffered from mental health problems, which she had explained to her solicitor prior to appearing in court. She felt that her solicitor did a good job in reporting her circumstances to the judge and thought that she had received a shorter referral order because of this. This links with the findings of Sprott and Greene's (2008) research with young offenders which suggests that young people's perceptions of their lawyer are important in determining whether they view the court process as fair. In particular young people in this research valued being treated with respect and feeling that they lawyer fought hard for them in court (ibid: 2008).

Many of my respondents were keen for the judge to understand that they were doing something positive with their lives. A number of these children described how the judge was aware, either through talking to them directly or through their solicitor, that they were doing well in education or employment. One seventeen year old young man, quoted below, felt that his plans to join the Navy had affected the sentence that the judge gave him. When I asked why the judge had asked him about himself and what he was doing, he said the following.

> *Yeah, I think he was doing that so he could get a bit of understanding of who I am and see what I'm doing, because if I could be someone sitting there and doing nothing he might think, you know what I'll give you a different sentence, you know, because you don't care what you're doing. And then with me he's saying like you're applying for for the Navy, you're doing this and that, like you're sort of... sort of caring about what you're doing...so I can't understand why you took the phone sort of thing.*

This young man had been arrested for theft of a phone from another young person. He felt that he had been treated well in court and liked the fact that the judge asked him

about what he was doing with his life. He felt that in explaining his plan to join the Navy he was able to show the judge that he cared about what he was doing and that the offence was out of character.

The eagerness among young people to tell the judge that they were doing something decent with their lives was mainly driven by the desire to get a lesser sentence. However, it was also related to their perception that they would be stereotyped by the judge because they were a young offender. Several respondents who were in education described how the judge had realised they weren't like other young offenders because they were doing something with their lives and had just made a mistake.

Of the small number of respondents who were able to talk in court, most thought this was a positive thing. However, the way in which the judge questioned the young people was very important and had an effect on whether they reflected on the experience in a positive way. Hassan, a seventeen year old boy, who had been involved in a protest which became violent, described the confrontational nature of the judges questioning and was very angry about this. In the following extract he talks about his experiences of speaking on the two occasions that he attended court.

> *Um, the first time was just my name, my address, date of birth, guilty or not guilty and that was about it really. Second time though they started off with negative questions, like, "Oh, what do you have to say about yourself." They didn't... Not even like, "So how the day went?" They didn't ask my view on this, like, "What do you have to say with yourself, sort of...?" I just started saying, "Sorry..." this, that. Explained that I regret and then yeah, they went to their room, had a talk, come back and said, "Yeah, ten month referral order."*

The importance of the way in which adults talk to young people was also evident in their definitions of 'good' and 'bad' police officers. Police officers who showed them disrespect by talking to them in an aggressive manner or making derogatory remarks were viewed more negatively. Hassan did not like the way in which the magistrates were questioning him in court and he felt that rather than asking his view on things and encouraging him to participate, they were confronting him and asking him 'negative questions'.

Hassan was comparing his treatment in court to that in the panel meeting when he said that the judge did not ask him *'how the day went'*. He later went on to describe how the panel members had asked him to explain the offence in his own words, asking him about the events leading up to the offence. Like many respondents Hassan valued that fact that he was able to talk about what happened from his point of view in the panel which he did not feel was possible in court. Restorative justice processes, including the panel meeting, work on the basis that it is crucial for the offender to be involved in decision making and therefore encourage them to talk about the offence, ensuring that a separation is made between the wrong and the wrongdoer (see Braithwaite 1989 on reintegrative shaming). Hassan felt that the confrontational nature of the judge's questioning did not allow him to talk freely about the offence and as a result he was angry about the way he was treated in court and felt it was unjustified.

Comparing court to the Youth Offender Panel

Aims and atmosphere

In contrast to their experience in court, most children reported receiving information and support prior to their panel meeting. Although young people described feeling nervous before going into the panel, most described going to the YOT beforehand and having the panel process explained to them by their case worker. Several children said that they knew what to expect from the panel and as a result did not feel as scared as they had in court. This information and support from their case worker, combined with their experiences of the panel meeting, meant that most children could articulate the different aims of the court hearing and the panel meeting. Children distinguished between the court giving them a sentence and telling them that their behavior was bad, and the panel meeting helping them to move on and to not re-offend.

> *Um the court I feel they just give you your sentence and kind of tell you off, but...the panel I feel they try to help you and try to allow you to have a second chance. Even though you have been to court. It's like the court is finished now, the panel's here, they're trying to help you stay you know on the right path, it's good yeah.*

This respondent, a 17 year old girl named Amy, felt that the panel meeting was about

moving on and looking forward after the offence. She felt that *'even though'* she had been to court the panel meeting was not about dwelling on this or what she has done wrong but instead focused on helping her to move forward. This has strong parallels with the reintegrative aims of restorative justice and is indeed a key aim of referral orders. Restorative processes seek to enable the offender to make amends for the crime that they have committed and be welcomed back into the community. One of the three 'Rs' encompassing the government's definition of restorative justice is reintegration, that young offenders are able to pay their debt to society and rejoin the law abiding community (Home Office 1997). Amy saw the panel meeting as a sharp contrast to the courtroom because it allowed her to have a second chance and steered her onto the *'right path'* away from crime.

The majority of respondents did not view the panel meeting as punishment but many felt that the purpose of court was to scare or punish them. The following quote is from an interview with a sixteen year old girl during a discussion of why she felt different in the panel meeting compared to court.

> *In court I'm sitting there like all nervous, and here I wasn't nervous because like because you know it's not a punishment, and you just... you've been told before panel meetings only so a member the public can come sit and decide what you should do. Like it's not... you know it's not court; you know it's not going to be as bad as court because in court they can say anything, but here they're not going to send you down for nothing, really and truly; they're just going to tell you right you've done this, we want to talk about what you have to do to make up for it. So yeah, you get that in school anyway. Like you done this, you're going to get detention; well I never used to go detention, but yeah, it's the same thing, it's just a bit harsher than school.*

This young girl felt that the panel meeting was *'not as bad as court'* because they did not have the power to *'send her down'*. She felt that the panel meeting was less about punishment and more about talking to her about the offence and suggesting ways in which she could *'make up for it'*. Reparation is a core principle of restorative justice and a key element of a young person's referral order contract. In principle young offenders are required to carry out reparative activity either to the victim or to the

wider community which will enable them to make amends for the offence and re-join the law abiding community. However, as I shall go on to discuss in the next chapter, none of the young people in my research carried out direct reparation to their victim and instead took part in community payback schemes.

When they were asked to compare their experiences in court and in the panel meeting many respondents also said that the court *'felt'* very different. Linked to their perception that the panel meeting was there to help them, rather than to punish or tell them off, children described the '*atmosphere'* as being very different from that in court. Children described feeling more *'relaxed' 'calm'* and *'comfortable'* in the panel meeting and a number of factors influenced these feelings. The following is from an interview with John, a 17 year old boy who explained why the panel meeting felt different from court.

> *Cause you're in a small room [at the panel]... with just three other people...Um, yeah it's... Yeah, it's a lot... a lot calmer, a lot less formal; everyone's got a cup of tea or a coffee, except for me, but yeah. So yeah, it's just completely different, it's better.*

John felt that the size of the room and the number of people present distinguished the panel meeting from court. As a result of this he described the panel meeting as '*calmer'* and '*less formal'.* In saying that the panel felt *'calmer'* he was reflecting on the atmosphere of the panel meeting and his feelings of calm whilst present. The fact that the adults at the panel meeting have a cup of tea or coffee is significant for John, it is likely to be reminiscent of everyday interactions that he might have with other adults outside of the criminal justice system such as his parents or teachers. This contributes to a view of these adults as approachable and friendly.

As well feeling that the size of the room and the number of people present made the panel meeting different to court, the way in which the room was set up was also very important to children. In talking about their experiences of court they recalled the fact that the judge or judges were behind a desk at the front of the room. Children described feeling *'separate'* or *'isolated'* from the rest of the court, which was in contrast to their experiences of the panel meeting in which many described sitting in a circle or group.

Yeah, it felt different [in the panel]. Because the court room was, like, you know, all set out, desks the prosecutor, whoever she is. I don't know what her job is, but, yeah she is at the front. And then in that room [the panel] they were just like in a circle and just talking about what happened.

(14 year old girl)

Perceptions of authority figures at the panel meeting

The smaller size and circular layout of the room, as well as fact that there were fewer people present, meant that respondents were able to talk about what happened with the panel members. Most children described having their case worker present at the panel meeting, who they had generally met beforehand. However, children were unsure of the distinction between community panel members and youth offending team staff. Respondents distinguished between their case worker (whose name they generally knew) and the 'other adults' at the panel (whose names they did not recall). Many called these other adults *'panel members'* but did not identify them as volunteers from the local community. The few respondents, who did know that the panel members were volunteers, were all seventeen, and even they were confused about their role and did not identify them as being from the local community.

Yeah, Imran works here. The... the Jane lady did, the other guy was um... he was some sort of independent view... commission viewing panel, but he still kind of worked with the YOT team. He... he was um, a governor. You know when you get school governors they're not exactly... they don't get paid for what they do. They're like external.

(17 year old Male)

My findings echo those of the initial evaluation of the introduction of referral orders, where 91% of young people said that they understood what was going on in the panel meeting, but when interviewed many were unsure who was present and some were unable to distinguish between youth offending team staff and lay community panel members (Crawford and Newburn 2003).

In most of the panel meetings that I observed it was not made clear to the young people that the panel members were volunteers from the local community. Panel members introduced themselves at the start of the meeting but did not clearly explain their role to the young people. As a result, unless it came up in conversation in the panel meeting, young people did not know that they lived in the local area. One young person even told me that he had been very surprised when he saw one of the panel members at his local youth club, he said he '*didn't know she lived round here*' and had been surprised when she told him that she was a youth worker and did not work at the YOT.

However, there was a notable exception to this during the research. Near the end of my fieldwork I observed a final panel meeting, constituting the end of a four month referral order for a 17 year old mixed race young man called Jake who had been convicted of a relatively minor offence involving theft of a pedal bike from another young person. Although he had completed his referral order successfully, Jake had been identified by local police as associating with gang members and as a result had been asked to take part in a gang intervention programme at the YOT. Jake was extremely angry about this (so much so that he refused to be interviewed for the research) he started off the meeting by staring at the floor and refused to engage with the panel members or his case worker. When the subject of the gang intervention programme was mentioned Jake angrily said that he wasn't in a gang and he had finished his referral order so why did he have to come back. One of the panel members, a middle aged West Indian lady said that she understood how he felt, she had a son slightly older than him and they lived on the estate next to Jake's. She said she imagined that the alleged gang members were friends he had grown up with from childhood. At this point Jake looked at her and nodded, the panel member then went on to talk to him about his IT course and what he wanted to do with his life. Jake was there with his mother and his baby brother was in a pushchair next to him. The panel member urged him to look at his brother and think about what kind of role model he wanted to be for him and to think about his career and how being associated with a gang could get in the way of that. By the end of the meeting Jake was smiling at her and had agreed to take part in the gang intervention programme.

Observing this panel meeting made me realise how important it is in restorative justice to involve volunteers who are able to make a connection with the

young person. Although referral order guidance states that volunteers should be from the local community, this does not always mean that they are necessarily able to engage with the young person involved. Both the YOTs that I did my fieldwork in recruited volunteers who lived in the borough, however, these volunteers were not necessarily people that the children could relate to. I was told in the staff interviews that the panel members were varied and that the best ones were those who lived in the area and took an interest in young people, rather than those who were doing it for work experience or to further their career (which I was told at both YOTs was a common motive among panel members). Community has been highlighted as contested concept in restorative justice and is arguably ill defined by many restorative proponents. If we define community as a feeling of being connected to other people (as defined by McCold & Watchel, 2003) then we should think more carefully about who young people might feel connected to. Jake engaged with the panel member because she came from his local area and also because she understood his life. This suggests that recruiting volunteers who young people feel are genuinely from *their* local community is not as straightforward as selecting people who live in the same borough or town as them.

This issue was also raised in staff interviews; they felt that it was essential for young people to be able to relate to panel members in order for the panel to have an impact on them. This meant that panel members understood where the young person was coming from and what life was like for them. The following quote is from an interview with a staff member who had worked at a YOT in another city where she felt that young people were able to relate to the panel members.

> *..there's a lot of people on the panel who'd maybe been in trouble themselves when they were younger or come from similar backgrounds as the young people, so that's quite nice that young people can relate more so to panel members than I think they can do to the judges and the magistrates.*

Regardless of the fact that children were unaware of the panel members' being from their local community, they generally felt that they were treated well by them. Children described panel members as being *'friendly'* and *'nice'* and most felt very positive about their overall experience in the panel meeting

In contrast to their perceptions of the judge making assumptions about them, a number of respondents said that they felt the panel members were not *'judging'* them. For example the following quote is from an interview with a fifteen year old male during a discussion of why the panel meeting was different from court. He refers to *'here'* as the panel meeting compared to court.

> *When I come here they say, um like, basically when I go to court and they say something like, they're saying as they're judging me and when I come here like they say, "why did you do that" as in they listen to my point of view.*

In saying that in court the adults (magistrates or judge) were *'judging'* him, he is referring not just to their determination of the sentences that he will receive, but to their judgement of him as a person. This links back to the previous section where I outlined children's feelings that the judge was looking down on them and was prejudging them because they were a young offender. In the panel meeting the respondent does not sense this judgement and feels that at the same time as confronting him with the offence in asking him *"why did you do that"*, they are also interested in him and his explanation of what happened. This relates to Braithwaite's (1989) theory of reintegrative shaming; this young person appreciates the way he is treated in the panel meeting because the judgement of him as a person is separated from judgement of the offence as wrong.

However, as was the case in court and in encounters with teachers and police officers, the way in which the panel members spoke to the young people was extremely important to them. When respondents felt that the panel members were merely telling them off they had a more negative view of the panel meeting overall. For example, the following extract is from an interview with a seventeen year old male.

> *Yeah. I told them like what happened, I was drinking first thing in the morning and one of the Panel Leaders started saying, you shouldn't be drinking, blah blah blah, I was like, it's not got to do with you so why are you talking, the main panel leader is there, if she wants to say it she can say it, but she will say it in a nice way so you don't need to speak. And I told her.*

As well as objecting to the way in which the panel member spoke to him, this respondent also objected to the fact that she interrupted him whilst he explained the events surrounding his offence (a conviction for assault and drunk and disorderly). For him this interruption constituted a lack of respect and because of this he viewed this panel member in a negative light and was unwilling to listen to what she had to say. He viewed one of the other adults, whom he describes as the *'panel leader'* in a more positive light because he saw them as speaking to him in what he viewed as *'a nice way'* and genuinely listening to what he had to say.

The importance of the way in which panel members questioned young people was also brought up in the staff interviews. A youth offending team case worker said the following when I asked him what he thought panel members could do to make the panel run effectively and in the way it is intended.

> *I think engaging people. I think asking the young person what they think about things. How they felt at a particular stage. But actually meaning it as well. I've also heard people ask those questions but really haven't listened. So I suppose what I want to see there is some kind of active listening, where you're asking a question and you listen to the reply and then you come back with something so that people can see you're listening, rather than - and I've seen people do this – almost read it off: "How do you feel about the offence you committed now?" And then they're reading the next question while the young person is talking, which is clearly a waste of time really. Because everybody will pick up on that.*

This case worker was very keen to emphasise that panel meetings were one of the best parts of the youth justice system and that they could be very positive but that this was largely dependent on the panel members and the way they interacted with the young people.

Participation in the Panel Meeting

Restorative justice aims to involve all the parties in the dispute, the offender, the victim and the community coming together to decide what to do in the aftermath of an offence (Marshall 1999). It is therefore essential that young offenders are afforded the

opportunity to participate in the meeting fully and there should be space for them to explain their views and background. The offender's participation in the panel meeting is also one of the key aims of referral orders, which seek to encourage young people to explain 'how and why the offence came to be committed' (Ministry of Justice 2009:35).

In line with research on procedural justice, the majority of young people placed a high value on their ability to talk in the panel meeting and explain the offence from their point of view. When asked to compare the panel meeting and being in court most respondents said that the main difference was that they were listened to more in the panel meeting and were able to talk more.

Having a 'voice' or a say in the panel meeting was very important to the children in my research. When they were asked what they talked about in the panel meeting most said that they were able to explain what had happened during the offence in their 'own words' and how they felt about it. This was seen in contrast to the courtroom where in most cases children were unable to talk. The following quote, from an interview with a 17 year old girl is illustrative of the sentiments expressed by many other respondents in the research. I had asked her how she would compare the panel meeting to court and this was her response.

> *It was different coz obviously I got time to talk, in the court you couldn't really talk. If there was something wrong you couldn't say 'oh no that didn't happen'. In panel you could talk you could just tell them how you felt, why you done it and stuff so yeah there's a big difference between court and panel.*

In explaining the offence in their own words, children were able to explain the circumstances behind the offence and why they had *'done it'*. As well as being given the time and space to talk about the offence, children also felt that the panel members were interested in them *'as a person'*. The following quote is from an interview with a seventeen year old girl when she was asked what she thought the point of the panel meeting was.

> *I don't really know, I think probably to find out about the individual as themselves, not as how they are with their friends, family whatever.*

Um I think they wanted to find out more about the person and their background and find out what may have caused the incident to happen or you know for me I think it was... I was in the wrong place at the wrong time.

This links with research on procedural justice which suggests that it is important for people to feel that authorities care about them and respect them and that they are more likely to view processes as fair when this is the case (Tyler 2004). The young woman quoted above had positive view of the panel meeting and valued the fact that it aimed find out what happened rather than making assumption about her as an offender.

The vast majority of respondents felt that they were able to speak a lot in the panel meeting and put across their 'side of the story' or 'point of view'. Not only was it important to respondents that they had an opportunity to talk but they also valued the fact that the adults at the panel meeting listened to them and were interested in what they had to say. The following quote is from a sixteen year old girl during a discussion of whether she felt that the adults at the panel meeting were listening to her.

They were actually, because it was my time, and their time to help me and to get... understand my point of view, not the courts... what I've told the police, so they said we want to hear it from you. [Interviewer: And did you think that was a good thing, or...?] Yeah, it's a good thing that they're listening to what... what is... that what I have done coming from my side, not the police's side, or anybody else's side. They were fair with me.

This young girl felt that she had an opportunity to talk about the offence from her '*side*' and she distinguishes this from her experience of court where things were from the '*police's side*'. She feels that in listening to her and trying to understand things from her perspective the panel members were '*fair*' with her. This offers some support for research that suggests that having an opportunity to participate in decision making in criminal justice processes leads people to see those processes as fairer (Tyler, 2004).

However, although children felt that they were heard in the panel meeting, they did not have much of a choice over what went into their referral order contract. Both the previous 2002 guidance and the 2009 revised guidance on referral orders states that the contract should not be imposed on the young offender, but negotiated with them (Ministry of Justice 2009). This is reflective of the principles of restorative justice which require the offender's inclusion in determining a way to move forward after the offence and how they will make amends for the harm caused.

Children understood that their contract was a list of things that they had to do during their referral order, however, most could not recall what was on it during their first interview. It was only in their second interview when they had completed their activities that young people were able to reflect on what they had done as part of their contract and why.

A significant proportion of the young people in my research did feel that they had a say about what went into their contract and that their personal circumstances as well as their needs and interests were taken into account. However, when I probed about this, respondents tended to say that the adults at the panel meeting suggested activities that they felt would be appropriate and enlisted the respondent's agreement. Respondent's actual choice over what they did was limited and mainly consisted of choosing between two types of reparative activity. However, because the adults enlisted their agreement and asked them what they thought they felt they were being involved in the process.

When I asked staff about the extent to which young people were able to have an influence over what went into their contract they also said that this was not the case. I asked Jessica, one of the referral order co-ordinators, whether young people had a say over went into their contract and her response was as follows:

> *Not really, I mean if a young person was saying to me. If it was something around I really want to join a football team, then we might add something to the contract, we might refer them to constructive leisure. If parenting hasn't been mentioned but mum says I'm really struggling, we might pop a referral into them……Yeah, so included in the report you will have a list of recommendation and the panel tend to follow those recommendations.*

Not only does Jessica imply that the young person themselves has very little impact on what goes into their contract, she also infers that 'the report', which is written prior to the panel meeting by the young person's case worker, largely determines what is included in their contract. This questions the stated purpose of the panel meeting, and restorative justice processes more broadly which is to involve the offender, the community panel members and the victim in deciding what will happen as a result of the offence (i.e. what will be included in the contract).

Interestingly the children did not feel that it was unfair that their participation had little influence over what went into their contract. Similar to the trust they placed in their solicitor, there was a sense that the children felt the adults running the panel meeting knew best, and that they were not qualified to have a choice of what went into their contract. For example, the below extract is from a discussion with a 17 year old male.

> *Like in the panel I wasn't really in charge, I don't think they wanted to do a lot in the panel....like I think they knew what I should do, so like how can I say 'I'll do this' when I don't even know what that is...so*

The young people valued participating in the panel meeting and felt they had a strong voice within the meeting even though they recognised that their participation had very little influence over what went into their contract. This is significant and fits with research that suggests that people value the opportunity to express their views to decision makers even in situations where they believe what they are saying had little or no influence on the decisions being made (Tyler 1987; Lind, Kanfer et al 1990).

The Youth Offender Panel, Restoration and responsibility

Victim work

The statutory guidance states that all identifiable victims or representatives of corporate victims should be given the opportunity to attend the YOP meeting and that their needs and wishes should be addressed (Ministry of Justice 2009). And indeed one of the key aims of referral orders is, 'restoration': the young person apologising to their victim and making amends (Home Office 1997: 9.21). However, none of the

young respondents in my research had a victim present at their panel meeting. One of my research sites had had two youth offender panels with victim attendance in the past three years, and the other had never had a victim attend.

Arguably, it is difficult to have a fully restorative process when the victim is not involved. Victim involvement is generally held up as a core element of restorative justice. It is advocated that restorative processes should address the needs of victims, offenders and their communities of care. However, McCold (2000) argues that programmes that involve only two out of the three stakeholders are 'mostly restorative'. He argues that this approach can address offenders' needs for accountability and engage the offender and their communities of care in repairing harmed relationships (McCold, 2000). McCold's argument is that although these practices are not fully restorative they are sometimes all that is available and are preferable to non-restorative approaches.

I interviewed victim liaison officers at both of my research sites and they said that most of the victim awareness work was done with the young person *after* the panel meeting as part of their referral order. However, panel members always spoke to the young person about how the victim might feel; victim impact statements were taken where possible and in some cases were read out at the panel meeting with the victim's agreement. In addition, I interviewed referral order coordinators and case workers about victim involvement in the panel meetings and a number of common barriers to victim involvement were mentioned throughout these staff interviews.

Firstly, staff often said that the national standards that were placed on YOTs to 'Hold an initial youth offender panel meeting within 20 working days of the court hearing' meant that the panel meeting could not always be arranged at a time that was convenient to the victim. The following quote is from an interview with one of the referral order coordinators.

> *I mean I think that um kind of our constraints around national standards have a bearing. But in a realistic world I understand we need national standards because otherwise things would be abused and not happen for six months. But I do think that is one of the*

difficulty because you are constantly working to a target and a tick box
as opposed to um you know an outcome that is person centred, they
contradict each other. Oh the victim wants to come but they can't come
for two weeks, well the panel's got to happen next week.

Secondly, the victim liaison officers mentioned that victims were often afraid of facing the offender, particularly when they had been involved in a violent offence. However, it is important to recognise that victims are likely to have these feelings of fear or anger after an offence and that it requires victim support staff with relevant skills and expertise in order to involve victims in restorative processes. Evans (2006) carried out research into victim involvement in youth offender panels and found that insufficient planning and funding for victim support workers meant that they either did not have adequate time, or did not have the required skills to do the job properly. Inspection reports of youth offending services around the country since 2004 have pointed to a widespread failure to involve victims in youth offender panels on a regular basis. This suggests a need for a significant increase in resources targeted towards involving victims in order to increase their participation in youth offender panels.

However, the lack of victim involvement was not simply down to their reluctance to take part. The YOTs approach to involving victims in the panel meeting was cautious and staff were often concerned that both the victim and offender could cope with the process. One of the victim liaison officers, who had worked at the YOT for a number of years said that she had faced a large amount of resistance to introducing victim involvement at the YOT and that senior staff were concerned that it met with 'risk assessment':

Yeah. We've had ... in the three years I've been here I think there
were two that I went with. I've worked a few where the victims wanted
to attend, but then the YOTS turned around and said, "No, it's not
appropriate". Their assessment of the young person is that they would
re-victimise them or that they can't handle the victim's presence at the
panel. Yeah, there have been occasions where victims wanted to
attend, but been unable to.

This risk averse attitude was not limited to senior management staff. A number of staff members felt that victim involvement was only appropriate in certain instances. It was often suggested that if the young person was not ready and did not feel empathy then there was a potential for them to re-victimise and further upset the victim. The following quote if from in interview with a case worker; I had asked him what he meant when he said the offender needed to be 'ready' to face the victim at the panel meeting:

> *Whether they feel empathic, whether they feel remorseful because some young people don't. Sometimes they'll have pleaded Guilty to the referral order on the advice of their solicitor or they will have pleaded Guilty because they know they did it and they want to accept that they did it but they won't necessarily have that level of remorse or empathy for the victim. So you have to make sure that the young person is at the right point before you introduce restorative justice conferencing or mediation. They have to really be up for it because otherwise there's no point. Otherwise you'll have the meeting and then the victim will know that the young person doesn't really feel sorry for what they've done and it's very transparent. Then the victim will get annoyed, their barriers and defences go up because they have this young person and they're just in a horrible sort of situation. So it can be very successful and useful if they're both ready, the victim and the offender but they have to be ready for it.*

The quote above outlines many of the potential problems that are inherent in restorative processes, there is the *potential* for offenders to show little remorse and for this to further anger the victim. However, restorative processes aim to challenge these types of feeling in the offender. In bringing the victim and offender together, the intention is that the offender is able to hear the effect that the offence has had on the victim and that they will feel ashamed and sorry about this. Therefore, the offender lacking feelings of empathy before they have even had a chance to meet the victim should arguably not be a barrier to victim involvement in panel meetings. One of the victim liaison officers described a situation in which they were able to overcome this type of attitude in the offender and involve the victim in a panel meeting.

> *Yeah. The most recent one that we had actually, I had one about a month ago and in the referral order interview, the young person had said, "He should get over it by now. I don't know what he's complaining about. He's blowing it out of proportion". The attitude he presented with was kind of like ... his YOT worker said, there is the potential to re-victimise. But we were able to work around that just by informing the victim that, "This was the attitude that he was presenting with in his interview. He may present like this at panel. Do you still want to go ahead?" and assessed whether he could cope with that because it was a young victim as well. He was able to attend and it did go well, the offender was different by the end, he was sorry.*

Of the respondents in my research who had an identifiable victim, a small number held similar attitudes to the young person described above and thought that the victim was partly to blame for the offence. Although, they said that the panel meeting had made them think about the victim, they were adamant that it was not entirely their fault. For example, one young woman who had been involved in the assault of a restaurant worker claimed that he had provoked the offence by using racist insults towards her and her friends and as a result she did not feel any remorse. When I asked her whether the panel meeting had made her think about the effect of the offence on the victim she said the following.

> *Yeah, they did talk about it, but not that much, they were asking how he felt. How you think he would feel about it if...... five girls just came up to him and Stuff like that, but yeah, I was understanding where they was coming from....but......[Interviewer: Do you think that made you think about...?] Um a little bit, but not really because what he was doing and the things he was saying wasn't really nice. So, yeah, I didn't really show that much remorse for it.*

This young woman told me in her interview, and I later heard the story from her case worker, that she and a group of friends had got into an altercation with a restaurant owner and that one of her friends had been violent towards him. She claimed that she had only been verbally abusive towards him after he used racist insults towards her and felt that she had nothing to be sorry for. In this case a restorative meeting between

victim and offender would have been difficult. But if successful, it is possible that it could have engendered a greater mutual understanding between the girl and the victim.

However, different restorative justice proponents have different ideas about when restorative justice is appropriate. As is acknowledged by Ball (2000), referral orders are compulsory, and this coercive element goes against restorative justice which is based on cooperation. This point was also raised by one of the victim liaison officers who had completed Masters in which she focused on restorative justice.

> *It is. And I think most of the people that come from a restorative justice background either did their Masters or have been working with RJ for a while, most of the ones I've spoken to all agree that the way it's done on the youth side is a bit difficult because it's kind of, in certain situations, against the principles of restorative justice being voluntary and them accepting responsibility for what they've done. I think, first of all, it's acceptance of responsibility which doesn't always happen because sometimes they're still in denial. Kids here are still saying, "I've done it but he started it" or "He punched me first" and then you think, to me, that's not the ideal scenario for restorative justice. And it does happen a lot here.*

One of the key aims of referral orders is to encourage young people to take responsibility for their offending behaviour and increasing awareness of the effect that their actions have on the victim is an essential part of this. Arguably the young people who express the kind of sentiments above are those who need the most encouragement to take responsibility for their offence and therefore could benefit from a fully restorative process.

Although victims were not present at the panel meetings of any of the young people involved in my research, most respondents reported that they were encouraged to think about the impact of the offence on the victim during their panel meeting. When they were asked what the panel members said, most described being asked how they thought the victim felt or how *they* would feel if they had been in the victim's shoes. Respondents also reported being encouraged to think about how the offence could have affected the victim and their family. When they were asked whether this

had had an effect on how they felt about the offence most respondents said 'yes' but they were not willing to say much more than this. In this part of the interview children responded to questioning with one word answers and were unwilling to talk at length.

Where their victim was a corporate entity, such as a shop, respondents were more willing to talk about this and several described how they had been asked to think about all the different people that had been affected by their offence. For example, the following extract is from an interview with a 17 year old male respondent who had been convicted of criminal damage after breaking into a car park with his friends:

> *Or... or they... they actually said um, how many people do you reckon that this affected... and then at the end we had sort of had a big list of like, there was like thirty people on it, even... even... even though there's no one directly... involved... there was like people that live there, people that have bikes in there, people that have cars in there. Sort of my family. So everyone involved. So yeah, they still... we still came up with quite a lot of people from, even though there was no sort of direct victims... they were like, yeah um, it still affects a lot of people.*

Where there was no identifiable victim respondents were happier to talk about how they felt and reflect on their actions, the majority of which involved various forms of criminal damage or shop lifting. The offences which respondents had committed where there was an identifiable victim involved violence, threatening behaviour and theft from a person. Victims included other children and young people and adults. It has long been recognised by restorative justice proponents that restorative processes are not necessarily a "soft option" and often involve difficult and emotional processes for the offender (Walgrave, 2001 :17). Encouraging the offender to think about the effect of their actions on the victim and to think about how the victim felt is not likely to be easy for young offenders but is arguably essential is enabling them to take responsibility for their actions. I will go on to discuss in the next chapter the victim awareness work that was carried out with young people after the panel meeting during their referral order.

Taking responsibility

Although respondents did not view the panel meeting as a punishment they did feel that its purpose was to think about the consequences of the offence. As well as describing the victim awareness work that went on in the panel meeting, just under a third of respondents also felt that its purpose was to make them think about their behaviour and the consequences of the offence, as well as how they could have acted differently. For example, a fifteen year old male who had been convicted of Actual Bodily Harm said the following when I asked what he thought the purpose of the panel meeting was.

> *Um, like, stop um, trying to stop us getting into crimes. Like they're saying, like if you do, if you argue, like basically for example like, if someone argues on a street with, like on, like basically, if I argue with someone it's going to get bigger and it's going to get into a fight...I'll get arrested for that.*

This young man felt that the panel had made him think about the consequences of his behaviour and how he might behave differently in the future. He was encouraged to think about what had led to his being arrested and how he could act differently if he found himself in this situation again.

As well as thinking about the consequences of their behaviour, young people also described how they were confronted with the reality of their offence and whether the way that they had behaved was right. The following quote is from an interview with a seventeen year old girl who had been asked what she felt the purpose of the panel meeting was.

> *Umm, to benefit the young people basically so that they can recap on what's happened what do you think you could have done better?' and like 'if you didn't do this what could you have done?'. That's yeah, it's just to make the young people think like 'do you really think that what you did was right?' and just to give them just like a couple of activities and things just to get them thinking about it more coz like they are on a referral.*

Braithwaite's (1989) theory of reintegrative shaming suggests that it is beneficial to have people who the offender cares about in a restorative process because the offender is more likely to connect with the disapproval of their loved ones, particularly if it is followed by reacceptance, than they are to the opinions and actions of criminal justice professionals. In theory if young people's parents are present they are more likely to 'face up to the consequences of their offence and to take responsibility for their behaviour' (Home Office 1997, p. 9.21). The vast majority of the young people I interviewed (with the exception of one) had a parent, carer or sibling with them at the panel meeting. When they were asked how they felt about having their parent or carer present respondents were reluctant to talk at length. The majority said that it was 'alright' having their parents there. Many said that they didn't mind because their parents already knew what was happening with the offence and had been at court with them. Several also said that they liked their parents being there because it would enable them to know what was going on and they could help them with attending their appointments at the youth offending team.

A small number of young people said that they were embarrassed to have their parents present because they did not want them to hear the details of the offence and that they would rather 'sort it out themselves'. This was particularly the case where children said that the panel meeting had touched on their personal lives such as the fact that they had a boyfriend or drank alcohol. In addition, a number of respondents mentioned that they felt *guilty* about their parent or carer having to attend the meeting when they had already accompanied them at the police station and in court and had to hear about the panel meeting again. Respondents were not willing to talk at length about this in the research interviews but I got the sense that their parent's presence had an effect on them. Some respondents' reticence when questioned about this aspect of the panel meeting was revealing and this silence seemed to suggest that that it was difficult for them because they felt embarrassed or ashamed.

The role of parents or carers in the panel meeting was also discussed in staff interviews. Several staff members emphasised the importance of having an adult who was significant to the young person present at the panel meeting; in order to engage them and encourage them to take responsibility for their actions.

Their role is important because it gets them to be accountable and sometimes the parents help the young child to be accountable for their actions and so I think it's quite important. Personally, I think we have, in the criminal justice system, where there are no parents around, where a young person might live in a hostel or with not an immediate parent or family, we find it more difficult to engage with them. So it's always better to have a parent or significant other who's actively involved in the young person's life.

(Referral order coordinator)

The parent's reaction to victim impact statements was also outlined by one of the victim workers as having an effect on how the young person felt about the offence:

...if it's a good impact statement, yes you can see it, particularly in parents. I've had parents cry when they hear the impact it's had on someone which I think is more profound for the young person than me reading it. It's like, "This is how my mum or dad feels hearing what I've done".

(Victim support officer)

This staff member emphasises the importance of the young person seeing not just the effect that their crime has had on the victim but also the impact it has on their parents. In the case described above, as well as feeling ashamed at what they have done to the victim, young people are likely to feel guilt and shame because of their parent's reaction.

Although, just under a third of respondents said that they thought the purpose of the panel was to make them think about the consequences of their offence they did not always acknowledge that they were responsible for their actions. A number of children said that they had felt sorry or ashamed straight after they had committed the offence and they were keen to tell me that they knew what they had done was wrong and in some cases said they were 'ashamed'. However, there were some young people who were adamant that the offence was not their fault and still seemed to find it difficult to admit that what they had done was wrong. One 17 year old young man said that when he had been encouraged in the panel meeting to express remorse for

his offence, stealing a pedal bike, his response had been *'well he shouldn't have left it unlocked'*. This young man also said he was not willing to change his behaviour and that the panel meeting was a *'load of crap'*.

Another young man, aged 15, had physically assaulted a middle aged man and said that although he knew what he had done was wrong the man had *'started it'* by shouting at him so it wasn't entirely his fault. Although these young men both said the panel members had encouraged them to think about the effect of their actions on the victim, they had clearly not taken this on board fully. Significantly, both of these young men failed to engage with the staff at the YOT and as the result of both further offences and non-attendance at the YOT, they breached their referral orders and were sent back to court.

Helping young people to become responsible for their actions is not straightforward. Newbury (2008) outlines in her discussion of referral orders some of the punitive connotations of 'taking responsibility', in which the focus is placed on the past offending behaviour. However, an approach inspired by reintegrative shaming encourages the young person to realise that their actions are wrong without defining them as a 'bad' person and at the same time helping them to move forward from the offence. My interviews with young people and staff suggest that this approach was generally taken in the panel meetings and that young people did not feel they were being punished. The following quote is from an interview with one of the referral order coordinators about the approach they took to working with the young people in the initial panel meetings:

> *I think by the time they've got to the panel stage, they would've been quite aware that they've been to court, they've dragged their family through the police station, through the court several times, all that sort of stuff. So by the time they come to us for the referral order, it's like they're going to recollect the offence but not really say, "Naughty, naughty, naughty," because they would've done that already and we don't want to close them off. We want them to be able to accept some of the things that we've suggested and open up and talk to us.*

The above quote suggests that, as was articulated by many of the young people in their interviews, the purpose of the panel meeting is not to dwell on the offence but to

encourage the young person talk about the offence and to move forward. However, some staff members raised the importance of facilitating this process carefully and felt that in some instances the panel members desire not to upset the young person meant that they did not effectively confront them with the reality of the offence. The following quote is from a discussion with a referral order coordinator about the difficulty experienced by panel members:

> *It's difficult for them to then make that young person feel bad, because it is a bout sort of shaming isn't it, it is about making them look at themselves and to feel empathy. Because when young people start to feel bad about themselves they don't want to do it, you quite often find that young people are easy to deny they can't remember and so the panel member are "let's move onto the next thing", it's quite a difficult area it has to be done carefully. [Interviewer: So do you think that people are a bit worried about how the young people will react?]. Yeah and I think it's our job to help them to confront that, they have committed an offence that is why they are here. It's our job to keep pushing that to get them to see that and then we can move on.*

Restorative justice processes are not intended to be a soft option for offenders (Walgrave, 2001) and arguably have little worth if the offender is not confronted by the offence in a manner that has an effect on them. The above quote stresses the importance for panel meetings to be carefully facilitated and for a balance to be struck between support the young person but also enabling them to understand the consequences of their actions and to move forward from the offence.

Conclusion

The panel aims to provide an informal environment away from the court room, and the young people in my research certainly viewed it as such. Respondents drew a sharp contrast to the way in which they felt in the panel meeting compared to court. It was the first time that most respondents had been to court and many were confused and unsure of what to expect. Their accounts of their time in court were marked by anxiety and, for some, fear that they would be sent to prison. In comparison, they felt that the panel meeting was less formal and they described feeling more 'comfortable' and 'calmer'. The way in which the room was set out was very important to young

people and they felt isolated in the court room and detached from what was happening, in contrast they described sitting in a circle in the panel meeting and talking about what happened.

The young people also viewed the authority figures in court very differently to the way in which they viewed the panel members. The informal setting of the panel enabled respondents to talk to the panel members on a 'one to one' basis about what had happened. Many young people saw the judge as inaccessible, and said they would not have felt comfortable talking to them in court. Respondents felt that the judge 'looked down' on them and made assumptions about them as a person because of their offending behaviour. In contrast the panel members were viewed as not *'judging'* them and young people felt that they took an interest in who they were and the circumstances surrounding the case. Similarly respondents felt that it was very important for the judge to understand their personal circumstances, particularly that they were doing something positive with their life. This was related to their feelings that the judge made assumptions about them as a young offender and may act on the basis of stereotypes. The way in which both the judge and the panel members spoke to the young people was extremely important and had an effect on their assessments of those adults.

When they were asked about the main differences between court and the panel meeting, the majority of respondents said that the main difference was that they were able to talk more in the panel and that they were shown respect. Respondents valued being able to explain what happened with the offence from their 'side'. It was also important to them that they were listened to and that the adults in the panel meeting cared about what they had to say. Although a small number of respondents described being able to talk in court, nearly all respondents felt that they had been listened to more in the panel meeting. This feeling was related to the approach that the panel members took in allowing the young person to talk and taking an interest in what they said. However, if the panel meeting was not carefully facilitated, and the respondents felt that they were just being told off or reprimanded for the offence and not listened to or respected then they tended to hold more negative views of the panel meeting.

My research suggests that young people were more positive about their experiences in the panel meeting than their experiences in court. A number of things

were important to young people in making up these positive judgements. Firstly, they valued the informal atmosphere of the panel meeting and felt more comfortable and relaxed there. This was partly to do with the setup of the room and their position of greater equality in a circle with the panel members, rather than isolated before the judge. The idea behind the purportedly restorative youth offender panel is that the offender is given the opportunity away from the formal court room to discuss the offence on a personal level and the children and young people in my research valued this opportunity.

Secondly, young people valued being treated in a certain way by the authority figures in court and in the panel meeting. They had negative perceptions of the judge where they felt that they were making assumptions about them, looking down on them, acting on the basis of stereotypes and when they spoke to them in a negative or accusatory manner. Conversely respondents generally felt that panel members were 'nice' or 'friendly', that they had been treated well and that they cared about them as a person. This has clear parallels to the previous chapter which suggested that young people had negative perceptions of teachers and police officers who abused their power, acted on the basis of assumptions and stereotypes and spoke to them in an aggressive or derogatory manner. Just as respondents valued teachers and police officers caring about them they also valued these qualities in the panel members.

Thirdly, and most significantly, respondents felt that it was extremely important that they have a voice in court and in the panel meeting. In court most respondents did not get a chance to speak and those who did valued this opportunity. However, there was a strong sense that respondents felt far more comfortable talking in the panel meeting. Many respondents who did not talk in court said that they did not mind this and were happy for their solicitor to talk for them. Respondents valued having a voice in the panel meeting and being able to explain the offence in their own words and how they felt about it.

None of my respondents had a victim present at their panel meeting. Interviews with victim liaison staff at both fieldwork sites suggested that the majority of victim awareness work was carried out with young people during their referral order. However, all panels were intended to make the young offenders think about the effect that their offence had on the victim and this was done through the panel

members talking to them and in some cases a victim impact statement was read out. Young people with a direct victim often appeared too embarrassed or ashamed to talk about how this had made them feel at length. Those who had committed offences such as shop lifting or criminal damage felt less shame and were more prepared to talk about the victim work that was done in the panel meeting.

Similarly, young people were often reluctant to talk at length about how it felt having their parent present at the panel meeting but in some cases suggested that it had made them feel embarrassed or ashamed. Staff emphasised the importance of parents attending the panel meeting meetings and felt that in many cases it helped to encourage the young people to appreciate the effect of their actions. These staff interviews also identified some difficulties with attempting to engage young people who showed no remorse in restorative justice practices. However, arguably these are the very young people who are likely to benefit from restorative justice. As was outlined in the staff interviews, careful facilitation of panel meeting can confront the offender with the consequences of their offence whilst at the same time enabling them to move forward with their lives.

Chapter Six
Young people's experiences at the Youth Offending Team

Background

In this chapter I explore young people's experiences at the YOT after their initial panel meeting. Specifically, I will focus on their experiences and perceptions of completing reparation schemes and victim awareness activities and consider how they met with restorative aims. In addition, I outline the approach that staff took to working with the young people at the YOT. I explore the way in which the young people saw the YOT staff in comparison to other authority figures and consider the importance of the relationships they built with their case workers.

The goals of restorative justice processes in relation to offenders are focused on getting them to accept responsibility for their actions, make amends for their crime and reintegrate into the community (Johnstone, 2002). In order to repair the harm that they have caused, offenders are often encouraged to undertake some form of practical reparation work either to the victim or the wider community. The aim of this reparative work is to restore the harm that has been caused by the crime and therefore to enable the offender to be 'restored' and become part of the law abiding community once more.

The official guidance on referral orders states that the contract, which children must follow during their order, should have two main elements. Firstly, it should include reparation, and the guidance states that 'where possible' this activity should be based on the wishes of the victim. Where this is not possible reparation should be of benefit to the wider community, and suggested community reparation activities include physical work, such as clearing up litter or environmental projects, and projects in which children are helping people, such as working with disabled people or the elderly (Ministry of Justice 2009). Secondly, the contract should include a programme of interventions which addresses the 'factors likely to be associated with offending' (Ministry of Justice 2009: 39). The interventions can draw on a number of things including cognitive behavioural programmes, constructive leisure programmes, victim awareness, employment and careers advice and substance misuse programmes (ibid: 2009).

During the research, children were interviewed twice, once at the start of their referral order shortly after their initial panel meeting, and again near the end of their order. This enabled me to ask them about their experiences of completing their contract, and offered some scope for comparison of their attitudes at the start and at the end of their order. As I have explained in my methodology chapter, second interviews were not possible for eight of the children who I conducted initial interviews with. In order to make up for this I interviewed an additional eight children who were at the end of their referral order.

All the young people were asked the same semi-structured interview questions which focused on what they had done during their time at the YOT, whether they felt anything had been particularly useful and whether anything had made them think differently. At the end of their interview I asked the children to compare youth offending team staff with other authority figures, such as police officers and teachers. In addition youth offending team staff were interviewed about the type of work they carried out with the children during their order and were encouraged to reflect on what the children gained from this. In asking the young people to describe what they had done during their reparation in their own words I was able to look at how they saw the purportedly restorative aspects of the referral order contract. I was interested in understanding how they experienced the reparative and victim awareness activities and what factors affected their judgements. In addition, I was able to look at what the young people felt they had gained from their time at the youth offending team and what contributed to this. It emerged very strongly that the relationships that young people had with their case workers were very important to securing their engagement with the YOT and with the interventions that were offered.

Reparation

The reparation projects

The reparation projects delivered by 'YOT A' and 'YOT B' varied considerably. YOT B had a reparation worker, Craig, who was an ex-carpenter and worked directly with children onsite involving them in gardening and making furniture out of reclaimed wood. At the start of my research in YOTB I was shown around the youth offending team's (YOT) garden and workshop by Craig, who was very enthusiastic and proud of what he and the children had achieved. The workshop contained a

storage area for tools and overalls to protect the children's clothes, as well as large piles of wooden pallets and some finished pieces of furniture. Craig explained that he collected scrap wood and old furniture and that the children worked to create new furniture or restore it under his guidance. On the whole, this was then sold and the profits donated to a cancer charity. I was shown many examples of the children's work, including a large garden shed constructed from old wooden pallets, garden rakes and brooms and restored tables and chairs.

The arrangements for reparation at YOTA were very different in that they had a number of standard projects that the children were referred to. The vast majority of children that I interviewed at YOTA had been involved in either a project where they did cleaning work in one of the local city farms or one in which they fixed and recycled bicycles which were then used to run projects with vulnerable adults. Although there was a designated reparation worker at YOTA, he tended to co-ordinate the reparation projects rather than working directly with the children and the projects were facilitated by sessional workers.

Most of the young people at both YOTs said that having to do their reparation hours had got in the way of their leisure time. Several used the term 'long' to describe reparation which I discovered meant that it was 'annoying' or frustrating. Despite this most of the young people at YOTB did not view reparation as purely a punishment and many appeared to have taken on board the restorative principles behind it. For example, when they were asked about the aim of reparation, most young people felt that part of its purpose was to 'give something back' or contribute to the community. This was not generally the case at YOTA, where the majority of young people felt that reparation was simply a punishment.

The official guidance on referral order states that community reparation activities should be meaningful to the children taking part (Ministry of Justice, 2009). However, it is important to question what is 'meaningful' to young people and in what ways. There were a number of factors that emerged in the interviews as having a strong impact on young people's feelings about reparation. It was important to young people: that they did real work during their reparation hours rather than completing activities for the sake of it; that they made a tangible contribution to something or someone and that they learnt something new. In order for the young people to

appreciate the aims of the reparation and understand the contribution they were making it was important that it was fully explained to them by supportive staff.

As I have mentioned, restorative processes aim to involve reparative work which enables offenders to 'restore' the harm that they have caused through 'paying back' for their crime. Therefore, the aim is that offenders will be 'restored' through reparative work and are able to become part of their community once more. At YOTB 'restoration' was achieved in that young people did work that they tended to feel made a tangible contribution and that they were therefore 'better off' as a result. In contrast, young people at YOTA viewed their reparation work as a punishment and did not feel that they were 'restoring' the harm that had been caused by their crime.

Analysing what is 'meaningful' to young people

When young people felt that they had achieved something tangible during their reparation hours they were far more positive about the experience. The majority of young people from YOTB described a sense of achievement when they spoke about their reparation work, constructing or transforming furniture from scratch, and many appeared to find this hugely rewarding. For example, Ryan, a seventeen year old young man who was serving a twelve month referral order at YOTB for a drug dealing offence, proudly showed me a bench that he had restored and a photograph of how the bench had looked beforehand, rotting and falling apart. The transformation was significant and the bench was prominently displayed in one of the meeting rooms at the youth offending team.

The requirement for young people undertaking reparation can be anything from nine to twenty-nine hours depending on the length of their referral order. Ryan's reparation hours were at the higher end of the scale and he had therefore been required to come and work on the bench regularly over a long period of time. This meant that he had been able to see the project through to the end. However, I found in my discussions with young people that even those who had fewer reparation hours felt that they had contributed to a larger project during this time. For example, several young people described de-nailing pallets or sanding down wood that was to be used to construct furniture and seemed to value the part that their work played.

Ryan was clearly proud of what he had achieved and during his interview with me explained how he had struggled at school but was *'good with his hands'* and felt the skills that he had learnt during his reparation were useful and could help him get a job. Many of the young people at YOTB said that they valued the carpentry and woodwork skills they had learnt during their reparation, particularly the young men. Like Ryan, a small number of young people specifically said that these skills could help them in the labour market but the majority felt that they would be of general use to them.

The majority of young people at YOTA were involved in working at the local City Farm to fulfill their reparation hours and the children tended to hold more positive assessments of this work when they felt they were doing something useful rather than being asked to do something for the sake of it or purely as a punishment. For example, 15 year old Kaleem was positive about his work at the city farm.

> *I had to work on Green City Farm. So that was like sweeping the front yard, watering the plants, the greenhouses, painting, stuff like that. It was good work. It was fun. I made new friends, got on with all the workers as well. It was good.*

Kaleem could see the effect of his work in improving the appearance of the farm and as a result felt that it was 'good work'. In the same way that Ryan was proud of his restoration of the bench, Kaleem felt he had achieved something through his work at the farm. In contrast, young people tended to be more negative about reparation when they felt that they were not doing much during the time. Several children said it had been frustrating working at the city farm because there had not been enough for them to do and one young man described re-planting some flowers 'for the sake of it'. This was also revealed as a problem in staff interviews at YOTA.

> *The way that they actually do it [reparation], I'm not sure. I had a young person yesterday who said it was a waste of time because there was nothing for them to do and they were literally moving a pile of muck from that side to that side. He thought that was a bit meaningless.*

(Case worker YOTA)

The reason the work seemed 'meaningless' to this young person was because the task was arbitrary and is likely to feel simply like a punishment to young people. In contrast to Kaleem's description of the work he did to transform the farm, this task has no purpose and does not allow the young person to feel they have achieved anything. Perhaps surprisingly, it was not the menial or physically demanding nature of reparation tasks that children objected to, but rather the fact that they did not feel they was a tangible purpose to the work they were doing. Research into community service schemes with adults has revealed a similar pattern, in that no matter how demanding a task is it is the worth of the work which has been found to influence offenders' commitment and participation in a scheme (McIvor, 1992).

Restorative justice literature outlines reparation as being about the offender actively restoring the harm caused by their crime (Walgrave, 1999). Indeed, the restorative principles, purportedly underpinning referral orders state that young people should 'make amends' for their crime either to the victim or to the wider community (Ministry of Justice 2009). The reparation schemes in which the young people were involved do provide a partly restorative intervention in which young people are (in theory) able to contribute and make amends to the wider community (McCold, 2000). As I have outlined, none of the young people in my research were making reparation directly to the victim, nor were they completing reparation projects that were related to the nature of their offence. Despite this lack of direct 'restoration' of the harm caused by their crime, many of the young people at YOTB did feel that they were making amends or 'paying back' for the crime that they had committed. For many of them, making a contribution to their local community involved an element of 'restoration' in that they felt they could step away from their identity as an offender and make a positive contribution to society.

I found that children were more likely to feel that the work they were doing was worthwhile when they felt that they were making a difference to others, or in other words when the work was genuinely reparative. When they were asked what the purpose of reparation was many young people at both youth offending teams used the phrase 'paying back' for their crime or said that it was to enable them to 'give something back' to the community. However, a lot of young people, particularly those at YOTA did not feel that they were actually doing this through their reparation work.

For example, I asked sixteen year old Luke, who was serving a referral order for criminal damage, why he thought he had to complete his reparation hours.

> *They said to give back something to the community. [Interviewer: Yeah? Did you feel like you were doing that?] Not really, you just basically just did a cleaner's job for four hours. You just saved the teacher some work, basically. I'm not too sure how that works.*

In order for young people to feel that they are making a contribution to wider society through their reparation work, it is important that it is explained carefully and clearly in a way that the young people understand. This did not appear to have been done effectively by the staff facilitating reparation activities at YOTA.

Many of the children at YOTA described reparation as a punishment, and several specifically described it as a deterrent, aiming to stop children from committing crime in the future. Seventeen year old Chris said the following when I asked him why he thought he had to complete his reparation hours.

> *I think it's just like, because you've done something wrong, now you've got to pay it back to the community. You just sort of, I suppose you have to work hard I suppose, sort of like a punishment in a way because they're just not going to get you to come to an office once a week because that's silly because you ain't going to learn nothing that way. If you actually have to go out and do some community work, you might think well, I don't want to come back here [to the YOT] again so it's like a punishment at the same time.*

Chris distinguishes reparation from just coming to the *'office'* at the youth offending team which is not a punishment in his eyes because you don't 'learn' anything from it. Reparation on the other hand teaches a lesson because it is not pleasant; you have to '*do some community work', in* this sense it acts as a deterrent. When Chris says *'you might think well, I don't want to come back here again'* he is referring to the YOT and implicitly that the reparation would deter children from committing crime in the future. Many of the young people at YOTA used the words 'teach' and 'learn' to describe the aim of reparation, which has been revealed in previous research as a prominent part of children's understanding of punishment (Sparks et al. 2001).

Young people at both youth offending teams (YOTs) said they had felt frustrated or annoyed that they had to complete their reparation hours. They were often required to complete reparation after school or at the weekends and this got in the way of their day to day activities, such as sport or spending time with friends. In this sense reparation work had an element of punishment for all the young people I spoke to. However, in YOTB this element of punishment was largely accompanied by a feeling that they were making a difference and achieving something through their work. Therefore reparation work had some restorative worth rather than being purely about punishment. For example, sixteen year old Brian, who was serving a 12 month referral order for aggravated robbery, explained how he felt about his reparation.

> *It was alright. It's not something – like I wouldn't say I enjoyed doing it, it was alright, but at least I was putting something back into the community. [Interviewer: Yes? In what way...?] Because I was making things that would be sold...like the stuff that I made, they would sell and then we'd give the money to charity. So I just felt I was giving something to someone else, that I was... that I was better off then.*

Like many other young people at both YOTs Brian had described his reparation work earlier in the interview as *'long'* which meant that it was annoying or frustrating. Although Brian says that he did not enjoy the reparation work he did feel that he was *'better off'* because he had put *'something back into the community'*. Despite feeling that there was an element of punishment, in that it was annoying having to get up early on a Saturday morning and do his reparation hours, Brian could also see that what he was doing was worthwhile. Earlier in our interview he had said that he did not feel he was paying the victim back for the crime because the reparation work did not benefit them. However, he still felt that he was making amends by *'giving something to someone else'*.

This is interesting and suggests that restorative outcomes can be achieved without reparation being direct to the victim. Previous research with young offenders completing restorative reparation projects has revealed a frustration among children that they are not doing anything to directly help the victim (see Gray, 2005). Although a small number of children in the research mentioned this disconnect, they appeared

to be more concerned that their work was of worth to *someone* as opposed to being 'pointless'. In Brian's case, his crime had occurred outside of his local area but he still felt he was giving something back to the community and that he was *'better off'* as a result.

In order for young people to feel that reparation work is not purely a punishment it is essential that they feel that the work is actually reparative in some way. The young people I interviewed at YOTA did not feel that they were making a difference to anyone through their reparation work and it therefore seemed like a punishment. In contrast, the majority of young people at YOTB *could* see how their work was making a difference to others. This was partly down to the careful explanation provided by staff, as well as the nature of the work itself.

Craig's explanation of the way in which the project worked was important in bringing home to children the impact that their work was having. During his interview he gave an example of how he dealt with children who were reluctant to be involved in the reparation work.

> *Well the young person that I had this morning I was telling him about….that well we sell bird boxes for four quid and I said for Macmillan cancer care, £535 will cover three days of cancer care so that a person can die at home. So I said if you make a bird box you are contributing four quid for that and so he said 'Yeah I'm happy with that'.*

By describing the contribution that the young person would be making through his work Craig was able to bring home to him the difference he could make to a dying person's life. Most of the children that I interviewed at YOTB showed an understanding of the contribution that they were making to charity through their reparation work and said that this had either been explained by Craig or by their caseworker. In contrast, most of the young people at YOTA did not see their reparation work as contributing to the community and understood it purely as a way of punishing them and deterring them from committing further crime.

The adults facilitating the reparation and the relationships they built with the young people were important. As I have outlined, adults' explanations of the

reparation work and how it contributed to the community were essential in helping the young people understand the worth of their work. In addition, young people tended to have more positive views of their reparation work in instances where they had a good relationship with the adult facilitating it.

At YOTA the reparation worker coordinated the reparation schemes rather than facilitating them and they were staffed by sessional workers. A small number of young people at YOTA mentioned having a good relationship with the staff at their reparation schemes but the majority did not mention it. In contrast the relationship that young people had with Craig at YOTB was very important in determining their perceptions of reparation work. For example, when I asked 16 year old Jamal how he felt during his reparation work he said the following.

> *It don't seem like a punishment. [Interviewer: Okay, why not?] Because like you get offered tea, they buy you drinks and like you're just doing it for a charity or something like that and we can sell that stuff to other people to make money for charity.*

Jamal felt that completing his reparation did not '*seem like a punishment'*. The way in which he was treated by the adults during his reparation work was important to him and the adults offering him tea made him feel respected. There is a big difference between adults treating young people as someone who has offended and treating them as an 'offender'. It has been argued, in the vein of labeling theory, that punitive treatment by authority figures can stigmatize young people and cause them to feel defined by their status as an offender (Lemert, 1971/2000).

Jamal's treatment by the adults facilitating his reparation signaled to him that they saw him primarily as a young person, rather than defining him as an offender or a trouble maker. Like many of the children in the research, Jamal had negative experiences with authority figures, particularly the police. During his first interview he explained that he had been stopped and searched by the police over a hundred times, he said that police officers were physically and verbally aggressive during these searches and that they had physically assaulted him during his arrest. As a result, Jamal distinguished the way in which YOT staff treated him from the punitive treatment he received at the hands of the police.

Jamal also says that the reparation was not a punishment because he was *'doing it for charity'*; he understood that the work he did during his reparation hours would help to make money for charity and therefore distinguished this from punishment. For Jamal and the majority of children interviewed at YOTB the activity of making something which would help people with cancer felt as if they were contributing to something worthwhile. The young people felt a sense that they were doing something positive for others and many described their reparation work as 'paying back' for the crime they had committed. As I have mentioned, the way in which Craig explained the purpose of the reparation work was extremely important in enabling the young people to understand the contribution they were making.

As well as guiding the children through the reparation and explaining its worth Craig treated them with respect. During his interview he said '*I don't ask them [the children] to do anything that I wouldn't do myself*'. The fact that Craig worked alongside the children to do something constructive rather than requesting that they do menial tasks that he himself would not take part in, meant that the children felt they were respected and often build a strong relationship with him. Craig told me about one young man who continued to come and work with him after his reparation hours were finished.

> *There is one young person who has finished his reparation but he still comes in anyway because he likes it, and the other day he was working here one day and this other fellow came in and he was being a nuisance and really just not...just acting like a five year old, and this young person said 'When I am older and I have a son because of Craig teaching me I can teach him' and he said 'what are you going to do when you have a son? You need to learn things'. I thought that was good, I quite liked that.*

The fact that this young man continued to come and help Craig after his reparation hours were complete was hugely significant. Young people are required to attend the YOT and to complete their reparation, therefore it could be assumed that this unequal power dynamic would make it difficult for adults to form positive relationship with young people (Ord, 2009). However, Craig's approach, in which he was respectful to

the young people and also helped them to learn new skills, was received so well by the young people that they came to see him voluntarily.

Although children at YOTB were not repairing the harm that their specific crime caused, they were doing something of benefit to other people and crucially they recognised this and felt *'better off'* as a result. Through building and restoring furniture, which they knew would be sold and the money used to help those with cancer, children felt they were making a positive and tangible contribution. As well as the activity itself being meaningful to children, the way in which Craig and other staff made an effort to explain to them what they were doing was also important. Without this careful explanation and the manner in which Craig worked alongside the children, the project would not have had the same restorative value.

Victim awareness work

Although none of the children in my research had met their victim during the youth offender panel meeting, victim awareness work was carried out at both YOTs after the panel meeting as part of the referral order contract. This type of victim awareness work can be viewed as 'partly restorative' in that it focuses on holding the offender accountable for their actions and encouraging a sense of responsibility towards the victim but does not address the specific victim's need for reparation (McCold, 2000). However, it is important to consider what the children got from this experience and how far the work met with restorative aims.

Discussion based work

Both of the Youth Offending Teams (YOTs) where I carried out my research had a full-time victim support worker and YOT A had an additional part-time staff member who contributed to victim support work. Both full-time victim support workers were interviewed as part of the research and they, along with interviewed case workers, gave detailed accounts of the victim awareness work that was carried out with children. In addition children were asked in their second interview about the victim awareness work that they had done at the YOT, how they felt about this and whether it had made them think any differently about their behavior or the offence. The victim support workers in YOT A ran victim awareness sessions with the children both in

groups and individually, whereas in YOT B victim awareness work was done by case workers as part of their regular sessions with children.

The victim awareness sessions at YOT A involved discussion based activities aimed at getting the children thinking about the direct and indirect impact of crime on the community. A number of videos involving case studies of crime were used, one of which was made by previous young offenders at the YOT alongside professional actors. These films were used along with newspaper articles to spark discussion about the implications of crime for the offender, the victim and their families as well as the wider community. Children and young people were grouped according to the seriousness of the crime they had committed and the level of intervention needed, which was defined by their case worker. For example, children who were identified as needing intensive victim awareness work were referred for one-to-one sessions with the victim support worker, whereas those who had committed crimes without a direct victim, such as shoplifting or criminal damage, were referred for a single group session.

Children's perceptions of their victim awareness sessions at YOT A were mixed and several children initially described the sessions as 'boring' and said that they did not learn anything new. However, the majority of children from YOT A could recall the victim awareness work that they had done and were able to describe the session in their own words. Imran, a fourteen year old boy who had been convicted for theft of a pedal bike, told me at length about his experience.

> *Oh yeah. There was me and some other offenders. They obviously ... they basically told us. They were trying to say, look the victim gets affected more ways and other people are affected, not just that person got affected. Then there was some news articles there about other people and then they basically said who's the victims in it? So I had to say like ... there was one. I think the one we done, some lady was riding a bike and then a guy must have seen her, pushed her and she fell into a ... I don't know what it's called ... those bushes with spiky stuff on it and then she messed up her whole face and everything. She was a model or something. Saying who's the victim? Not just like her, her family as well... saying stuff like that.*

Imran took on board the message that crime affects the victim themselves but also has knock on effects for their family. Although he had initially said that the session did not make him think and that it was 'boring' he had clearly taken something from it. Later in our discussion Imran admitted that he felt it was 'tight' that his victim could have lost his job as he needed his bike to get to work, which shows some awareness of the impact of his crime.

Children at YOTB were initially confused when I asked them specifically about victim awareness work. However, when they were asked to describe the work that they had done with their caseworker many of them mentioned doing activities that had a victim awareness component. The children did not see this work as something separate but as part of their regular sessions at the YOT with their caseworker. Most children spoke about victim awareness work in the context of being encouraged to think more widely about their behaviour and how they could behave differently. For example one young woman, who had been arrested for a public order offence described the work she had done.

> *It's a worksheet about the victim, how he feels, how do I think he feels and how I think his family feels. And then there was another one where, how could I have changed it, what could I have done different, and there's another one about my friends, how do my friends react to me, how do we all react as a group. When we go out, what do we do, and it has made me think that it's public, can't make too much noise, everyone's around. It's not just us in one place.*

(17 year old Aisha)

This young woman described being encouraged to reflect on how the victim felt and how she could have acted differently during the offence, but also how she and her friends behave more generally when they are out in a group. As a result she considered how other people might view her behaviour in public and reflected on how she could change things in the future by not making *'too much noise'.* Children's relationships with their case workers were important in helping them to understanding the consequences of their actions and reflect on what they wanted to change about their behaviour in the future. In talking about the ways in which the referral order had made them feel differently about their behaviour, the majority of children at both

research sites focused not on specific activities, but on how their case worker had helped them *throughout* their order.

Victim awareness work is part of a wider attempt to enable young people become 'responsible' for their actions. One of the key restorative aims of referral orders is to encourage young offenders to face 'the consequences of their offending behaviour' and to take 'responsibility for preventing further offending' (Home Office, 1997 :9.21). This can be criticised as a punitive take on restorative justice, emphasizing the responsibility of the child at the expense on a more welfare oriented approach (see Haines, 2000). However, as Newbury acknowledges in reporting her research on referral orders, encouraging young offenders to become responsible can also 'mean giving them the opportunity to show they have the ability, insight, and personal skills to become morally responsible citizens' (2008:136). Newbury (2008) distinguishes between this type of enabling responsibilition of young people and a more punitive approach that stresses the individual culpability of children and young people. My research suggests that this type of approach to helping young people feel responsible for their actions requires a trusting and participative relationship between a young person and their case worker.

For example, seventeen year old Amy, who had completed a three month referral order, reflected on her final panel meeting at the end of her order, at which her case worker Sonia was present.

> *Yes that was with Sonia just talking about family background, how I am, how I've changed over the three months. How I feel about it and what I would do differently if I was in the situation again. [Interviewer: Okay and what did you think about that?] I thought it was quite good. It helped me to see ways in how I could come across a situation if it happened again and not shouting and not doing certain things that I would have done three months ago.*

For Amy, having a relationship with her case worker in which Sonia knew her and her family background, saw her on a weekly basis and could see how she had changed over the three months was important.

Apology letters

Both youth offending teams used apology letters as part of victim awareness work, and the children worked on them with their case workers at the YOT. The letters involved the young person writing to their victim apologising for the offence and expressing remorse. Several children involved in the research told me that they had been asked to write a letter of apology and some were happy to do this. These children valued the experience, saying that they thought it would make the victim 'feel better' or reassure them that they were sorry. However, a number of children said that they had refused to write an apology letter because, even at the end of their referral order, they did not feel that they had anything to say 'sorry' to the victim for. These were cases where, for various reasons, the child felt that their victim was in some way to blame for the offence. This can be partly explained as a 'neutralization technique' in that the young people justified actions that they would not normally condone by suggesting that the victim 'had it coming' and that is wasn't entirely their fault (see Sykes & Matza, 1957).

However, in some cases the circumstances of the case were such that it was difficult to clearly separate the 'victim' from the 'offender'. For example, Aisha, a 17 year old African-Caribbean young woman had been convicted of a public order offence for threatening behaviour.

> *I felt bad for the man because it wasn't really his fault but he got hurt for it. I'm sorry for him but I'm not going to write an apology letter. [Interviewer: Why is it that you don't want to?] We both did something wrong but everyone's not getting in trouble for it really. He's still doing what he did before so I don't think I should apologize for that because we both did something wrong. I'm paying the time as being here, he's not doing nothing. So give an apology, so writing an apology note is worse on me as well because I don't know what I'm apologizing for really. I was just there obviously I was there but he...if it wasn't for his mouth, then it would have been all right because he was racist towards us, so if he hadn't said anything we would have been fine, just walked away.*

Aisha, along with another interviewee Amy, and a group of their friends got into an altercation with a restaurant worker over using the toilets. During the altercation the restaurant worker was physically assaulted by another girl (not Aisha or Amy) and suffered verbal abuse from the rest of the group. Although Aisha felt sorry for the victim, and appreciated that it was not his 'fault' that he got hurt she was not prepared to apologise. Because the victim had racially insulted her and her friends, Aisha felt that he was also in the wrong but was not 'paying the time' for his actions in the way that she was (i.e. through the criminal justice system).

Despite the circumstances of her case Aisha accepted her conviction and had engaged very well with the YOT; undertaking anger management work with her case worker which she felt had helped her a great deal. Despite the fact that she had lost her place on her childcare college course due to the conviction, she remained positive and writing the letter of apology was the only thing she had objected to doing during her order. This raises questions over the appropriateness of a letter of apology in all cases, particularly where the young person is reluctant to write one. The Victim support worker at YOTB outlined this as being a particular problem, and objected to the enforcement of apology letters where the young person was not willing.

> *I think it has to be in the right setting and in the right case because I had a caseworker call me yesterday and said, "This young person is not feeling remorseful. He doesn't want to write an apology letter and I've told him he has to do it. Do you have any suggestions as to how we can enforce it?" And I was thinking, "No!" because that's not the idea of the process. If this young person is not feeling remorseful and he's not ready to write the apology letter now, then just leave it because that's not going to help.*

This links to criticism of the compulsory nature of the referral order interventions, which arguably go against the restorative principle of cooperation (see Ball 2000). In cases where young people do not yet feel sorry for the crime they have committed or feel any remorse toward the victim, writing a letter of apology can be an inappropriate and largely fruitless task. However, these feelings in the young people could potentially reflect the inability of the panel meeting to effectively engage the young person in thinking about the effect of their crime on the victim . If the young person has not met

their victim nor been effectively encouraged to have empathy with them then they are unlikely to be willing to write a letter of apology.

A number of the children I interviewed had committed an offence against another young person. In some of these cases the offence, which generally involved robbery or assault, had resulted from a tit-for-tat dispute in which the young person was retaliating in response to the actions of the victim. Newbury (2008) found similar examples in her research on referral orders, and argues that these types of cases raise questions over how to fairly identify victims and offenders.

Research evidence suggests that children experience a relatively high level of personal victimization and that there is a strong link between offending behaviour and victimization. Recent British Crime Survey data suggests that children aged 10-15 are more at risk than adults and older teenagers of being a victim of personal crime (Millard & Flatley, 2010). In addition, boys aged 10-15 are more likely to be a victim than those aged 16-25 and young people (both male and female) who have offended are more likely to be victims of crime (Roe & Ashe, 2008). Research in Scotland suggests a genuine causal link between victimization and youth offending running in both directions. The most important factor linking the two being involvement in risky activities and situations (Smith, 2004). As Muncie (2009) outlines, the conclusion drawn from such research is that it is often an accident whether, after an altercation in the street, a person ends up being classified as the 'victim' or the 'offender'.

A notable example in my own research was 17 year old Chris who had been convicted of robbery for stealing a mobile phone from another young person and was at the end of a six month referral order. He said the following during a discussion when I asked him whether his victim awareness sessions had made him think about the offence.

> *Yeah, it did make me feel sorry. At first, when I took someone's phone, yeah, I know what it's like. I've had my phone took off of me but at the same time, I thought he deserved it, he's sitting there, coming on the phone, giving all this sort of attitude. So if it weren't me, someone else would've done it.*

Although Chris felt his victim was partly to blame for the robbery he had clearly been encouraged to put himself in the victim's shoes and think about what it was like when his own phone was stolen. Chris had engaged very well with YOT staff, had received a large amount of support with getting onto a training and employment scheme and was very positive about his experiences including his victim awareness sessions. However, Chris still felt that the offence was not entirely his fault and explained to me earlier in the interview that the victim had been *'threatening to kill'* him before he had stolen his phone. In his eyes this meant that the victim *'deserved'* the robbery and as a result he showed little remorse for the crime. In Chris' case victimization had led to offending, in that he claimed he was retaliating to the prior actions of the victim. In addition, taking into account Smith's (2004) research it is also likely that his involvement in certain 'risky' situations may have made him more vulnerable to being *both* a victim of crime and an offender. He says that he knows 'what it's like' because he has been a victim of robbery himself. Like most of the children in my research Chris described spending much of his free time out and about in his local area, which made him open to both attention from the police and potential victimization.

A number of children in the research had committed an offence against another young person and this was described as a common occurrence by staff at both youth offending teams. The problem of engaging young people in writing apology letters, in these cases was also highlighted by caseworkers. Chris' case worker, Julie said that she often found the young people she worked with were unwilling to write apology letters and said the following when I asked her to elaborate.

> *I think if it's [the victim is] another young person it's almost like a pride thing as well. "Okay, I've got my conviction, I've been sentenced. I don't need to do that". It's that kind of thing, to show their weakness. If it's another young person - maybe there's gang issues - they're not going to do it.*

Julie's experiences of young people feeling too proud to write a letter of apology are important in considering the implementation of this work with children and young people. Chris' account of his offence and how he felt about it suggests a similar attitude to the one Julie describes; he had been threatened by his victim and retaliated

by stealing his phone, apologising or expressing remorse for his crime would be viewed as weak and therefore he refused to do so.

Although, in theory, restorative justice provides an opportunity to look at the specific situation in which a crime has taken place and potentially provides an opportunity for reconciliation between the offender and victim, my research suggests that this is not being played out in referral orders (see previous chapter on low victim involvement in youth offender panels). Chris' case provides an important example of the failure of referral orders to fulfill their restorative potential. A true restorative approach in this situation would have involved an attempt to heal the relationship between Chris and his victim, addressing any possibly territorial or 'gang' related issues. Instead, although the youth offending team has been helpful and supportive to Chris, he is left at the end of his order with lasting feelings of anger towards his victim and a lack of remorse for his actions. Clearly tackling disputes between young people is complex, but if policy and practice are to reflect a restorative approach then the relationships between victims and offenders should be addressed.

The stories of both Aisha and Chris are typical of a number of other young people in my research for whom the circumstances of their offence did not provide a clear boundary between their identity as 'offender' and that of their 'victim'. The labels of 'victim' and 'offender' are not straightforward in all cases; this poses a challenge for youth justice professionals carrying out victim awareness work with young people and should be acknowledged in the practice guidance on referral orders. Attempting to heal the relationship between victim and offender is an important part of restorative justice, and arguably this is of particular importance in cases where the offence is the result of a dispute between the two parties. Victim work within referral orders and other youth justice interventions needs to be tailored to the specific circumstances of the offence and must at least attempt to address the relationship between the offender and victim.

Other interventions

Sessions with the case worker

The guidance on referral orders states that contracts are required to include a programme of interventions designed to address the factors associated with offending.

Suggested interventions include: cognitive behavioural programmes as well as mentoring, leisure programmes and family counseling (Ministry of Justice 2009). As well as talking about their experiences of completing reparation and victim awareness work, young people also described other interventions, undertaken with their case worker and other youth offending team staff. These included, sessions with the substance misuse worker, help with applying for training and employment, a residential outward bound course and general support provided by their case worker on a variety of issues.

Young people are assigned a case worker (or case manager) when they are first referred to the YOT after court. The case worker is required to both attend their initial panel meeting and meet with the young person beforehand. The young person will then attend regular appointments at the YOT with their case worker throughout their referral order (Youth Justice Board, 2010). The young people in my research tended to talk at length about coming to see their case worker, usually on a weekly basis, and valued the advice and support that they provided. When they were asked to describe what had been useful about coming to the YOT they tended to talk about coming to see their case worker rather than particular interventions.

The Scaled Approach, which was introduced into the youth justice system in 2008, provides an important framework for the way in which YOT staff work with young people to target such interventions. The approach requires that YOT staff use the ASSET tool in order to assess young people. This information is used to prepare reports for initial panel meetings, in order to guide what is included in their referral order contract. ASSET involves assessing young people alongside twelve main headings including: living arrangements, family and personal relationships, education, training and employment, substance use, thinking and behaviour and their attitude to offending. The young people are interviewed informally by YOT staff in order to elicit this information and given an ASSET score which reflects the extent to which these factors are judged to be associated with the likelihood of further offending behaviour. Therefore, from the beginning young people's involvement with the YOT and the interventions they are subject to are in theory, and according to government guidance, aimed at preventing reoffending.

This focus on assessing 'need' and 'risk' can be seen as illustrative of the wider tensions between welfare and justice in approaches to youth crime in the United Kingdom (UK) (Whyte, 2009). Whyte (2010) argues that youth justice practitioners in the UK are faced with ethical challenges resulting from this tension between welfare and justice within the system; they are forced to balance the best interests of the child while effectively reducing offending in politically acceptable ways. I found evidence of this in my research interviews with staff. For example, Jim, the substance misuse worker at one of the YOTs said the following when I asked him about his role in working with young people on referral orders.

> *I think it's a combination of a number of things to be honest with you. We're supposed to really focus on the reasons why that crime was committed to ensure that there are no further crimes. It's kind of really specific. That particular offence may be ... for example, if that young people has a mental health problem or a drug problem for example and it's not necessarily directly connected to their offence, for a three month order you probably wouldn't address that.*

Like Jim, many staff members described their work with young people as being primarily targeted towards addressing offending behaviour. However, there were apparent tensions between staff wanting to meet the welfare needs of young people whilst at the same time maintaining an element of punishment. The following quote is from an interview with Louise who was the caseworker of several of the young people I interviewed:

> *I think there should be some element of punishment to any order, although the YOT offers a lot of support in terms of education - substance misuse, lifestyle, all those aspects. We offer so much. There probably should be some element of punishment to deter them from coming back again; otherwise we just become a social services team. That's separate to us. We are here to protect the public and to confront young people with the consequences of their actions.*

However, later in the interview she said the following:

I'm a social worker so I'm always welfare driven. I feel ... and picking up on welfare issues that maybe some other teams should be focussing on. But as a social worker it's hard not to want to do that, even though your main priority is addressing offending behaviour. It's hard to kind of differentiate between the two at times.

Louise's comments outline a tension between wanting to adhere to the targets and aims imposed by the youth justice board (YJB), and also remaining true to the welfare driven values of social work. This reflects longstanding tensions not just in *youth* justice but in criminal justice systems more generally.

The multi-agency element of the work carried out in youth offending teams (YOTs) was discussed in all staff interviews and many drew attention to the different approaches taken to engaging young people. The following quote is from an interview with the referral order coordinator at one of the YOTs, in response to a question of whether she thought that the young people got on well with their caseworkers.

Occasionally young people might clash with their worker and say that they want a different worker or whatever but that doesn't happen often, they [caseworkers] do engage young people pretty well. They form relationships with the young people in which ever style they do that, it depends on the worker some people have a more informal style some people have more boundaries in the way that they work with the young people. It depends on the case worker's background because we have quite a diverse workforce, we are not from the same background we have youth work background, law, social work, probation, therapeutic so everyone has got a different style of engaging with the young people.

This came up in the majority of my interviews with caseworkers who reflected on their own training and the impact this had on the way they worked with young people. This was particularly the case for staff from social work and youth work backgrounds who distinguished their own approach to working with young people as primarily centered around their welfare needs.

Legitimacy: young people's relationships with YOT staff

In the previous chapters I have explored young people's experiences with teachers and police officers and with adults in court and at the panel meeting. As I have outlined, young people value being treated with respect and dignity and are concerned about the neutrality of authorities. This is particularly apparent in their encounters with the police and authority figures in court, which accords with previous research on procedural justice in these areas (Tyler and Wakslak 2004, Sprott and Greene 2008). In contrast to their time in court, young people valued being able to participate in the panel meeting and felt that they were respected by the panel members.

The way in which young people formed judgments about their teachers was different from the way in which they formed judgements about the police, court officials and the panel members. Young people had contact with teachers on a regular basis and were able to build relationships with them over time. As Tyler (2004) acknowledges, in these instances trust is often linked to the personal connections and relationships that people have with authority figures. Like their teachers at school, young people in my research had regular contact with YOT staff, particularly their case worker, and therefore had the opportunity to build a positive relationship with them.

YOT staff face a number of challenges in engaging young people in interventions and building trusting relationships with them. Young people are present at the YOT in the role of an 'offender'. They have been arrested by police officers, detained at a police station and sentenced in court and if they fail to meet the requirements of their order can be sent back to court by the YOT. Therefore, YOT workers have a large amount of power over young people which could potentially lead to a coercive relationship similar to that between young people and the police. Surprisingly, I did not find this to be the case in my research. Young people at both research sites saw YOT staff in a far more positive light than police officers or adults in court. Further to this, having a positive relationship with their case worker was important in ensuring both their engagement with interventions at the YOT and their positive assessments of their time there.

When young people were asked to compare YOT staff to authority figures they said that they were completely different to police officers and also often

distinguished them from the teachers that they did not like. For example, seventeen year old Chantelle said the following during her comparison of YOT staff and teachers at school.

> *They're much better than the teachers at school. [Interviewer: In what ways are they better?] They're understandable. They don't shout. If you are in the wrong, of course, they won't be like, oh, just please behave. They will, you know, tell me in I'm in the wrong or whatever if I am, for example. But, yeah, they don't talk to you like your five years old. How the teachers talk to you like you're stupid. They'll talk to you like your age, so then you know they're being serious and stuff like that. They're not joking about with you. That's why some people don't take teachers seriously.*

Like Chantelle, many young people drew attention to the different ways that YOT workers dealt with their behaviour when they were 'in the wrong', talking to them about it calmly and not patronising them. This was similar to the sentiments expressed by several young people about the teachers that they *did* like and signifies a positive connection between the YOT worker and the young person .Chantelle felt that YOT workers were more 'understandable' than her teachers because she had a relationship with them in which she did not feel patronized; she therefore accepted their advice and guidance rather than viewing it as a telling off.

Many of the young people in my research had negative prior experiences with authority figures; they got into trouble at school and were stopped constantly by the police. Research has shown that vulnerable young people can be difficult to work with on an involuntary basis and that they may be less cooperative and less responsive to overly directive approaches (Trotter, 2006). Therefore, in the context of the YOT it is essential that staff build a trusting relationship with young people and that they listen to them and give advice. YOT workers were seen in a different light to police officers and *some* teachers by the young people in my research because they spoke to them about what they could improve on rather than being overly directive in their approach. There was a strong sense in many of the interviews that children felt their caseworker understood where they were coming from and was interested in what they had to say.

He knows how it is. He knows how life is for young people as well. He doesn't just criticise or, if we're bad, "You do this, you do that, you need to change." He helps, he talks to you. That's about it.

(Seventeen year old male)

This young man felt that rather than telling him what to do, his case worker showed empathy and understanding, taking a collaborative approach in which he talked to him about what had happened. This is illustrative of a person-centered approach to working with young people who have offended, in which they are engaged 'as a fellow traveler on a journey of change' rather than being directed or told what to do (Whyte 2009). It also has strong parallels with a restorative approach, in particular reintegrative shaming which focuses on the act rather than offender as bad and supports re-acceptance and reintegration (see Braithwaite 1989).

Because YOT workers took an approach that was young person-centered, showing a willingness to listen to them and see things from their point of view, young people were more willing to trust and confide in them. Many young people said that it had been positive coming to the YOT because they had 'someone to talk to'. Similar to the way in which young people described good teachers, caseworkers were described as *'caring'*, *'friendly'* and *'welcoming'* and *'open'* . Young people often said that they could talk to their case worker about anything, whether or not it was connected to their offence. Seventeen year old Hassan, was reluctant to be at the YOT but had a very good relationship with his caseworker, he described their relationship in his interview.

When I go to him and I knew that I could talk pretty much anything to him. Talking more like an older brother. It was like little brother with the problems going up to the older brother for advice. So, yeah, in that way he was good. I really liked him.

The fact that young people saw YOT staff in a different light to police officers and adults at court is extremely significant. Every young person was asked to compare these authority figures in their last interview and they all (with one exception) distinguished YOT staff and viewed them in a more positive light. Youth work theorists have argued that the type of participative relationships that are fostered by

youth work practitioners are only possible when the young person has engaged in a voluntary capacity (Davies, 2005). Therefore, the argument follows that this type of relationship is not possible in a YOT because young people are ordered to be there by the court and are not participating voluntarily. There have been challenges to this view within youth work literature itself, and it has been argued that if (as in my research) young people see the YOT staff as separate to authority figures such as police and court officials then these types of relationships are possible (Ord, 2009).

Children were very aware of the fact that YOT staff were enforcing their referral order and could send them back to court. However, the way the YOT staff tended to work with them, enlisting their participation and treating them with respect, made them different to the police in their eyes. Seventeen year old John explained the difference between YOT workers, teachers and police officers.

> *One's trying to help you, and one's trying to teach you and one's trying to enforce. So like if I something against the law here, let's say it's not hurting anyone, it wouldn't be mentioned. At school I probably would be… probably would get in trouble, cos that's more like an institution and the same with the police. They're both institutions, even though this is, cos it's the Council, there you wouldn't see the YOT as being part of it cos they're… but even though they are part of it all, part of the system, they sort of totally step out and try to be more 'with you' about it. More your side rather than the other two which would probably be a bit more… even the teachers are trying to help you as well, they would probably be like whatever. But even though these [YOT staff] will tell you when you're acting wrong and stuff, they're a bit more… like not here to punish you, but to help you.*

Interestingly, John recognised that the YOT was part of 'the system' but felt that the caseworkers were more on his side and were there to help rather than to punish. For many young people in my research 'the system' was seen in a negative way, the police harassed them, they got into trouble at school and they had been sentenced in court where they also felt stigmatised and looked down on. In contrast to the largely conflictual nature of young people's relationship with the police and court officials,

who they tended to feel were out to get them, the YOT was viewed as being there to help them move forward with their lives.

It was very clear from my interviews that the young people saw the YOT staff as fair. In contrast to their perceptions of police officers and adults in the courtroom, young people believed that the YOT staff were *'on their side'* and that they wanted what was best for them. Interestingly it was raised in the staff interviews that even when young people breached their referral order, there was rarely any animosity towards their caseworker. The following quote is from an interview with a caseworker in which she discusses young people who repeatedly fail to attend appointments at the YOT, inevitably leading to a breach of their referral order.

> *Yeah, I think that most young people when you speak to them and you say to them, why have you done this? Why you haven't come into the YOT? They say, I don't know, busy or just forgot or whatever. It's not … there's never any animosity towards their worker because they breached them. I think that's because when their orders are made initially it's laid down to the young people so firmly, you come in or you will get breached. Individual workers will say it in their own individual way, but it's a case of we've got rules that we've got to work towards and if you don't come in, I've got to breach you. I think most young people respect that in a way. I know many young people that we work with don't have rules and boundaries at home. So I think they kind of respond quite well to that in the YOT.*

Young people's acceptance of the boundaries laid down by the YOT was also evident in my research interviews with them. This was largely because YOT staff were very clear with young people about what was required of them and that they would be sent back to court if they failed to turn up to their appointments or committed another offence. In addition, the signing of the contract at the youth offender panel was significant and reinforced for the fact that there was written agreement between them and the YOT. In this sense young people's working alliance with the YOT was one based on mutual understanding and explicit agreement about the intervention, all of which are outlined as successful strategies when working with young people who have offended (Whyte 2009).

'Outcomes' of referral orders: The importance of relationship building

Central government, through the youth justice board, measures 'outcomes' and ultimately the 'success' of referral orders based largely on re-offending rates. This is the overriding aim of the youth justice system; to reduce re-offending. As I have outlined the focus on young people's 'needs' is reliant on the risk these needs pose to reoffending, and therefore youth justice practitioners can find themselves caught up in a tension between providing for young people's welfare needs and meeting the requirements of a system based on justice focused targets. Referral orders are purportedly a restorative intervention, but are part of a youth justice system that is largely focused on reducing re-offending.

The young people in my research lived in high crime areas with high levels of social and economic deprivation. Many of them had been excluded from school and felt harassed by teachers and police officers and alienated by the criminal justice system. These young people are often viewed as 'problematic' within society and their local communities and the young people in my research felt this stigma. Working with these young people is not straightforward and the outcomes of this work are not necessarily measurable in the way that the government demands. This was eloquently expressed by a case worker during my research interviews when I asked her if she felt the work she and her colleagues did made a difference to young people:

> *Yes I do. I do think we do. Sometimes not in a quantifiable way or the way that the YJB would like to quantify it. That's the trouble with re-offending rates. Can you quantify ... would that person have re-offended earlier? Would they have re-offended in a more serious way? Maybe it will stop them re-offending a year down the line as opposed to six months down the line. That's why the way we measure it is a blunt tool. It's not qualitative enough. It's not long term enough. You need to track these young people for longer. But I think that they all benefit from having somebody concerned and consistent in their lives. Because most of our young people, they don't have concerned and consistent adults in their lives.*

This fits with findings of a recent report, involving consultation with youth justice professionals. Practitioners identified relationships between young people and their case worker as fundamental to the successful rehabilitation of offenders (The Centre for Social Justice, 2012). The report found that the most successful relationships were those that were formed over time and built mutual trust. Practitioners found that young people valued workers who: they could speak to openly; who would listen to them without judging; who could relate to their situation and provided advice and support (ibid:2012).

The report also suggests that paper work increasingly gets in the way of relationships building in the youth justice system (ibid:2012). I found this to be the case in my research; several YOT staff said that they were frustrated by the amount of time they had to spend doing administration and felt that this got in the way of their direct work with young people.

> *Most practitioners will tell you that most of their time is spend sitting on a database from hell, instead of doing that one to one and group work with young people which is why you're here in the first place. So that's something that I find really frustrating.*

(Referral order coordinator)

The young people in my research certainly seemed to benefit from having a positive relationship with their case worker. Nineteen young people out of the twenty-eight I interviewed at the end of their referral order had been at the YOT for six months or more. Young people who were on referral orders of all lengths described having a positive relationship with YOT staff but is was those on longer orders who tended to feel that the YOT had had a significant impact on their lives. This was partly because these young people had committed more serious offences, often had more complex home lives and as a result needed the most support. But it was also down to the amount of time their case workers had to work with them, to build up a trusting relationship and to make a difference in their lives.

All the interviews reported on in this chapter are with young people who successfully got to the end of their referral order and therefore had engaged with the YOT and complied with their referral order contract. Nearly all of these young people

described having a positive relationship with their case worker and valued the help and support that was provided, many acknowledging the impact it had on their lives. Rather than talking at length about specific interventions, such as drugs awareness sessions or leisure programmes, young people tended to focus on the constant support and guidance they had received from their case worker throughout their order.

The importance of the 'relationship' between those engaged in offending and the professional committed to the traditional role of 'advising, assisting and befriending' them has always been recognized as a crucial factor in the rehabilitative process (Taylor, 2010). In his recent book Rob Canton (2011) outlines a number of studies within the probation field that have displayed the importance of the relationship between offenders and their probation officers in securing the success of interventions. When they were asked what they valued, offenders in these studies often referred to personal relationships with their probation officer as influential in their engagement and in supporting change in their own lives (Canton, 2011). In addition, literature on social work interventions with young people and literature in the youth justice field has highlighted the importance of strong relationships in helping young people to move forward with their lives positively (Smith 2008; White 2009).

A prominent example of this was seventeen year old Chantelle, who had completed a six month referral order for a joy riding offence and during that time built up a good relationship with her case worker Sophie. She said the following when I asked her why she thought Sophie called to check up on her.

> *To see how I'm getting on, if I'm coping. To see if, you know -- cuz, obviously, their job is to either get me into college or make sure like they help me out, well I quit my job now. But like to see, you know, if I'm doing something with my life and whatever. So, yeah, they need to keep contacting me, otherwise, I think I will just be lazy ...*

Chantelle felt that the role of the YOT was to help her *'do something with her life'*, which is reflective of the approach that her caseworker Sophie took. In fact Sophie had supported her to apply for a beauty therapy course at college and to win a bursary to support her studies. Chantelle told me later in the interview that one of things she had found most helpful about her referral order was having Sophie's support.

In my interview with Sophie she explained that Chantelle had been through a number of difficult times during her order; her boyfriend had been arrested and was in prison and her friend had been shot dead. Sophie was a senior manager at the YOT, and only took on Chantelle's case temporarily as part of a course she was doing. However, when Sophie attempted to pass on the case to another worker after a month Chantelle objected. The following quote is from my interview with Sophie in which she describes her relationship with Chantelle.

> *In such a short time and from the meetings that we had something must have happened that I'm not even sure about. And she was saying, "Can't you be my worker? Can you please?" and I thought okay then, that's fine. And then we continued that relationship and I think we kind of underestimate the relationship between the case manager and the young person because sometimes it might be the first time that they've had somebody who is setting boundaries or they know that they can't break them or they're going to go back to court or someone that's listened to them and hears what they say. And I think that was, even though Chantelle had a very supportive mum and dad, she was working, she also had four brothers who drove her mad and she had a boyfriend who was in prison who she really cared about, and I think it was her space to be able to talk about the things that she likes, what she does, what she shouldn't do and how she should do it and what she wants out of life.*

Like Sophie, many of the case workers went out of their way to engage young people and make sure that they complied with their referral order and attended their appointments at the YOT. A number of young men in the areas where I did my research had difficulties in travelling to the youth offending team because of opposing gang territories. Although none of them described themselves as being in a gang they said they faced problems when travelling outside of their residential area into rival gang territory, and some were not willing to travel to the YOT. This was particularly pronounced for children in YOTB when it moved, half way through my research, to a different part of the borough. In order to prevent this, case workers would sometimes visit the young person at home or meet them at an alternative location.

A notable example was seventeen year old Ryan, who served a twelve month referral order for a drug dealing offence. Ryan had engaged well with the YOT and had a very good relationship with his caseworker Ahmed and with Dave, the drugs worker at the YOT. Ryan faced a number of welfare related issues during his order; his relationship with his mother had broken down and he lived with his grandparents, he also had an ex-partner who had become pregnant during his referral order. Although, in his first interview with me Ryan was happy to attend the YOT, when the YOT office moved I carried out his second interview during a home visit with his caseworker Ahmed. During this interview Ryan explained his relationship with Dave.

> *I used to see Dave like every week. I used to call him up on my own back -- like I was only supposed to see him -- or I went to see him more often than I was supposed to. It was all right. Like it helped me.*

The fact that Ryan chose to go and see Dave outside of his compulsory appointments is significant and demonstrates the trust that he had in him and the positive relationship that they had built up. Ryan's relationship with Dave and Ahmed secured his engagement with the YOT throughout his order; they supported him with the issues in his personal life and helped him stay out of trouble. Ryan told me later in the interview *'... like they've helped me in a way. Like before I used to be on the streets, you know, every day. But I ain't doing none of that.'*

Because I interviewed Ryan as part of his home visit, I was able to observe his session with Ahmed. During the session an argument broke out between Ryan and his grandparents, in which he opened up about his feelings of anger and rejection following the breakdown of his relationship with his mother. Ahmed acted as a mediator and was able to resolve the argument, encouraging Ryan to acknowledge the support and love that his grandparents provided. Ahmed reflected on this in his interview with me later that day:

> *So I think that's the role that myself, as a caseworker, I find myself sometimes playing. Sometimes you're a mediator between family members. You talk about restorative justice, victim and perpetrator, victim and offender but I think sometimes the more important work is what goes on behind closed doors. And I think this is why it's important that, as workers, working with vulnerable people, that*

periodically we go and conduct home visits. We go and sit, meet with

the parents, hear what they've got to say, find out what's going on.

Both Ryan and Chantelle's cases provide prominent examples in which the relationship between a young person and their caseworker was a key ingredient in both the successful completion of their order and in enabling them to turn their lives around. Sophie was from a social work background and Ahmed had worked as a youth worker. Both showed empathy and respect towards the young people that they worked with and saw them first and foremost as a young person with needs. Rather than focusing solely on Chantelle and Ryan's offending behaviour they supported them in every aspect of their lives, including their relationships with family and partners. This type of open and honest relationship in which practitioners are able to articulate young people's feelings and problems, is essential to delivering an effective social intervention in contexts such as YOTs (Trotter 2006, Whyte 2009).

Several young people in my research showed a level of ambivalence towards the youth offending team at the start of their order. They were often angry at the way they had been treated by the police and the court system and were reluctant to buy into the aims of their referral order contract. A prominent example was fifteen year old Brian, an African Caribbean young man who had completed a twelve month referral order for aggravated robbery.

During his first interview Brian told me that he had experienced police harassment and said that until recently he was being stopped and searched several times a day. He described having a shoe box full of stop and search forms at home and said that the police didn't always give him a form as they should and that some police officers did not *'follow their code'* and abused their power by being violent and aggressive towards him. Brian also told me that he believed the government was corrupt and that they allowed drugs and guns into the country which had a negative impact on the area in which he lived. He had little trust in the police or the wider criminal justice system and described getting into trouble at school with his teachers on a regular basis. In his first interview Brian said that he was ashamed of what he had done but was, like many children, too embarrassed to talk at length about the offence or how the panel meeting had made him feel about the victim.

In his second interview nearly a year later Brian had had further negative experiences with the criminal justice system and had been arrested as the result of mistaken identity. It was only when he was bailed and allowed home that the police called him to inform him of their mistake and apologise. Unsurprisingly, Brian still disliked the police and felt that the criminal justice system was unfair, but he was more willing to talk about the offence and said that he had changed throughout the twelve months of his referral order. In this interview at the end of his order Brian spoke to me about how he felt about his crime and said it was a '*cowardly offence*', that he regretted it and that he realised he had been a '*bit of a bully*'. He also felt that he was now more aware of the consequences of his behaviour, and said the following when I asked him whether his time at the YOT had made him feel differently about the offence.

> *I think it's made me think more about like just crime in general. I wouldn't, I wouldn't uh– when I first got the order, I wasn't really thinking straight. I think I was – I had this like kind of ghetto mentality, I wasn't thinking of the consequences really, but now I think of the consequences and stuff so.*

Although Brian's original case worker had left during the first few months of his order he had developed a strong relationship with her replacement Denise, and said it had been good for him to have someone to talk to. He described being able *to 'open up'* to Denise and felt that she was interested in what he had to say and cared about what happened to him. When I asked him what had been good about his time at the youth offending team, he said the following:

> *I think it's helped me open up a bit more and talk about like personal feelings and stuff and like giving views on like sort of like my – giving my own personal views and I just find it really interesting. I think it's been a good experience and it's helped me change I think. [Interviewer: In what way do you think it's helped you change?] I think I've just become a normal person and I know more about crime and how people view crime and how it actually is viewed by like the wider public and stuff. [Interviewer: How do you think it is viewed then by the wider public?] I think yes, that young people are so*

stereotyped, but at the end of the day, crime is crime, it shouldn't be
done. The law has been in place for a reason, even though personally
I still think some rules are stupid, but like I realise why they are there
now and stuff.

This again relates to the distinctions that young people tended to make between YOT workers and other authority figures. Like many other young people in the research Brian had a trusting relationship with his case worker and as a result was open to her encouraging him to think about his behaviour and why it was wrong. In addition, he described his case worker's focus on helping to think about what he wanted in the future and what he needed to do in order to achieve this. Identifying a young person's hopes and priorities, and challenging their behaviour in a non-confrontational manner has been outlined as an effective approach to working in youth justice (Whyte 2009). For Brian it was also important that his referral order conviction would be spent when he finished his order. He felt that this, combined with help and support he received from his case worker, had helped him to turn his life around.

I think that in a sense it's liked helped me change like the point, it like
gives you a second chance. Just, like because It's your last– I don't
know, it's just like a saviour kind of thing, it just helps you. It's like
having a last chance to like change, next time you're probably going to
go on tag or go jail or something. So I think it's just like a last chance.

Brian's case is interesting; his offence is serious and could have led to a custodial sentence. Rather than going to prison he was able serve a referral order in the community and this enabled him to carry on living his life. Brian was able to attend school, do extremely well in his GCSEs, start studying for his A-levels and have a positive future ahead of him. Through creating an open and honest relationship with Brian his case worker was able to challenge his behaviour and work with him to help him see things differently and move forward.

Youth Justice Intervention: A critical stance

Although my research revealed that young people tended to be positive about their experiences at the youth offending team (YOT), it is essential to acknowledge the

negative consequences of criminal justice interventions for the young people involved. Recent research suggests that the deeper a child penetrates the formal justice system, the less likely they are to desist from offending (L. McAra & McVie, 2007). The consensus from such research is that the key to reducing offending behaviour lies in minimal intervention and maximum diversion from criminal justice agencies.

Classic labelling theory, argues that societal reactions or responses to crime can actually encourage criminal behaviour and form a stepping stone in the development of a deviant career (Gove, 1980). This view grew from an interactionist standpoint and became particularly prominent in the 1960s, encouraging an investigation into the responses to deviance in order to understand criminal or deviant behaviour itself. Howard Becker's 1963 study *Outsiders: Studies in the Sociology of Deviance* begins by highlighting the fact that all social groups make rules and attempt to enforce them; rules define situations and what is and is not acceptable behaviour within these situations. He argues that when someone breaks these rules, or indeed is accused of breaking them, they are seen as a 'special kind of person'- an outsider (Becker, 1963: 1).

Erikson (1962) built on this idea. Like Becker, he argued that deviance was not inherent in certain forms of behaviour but was in fact the result of the attachment of the deviant label, by society, to certain people. Erikson argued that deviance was a property conferred upon certain forms of behaviour 'by the audiences which directly or indirectly witness them' (Erikson 1962: 307). Erikson also acknowledged that many institutions that were built to inhibit or prevent deviance actually ended up perpetuating it, and that they moved people from their normal position in society into the deviant role. Erikson states that this is accomplished through ceremonies which tend to have three related phases and take place in a dramatic and ritualised setting, such as a formal court trial. He argues that these ceremonies firstly constitute a 'formal confrontation between the deviant suspect and representatives of his community', then a judgement about the nature of the deviancy, followed by the assignment of a special deviant role, such as offender (Erikson 1962:311).

Arguably children and young people are subject to labelling and stereotyping, whether they have broken the law or not. Brown (1998) argues that our understanding

of young people is framed through meanings that are publically produced, particularly through the media. Stories of 'feral youth', 'yobs' and 'hoodies' are commonplace in the British media and this public image of the 'problem youth' is not a new one. Pearson (1983) chronicles how the news media have consistently given a high profile to the decline of both young peoples' and the nation's moral fibre. Therefore to be young and to have committed what is defined as a criminal or deviant act leaves one open to labelling and stereotyping.

McAra and McVie (2007) draw attention to research from a range of jurisdictions, including Europe and the United States, which suggests that contact with youth justice agencies is inherently criminogenic. Drawing on research into the Scottish youth justice system, the authors argue that certain categories of young people are propelled into a repeated cycle of contact with the system (McAra and McVie 2007). These young people tend to be what they describe as the 'usual suspects'; male and from lower socio-economic backgrounds. Data from this study suggests a number of trends which question the efficacy of youth justice intervention in enabling young peoples' desistence.

The Edinburgh Study of Youth Transitions and Crime (The Edinburgh Study) is both large scale and longitudinal, recording pathways in and out of crime for a cohort of around 4300 young people. Analysis of this data suggests that early contact with social work and criminal justice intervention does little to stem the involvement of children in offending behaviour. In fact, the data suggests that this forms part of a labelling process which results in the child having repeated and amplified contact with the criminal justice system. McAra and McVie (2010) report that of the 105 young people who were identified by social services as having behavioural problems at age 5, around two fifths still had on-going contact at age thirteen and 45 per cent were referred again at age fifteen. In addition, 46 per cent had a criminal conviction in the adult system by the age of twenty-two.

Further to this, the study suggests that youth justice interventions have a similarly negative impact on young people. Quasi-experimental analysis shows that young people who are warned and charged but have no further contact with the youth justice system have far better outcomes than those who progress to further intervention (McAra and McVie 2010). It is argued that the welfare orientated youth

justice system in Scotland has recycled 'certain groups of young people into the system again and again' and as a result created a permanent suspect population who are unable to get rid of the label applied to them regardless of diminishing offending behaviour (ibid 2010:200).

It is important to recognise the significance of such research as a back drop for the analysis of any youth justice intervention. In accordance with McAra and McVie's (2010) analysis many of the young people in my research were vulnerable and were in desperate need of the support provided by the YOT. Despite their largely positive experience with the YOT they were there as part of court order and had been labelled as a 'young offender' through the potentially stigmatising process of arrest and detention at the police station and sentencing in the courtroom. Taking account of research data suggesting that youth justice interventions are potentially criminogenic, it is important to question whether the support required by young offenders could be more appropriately provided outside of the structures of a formal criminal justice system.

Conclusion

The reparation schemes that I observed in my research had the potential to be 'partly' restorative (see McCold 2000), in that they allowed the young people to contribute to projects that were purportedly of benefit to the wider community. The aim of such work is that through contributing to their community young people feel that they are paying back for their offence and will therefore be able to move on by 'rejoining the community' (Home Office 1997:9.21). There were a number of factors that were important in determining young people's feelings about reparation and whether they viewed it purely as a punishment. Firstly, it was very important to them that their reparation activity felt like real work rather than a task they were asked to do for the sake of it. Where they felt there was not enough for them to do, or they had not achieved anything significant they tended to be far more negative about it and feel that it was 'pointless'.

Secondly, the young people valued learning something useful during their reparation hours. In particular, young people at YOTB valued the carpentry skills that

they developed. In this sense the work made a positive difference to the young people, in that they learnt new skills, as well as benefitting others. Thirdly, the young people strongly valued doing work that they felt contributed to something or someone i.e. work that was actually reparative. The reparation project at YOTB, in which young people made furniture which was sold and the proceeds donated to a cancer charity, was successful at building these feelings. Young people wanted to feel that they were making a tangible contribution through the work that they carried out. Through the project in YOTB they could see value of what they were doing and how they were helping others.

Fourthly, in order to understand how their work was making a contribution to others, it was important that the project was clearly explained to them by YOT staff. It was particularly useful when YOT staff explained the specific contribution that their work made to the overall project. In YOTB this was achieved by explaining the amount of money their work would contribute toward the work of the charity. Fifthly, the role of YOT staff in both explaining and facilitating the reparation projects was very important. At YOTB the reparation worker treated the young people with respect and was supportive in helping them to build new skills and create furniture for the carpentry projects.

Where projects fulfilled the above criteria, young people were far more likely to view the work as a way to 'pay back' for their offence and to feel that it was not purely a punishment. The reparation scheme in YOTB was far more successful in achieving these criteria in the eyes of the young people than that in YOTA. The work was not easy or straightforward at YOTB and young people often had to attend at the weekends or in the evenings after school. Although most of the young people found this frustrating, those at YOTB still did not see their reparation work as a punishment. Because they felt that they were making a difference to other people and that they were achieving something tangible, combined with the respectful and supportive way in which they were treated by the reparation worker, the reparation work was not viewed as a punishment.

Victim awareness was delivered slightly differently in the two youth offending teams, one facilitating separate victim awareness sessions with the victim support worker and the other doing this work as part of the child's regular session with their

caseworker. This work was often carried out as part of a broader work which encouraged young people to be responsible for their actions, think about the consequences for others and consider how they could behave differently in the future. The relationship that a young person had with their case worker was very important in securing their engagement in this work and enabling them to reflect on their behaviour and how they could change things.

Although, a number of young people said that they had been happy to write an apology letter, there were cases in my research where this was inappropriate. It is important that youth offending teams (YOTs) consider instances in which the young person is not, for various reasons, willing to apologise to the victim and be prepared to work with them in alternative ways. In particular, it is important to consider the close relationship that exists between offending and victimization. Young people often commit offences against other young people and drawing the boundaries between 'victim' and 'offender' is not always straight forward. Although attempting to reconcile young people in these instances can be complex, in order for a restorative approach to be taken it is essential that it is at least attempted.

The official approach to youth justice, as defined by central government, largely involves a focus on addressing the welfare needs of young people only in as much as they influence their offending behaviour. Regardless of this official approach YOT staff in my research continued to be guided by their own professional background and particularly those with social or youth work backgrounds tended to feel it was essential to meet the welfare needs of young people rather than focusing solely on the offence. There was tension in staff interviews, between wanting to meet the welfare needs of the young people whilst at the same time feeling that their role was to provide an element of punishment and ensure deterrence.

Although YOT staff faced a number of challenges in working with young people they overcame these through adopting an open and participative approach. Young people felt that YOT staff compared favorably to other authority figures such as police officers and court staff as well as the teachers that they did not like. Because young people saw their case worker on a regular basis they were able to build a personal connection and relationship with them. Like their discussion of teachers, young people valued their case worker talking to them about their behavior calmly in

a way that was not patronizing. In line with literature in effectively engaging young offenders, case worker were not overly directive in their engagement with young people but enlisted their cooperation by talking to them about their behavior. As a result the young people saw their relationship with them as different to the conflictual one they had with police officers and court officials. As a result, rather than seeing YOT staff as part of the 'system' in which they had little trust, young people tended to see them as 'on their side' and there to help them.

Reoffending rates are arguably a partial measure of success in the youth justice system. My interviews with young people revealed that they had a relationship with the YOT and their case worker that provided a constant source of support and encouragement throughout their order. Having an adult with whom they had a trusting relationship but who also imposed boundaries on them and encouraged them to think about their behaviour was valued by young people and made a real difference to their lives. Research has shown that young people's decisions about desisting are often related to their need to feel included in their social world (Barry, 2006). Reintegration, a key part of restorative justice, focuses not just on the offender's obligation to repair the harm caused by their actions, but on enabling them to feel part of their communities once more. This includes helping to repair relationships with their families, helping them to get into employment and enabling them to take the chance to turn their lives around. These outcomes are largely dependent on the skills of YOT staff to build trusting, open and participative relationships with young people.

Chapter Seven
Conclusion

Introduction

In this chapter I consider the implications of this thesis for three main areas: restorativeness, procedural fairness and policy and practice. Firstly, my research sought to look at the ways in which referral orders meet their purportedly restorative principles through the eyes of the young people who experience them. Specifically, I looked at the ways in which 'restoration', 'reintegration' and 'responsibility' played out in the various stages of the referral orders process. I started by considering the conclusions that can be drawn from my research into young peoples' experiences of the panel meeting. In particular, I look at the ways in which they were encouraged to take responsibility for their actions at the panel and how they experienced it in comparison with court, drawing conclusions about the restorative nature of the process. In addition, I look at restorative interventions that were carried out at the YOT, including victim awareness activities and reparation work. I consider the ways in which these processes were successful in achieving their purported restorative aims and what factors led to this success.

Secondly, I consider the implications of my research for the growing literature on children's perceptions of fair procedures. In particular I look at young people's perceptions of the panel meeting compared to the formal courtroom. I consider how this contributes to the existing literature, which suggests that restorative processes are perceived as more procedurally fair than the formal court process. Specifically, using Tyler's work as an analytical framework I consider how these factors play out in young people's perceptions of the panel meeting and court. I then move on to consider young people perceptions of authority figures: including teachers, police officers, magistrates, and YOT staff. I consider what was important to young people in making up their judgements of these different authorities and how this fits with the literature on procedural justice.

Thirdly, I highlight the possible policy and practice implications of my research. I start by considering what my research suggests about the suitability of restorative youth justice processes. Specifically, I make recommendations about the

operation of reparation schemes and the conduct of panel meetings. In addition, I consider the central importance of youth justice practitioners building trusting relationships with the young people they work with. I finish this section by considering some of the lessons that can be learnt from my research about relationship between the police and young people. Lastly, I consider possible areas for further research.

Referral orders in practice: Restorative youth justice?

It is by no means straightforward to define want constitutes a 'restorative' process. As Braithwaite (2002) suggests, in a youth justice system that has constantly see-sawed between retributive and rehabilitative aims, restorative justice presents a 'third way'. It holds appeal for those on the liberal end of the political scale due to its promise of a less punitive approach, and also satisfies conservative values of empowering victims and encouraging offenders and their families to take responsibility. New Labour's take on restorative justice encompassed a focus on restoration, reintegration and responsibility: placing the onus on young offenders to 'make amends'; 'pay their debt to society'; 'face the consequences of offending behaviour' and for them and their families to take responsibility for preventing further offending (Home Office, 1997:9.21). This White Paper laid the foundations for the referral order, which was introduced two years later.

In theory referral orders fulfil Marshall's frequently quoted definition of restorative justice, that it *'is a process whereby parties with a stake in a particular offence collectively resolve how to deal with the aftermath of the offence and its implications for the future'* (Marshall, 1999:5). However, the most comprehensive data on victim involvement, from the piloting of referral orders, suggests that the number of victims involved in the youth offender panel (panel meeting) is low (see Newburn et al., 2002). This was the case at both the youth offending teams (YOTs) in which I carried out my research, one of which had had a victim attend twice in the past three years and the other which had never involved victims in panel meetings. Although panel meetings without victim attendance cannot be said to be fully restorative, they can be viewed as 'mostly' restorative in that they, in theory, involve the offender and the community in deciding what will happen as a result of the offence (see McCold, 2000).

Restorative justice practices, and in particular restorative schemes such as referral orders which operate as part of a mainstream response to crime, are not without their critics. A prominent point of debate lies in the extent to which restorative practices are distinct from retributive justice. Restorative practices are often held up as the right or 'good' way of doing justice and presented in stark opposition to retributive justice which is viewed as 'bad' (Cuneen 2010). In reality, restorative practices, by their very nature, involve elements of retributive censure. The largely retributive act of 'holding offenders accountable' must happen before the process of reintegrating offenders or repairing the harm caused by crime can take place (Daly 2002:60). Therefore, restorative processes involve elements of both retributive and rehabilitative approaches and should not be presented as distinct or in opposition to such penal philosophies.

Further to this, it is important to highlight the fact that referral orders do form part of a mainstream criminal justice response to youth crime. Although the panel meeting claims to operate on the principles of restorative justice, young people are ordered to attend by the court and have previously gone through the potentially stigmatising processes of arrest and sentencing in the youth court. In addition, referral orders *do* constitute a 'watering down' of the principles of restorative justice (Gelsthorpe and Morris 2000). As well as displaying positive outcomes for many of the young people completing referral orders, my research also found non-existent victim involvement at the panel meetings and little control, on the part of offenders, over what went into their contract.

In addition, referral orders were initially criticised for going against the voluntary principles of restorative justice (Wright, 2002) and concerns were raised about the vulnerable position of young people within the panel meeting and the potential for it to be punitive (Muncie, 2001; Wonnacott, 1999). Research on the pilot phase of referral orders found that when young people were asked to put into their own words what they thought the purpose of the panel was, the majority said it was some form of 'help' or 'sorting out', and only a small number mentioned punishment of any form (Crawford & Newburn, 2003).

However, there has been relatively little research on referral orders since then. Although, my research is not representative, and therefore cannot offer a

generalizable picture of how restorative referral orders are, it does offer a detailed picture of the operation of referral orders at two inner city youth offending teams (YOTs). My research attempts to uncover young people's experiences of the restorative aspects of referral orders and as a result sheds some light onto both the way in which referral orders play out in practice, and how young people understand the purportedly restorative practices involved.

The youth offender panel

When they were asked to compare their experiences in court to those in the panel meeting, children and young people tended to say that their aims were different. While court was there to give them their sentence and to scare them and 'tell them off' the panel was generally viewed as a way of helping them onto the 'right path'. In comparing their experiences of court and the panel meeting many young people said it felt different at the panel and that they felt more 'calm' or 'comfortable' than they did in court. Children explained a number of reasons behind this feeling, including the physical environment of the panel meeting, which was smaller than the courtroom and seated participants in a circle rather than the children being in front of the 'judges' who sat separately.

The panel provided a more informal participative environment where young people generally felt accepted and able to talk about their offence without feeling stigmatised. However, young people in my research were not actively involved in deciding what went into their contracts. The interviews that I conducted with YOT staff reiterated this; they explained that it was not possible for the young person to negotiate what would go in their contract as this was largely decided upon before the panel meeting. Case workers met with young people before their initial panel and conducted an ASSET assessment which then determined the requirements of their contract. This seriously challenges the purported aims of referral orders and questions their 'partly' restorative worth. The young offenders and panel members in my research were not involved in a forum in which they could '*collectively resolve how to deal with the aftermath of the offence'* (Marshall 1999:5) as this was largely decided upon before the panel meeting. This certainly adds some weight to the argument that the introduction of purported 'restorative' practices into the youth justice system in

England and Wales has engendered a dilution of restorative principles (Gelsthorpe & Morris, 2002).

Restoration and responsibility in the panel meeting

None of the young people involved in my research had a victim attend their panel meeting despite the fact that most of their crimes involved a direct victim. This reflected a historically low or non-existent victim involvement at both youth offending teams (YOTs) and accords with the findings of the pilot research on referral orders (Newburn et al 2001). There were a number of barriers to victim involvement identified in my interviews with victim liaison workers and referral order co-ordinators, one of which was the restrictions placed on YOTs by national standards. The Youth Justice Board's (YJB) standards state that initial panel meetings have to take place within 20 working days of the referral order being made. Staff suggested that this time restriction meant that victim liaison officers had very little time to contact victims and little leeway to arrange the panel for a date that suited the victim.

However, I also uncovered a cautious and risk-averse approach to involving victims in panel meetings that was imposed by senior staff but also reflected in the views of some of the case workers. This approach was grounded in concerns both for the *victim* and the *offender*. There was concern that either the young person would re-victimize, having a detrimental effect on the victim, or that it would be too much for the young person to cope with. Both of these barriers are representative of the 'tick-box', managerial culture which has come to pervade youth justice more broadly and which stands in the way of introducing meaningful restorative processes. I found a level of frustration about this among victim support staff and referral order co-ordinators who felt that this often got in the way of practitioners working with young people on the ground.

However, there was also a sense that staff found it challenging to balance the needs of victims and young offenders, a tension that has been argued to be inherent in restorative youth justice processes (Crawford & Burden, 2005). Research by Alex Newbury (Newbury, 2011) on referral orders has revealed similar barriers to victim involvement but also suggests that including victims in the panel meeting may not be

the best way forward. Newbury (2011) argues that young people are not receptive to meeting the victim at the initial panel stage and often do not feel remorse or show willingness to take responsibility. This is evidenced by her discussions both with young people who had a victim attend their panel meeting and those who did not.

Like Newbury (2011), I found that young people were often uncomfortable at the idea of having the victim attend their panel and that even after the victim awareness work that took place during their order; some young people did not feel remorse toward the victim. This was the result of a blurring of the boundaries between victim and offender, particularly in cases where the offence had been the result of a tit-for-tat fight between two young people. However, these were specific cases and although many young people seemed uncomfortable at the prospect of having their victim attend the panel, this does not necessarily mean that victim attendance would not have been beneficial for both parties. Specifically, in cases where the victim is another young person there is a need to attempt to repair the relationships between these young people. Although this may be challenging it is essential to a restorative approach.

Newbury (2011:263) argues that there is an inherent tension in involving victims in youth offender panels and 'it may be a rare occurrence for a young offender to give a victim closure at a referral order panel, or to accept responsibility when faced with a room full of adult strangers'. She concludes that restorative approaches should be reserved for cases where the time and resource input gives a good chance of success, rather than being a default position for all first disposals as is the case with referral orders. Although, I agree with her assessment that restorative processes are difficult to facilitate with young offenders, I do not think that the answer lies in restricting restorative justice. Restorative processes aim to be transformative and arguably those who are most opposed to victim attendance could benefit most from being confronted by the effect of their actions. Youth offender panels need to be far more successful at involving victims if we are to accurately assess the suitability of victim involvement. Further to this, it is important to consider the restorative worth of youth offender panels, beyond focusing on the direct involvement of victims.

McCold (2000) argues, that in the absence of victim involvement processes can be 'partly restorative' in that they effectively hold the offender accountable for

their actions and engage them in repairing the relationships that have been harmed by the crime. Holding the offender accountable involves them feeling shame, both through understanding the impact of their actions on the victim and through seeing the effect of the offence on their own families. Having a parent or carer attend the panel meeting was outlined by staff as important in helping the young person to be accountable for their actions. Seeing the effect that their offending behaviour had on their parents, in particular the shame or upset that they felt, was described as having a significant impact on the young people. A number of young people in the research said that they felt 'guilty' that their parent had to attend the panel and several described feeling 'embarrassed' and were, as a result, unwilling to talk about this at length.

In the absence of the victim attending the panel to explain the impact of the crime this needs to be effectively achieved by the panel members, either through a victim impact statement or through their capacity to effectively communicate this to the young person. This is a vital element of restorative justice, which by its very nature is a difficult process for the offender in which they are confronted with the impact of their offence (Walgrave, 2001).

Braithwaite's restorative ideal of reintegrative shaming, encourages offenders to feel shame as a result of their actions but to also 'terminate disapproval with forgiveness' (Braithwaite, 1989:12). This is not straightforward to achieve, particularly with young people who have been stigmatised by the criminal justice system prior to their appearance at the panel meeting. Many of the young people in my research, most of whom were young men, felt stigmatised by the police and the court process. Therefore, engaging them in the panel meeting and making them feel accepted and comfortable as well as bringing home the effect of their actions is not likely to be easy, particularly as they had invariably never met the panel members before. My research interviews with YOT staff suggested that panel members often found it difficult to do this effectively and as result tended to shy away from emphasising the consequences of the offence in the panel meeting.

In theory, youth offender panel meetings are designed to enable to the young person to 'face the consequences' of their actions and to 'take responsibility' (Home Office 1997). However, it is important that young people are encouraged to 'take responsibility' in a manner which does not stigmatise them. The focus on young

offenders taking 'responsibility' in the panel meetings can be viewed as punitive and potentially in conflict to restorative principles in that it can be taken to look back to the offence and places blame on the children (Newbury 2008). However, children and young people can be encouraged to take responsibility for their actions in a supportive and forward-looking manner.

When I asked children in my research what they thought the point of the panel meeting was, just over a third felt it was to make them think about their behaviour and the consequences of the offence, as well as how they could have acted differently. There was also a strong sense among many of the young people that the purpose of the panel meeting was to help them stay out of trouble in the future and to move forward with their lives. In addition, and in contrast to their perceptions of court, young people did not feel stigmatised by their experiences of the panel meeting and in most cases suggested that the panel members cared about them and wanted to help. This suggests that there is potential for young offenders to be encouraged to 'take responsibility' for their offending in way that does not stigmatise them.

It is also important to consider the extent to which the young people feel panel members are from their local community. In theory, panel members should be drawn from the geographical area in which the young person lives (Ministry of Justice 2009). The restorative ideal behind this is that the young person will be more affected by the disapproval of these people than that of criminal justice professionals (see Braithwaite 1989). However, in order for this to work, young people need to identify these panel members as being from their local community or at least feel that they can identify with them in some way. My findings echoed those of the pilot research, in that most young people did not know that the panel members were volunteers and struggled to distinguish them from YOT staff (Crawford and Newburn 2003).

In this sense my research suggests that more needs to be done to explain to young people who the panel members are and why they are there. But it is also essential to question what constitutes being from the local 'community' of a young person. Panel members must be from the geographical area covered by the YOT, and in London this means living in the borough which the YOT covers. However, this narrow geographical definition of community does not take into account the personal connectedness that is required to feel part of a community (see McCold & Watchel,

2003). People who live within the same geographical area do not necessarily share the same interests or feel connected to one another, particularly in a large city such as London. Therefore assuming that young people will readily identify those who live in the borough as being from 'their local community' is potentially problematic.

Restorative interventions at the YOT

<u>Victim awareness and reparation</u>

In chapter six of this thesis I explored young people's experiences of their time at the YOT. Most of the young people in my research described completing activities that had a victim awareness component. In one of the YOTs the victim liaison officer facilitated group victim awareness sessions, whilst in the other case workers carried out this work with young people in their weekly sessions. In addition, a number of young people described being asked to write apology letters to the victim. For many of the young people, these activities seemed to have had an impact on the way they thought about their offence and its effect on the victim or the wider community. Particularly for those who had a direct victim, the process of thinking about their actions was aided by the positive and trusting relationship that they had with their case worker and several were keen to write a letter of apology to let the victim know that they were 'sorry'.

Victim awareness work within referral orders is part of a wider aim to enable young people to take 'responsibility' for their actions (Home Office 1997:9.27). Carrying out this work with some young people was problematic as they felt, for various reasons, that the victim was partly to blame for the crime. This can be explained partly as a neutralisation technique (Sykes & Matza, 1957), but also highlights the fact that YOT staff face significant challenges when attempting to help some young people become 'responsible'. This is particularly the case when young people are required to write apology letters when they feel no remorse, which was highlighted in research interviews with both staff and young people in my research. However, the writing of apology letters is designed to follow a truly restorative process, in which the offender has realised the full impact of their actions on the victim. Unfortunately, this is not always achieved fully in youth offender panels. Therefore, the solution lies not in restricting the use of restorative justice, but in better facilitating the process.

For example, both my own research and Alex Newbury's (2008, 2011) found some blurring of the boundaries between 'victim' and 'offender' in cases where the offence was the result of a tit-for-tat fight between young people. In these instances the young person tended to have the feeling that the victim 'deserved it' even at the end of their order and was often unwilling to write an apology letter. This arguably signals a missed opportunity to bring the victim and offender together at the panel stage and attempt to repair their relationship and facilitate a greater mutual understanding. Had this been done effectively, it is possible that the young person may have felt genuinely sorry for their part in the offence and have been willing to write a letter of apology. Therefore, without facilitating a truly restorative process at the start it is difficult to judge the later success of victim awareness activities such as apology letters.

In addition, it is essential to acknowledge the work that was done by case workers to help the young people in my research 'become responsible' and to think about their actions. Through fostering a trusting and participative relationship with the young people, case workers were able to encourage them to think about the offence without stigmatising them. Young people saw the YOT staff as being very separate from the police and 'judges' in court because they listened to them, cared about them and treated them with respect. YOT staff communicated to young people that their actions had been wrong, but they did this in a way that encouraged them to think about how they could change and move forward. In this sense YOT staff were inherently restorative in their approach to working with young people; they mirrored the key aims of 'reintegrative shaming' in that they were disapproving of the act but not the young person themselves (see Braithwaite 1989). In addition, this open and participative approach was key to engaging young people, earning their trust and hence encouraging them to reflect on the offence and 'take responsibility' for their actions.

A key part of referral orders, and restorative processes in general, is that offenders repair the harm caused by the crime by making amends to the victim or the wider community. In referral orders this is purportedly realised through 'reparation' schemes in which the offender generally carries out some form of community 'payback' (Ministry of Justice 2009). My research suggested that this type of indirect reparation scheme can be viewed purely as a punishment by young people, but that if

it is facilitated appropriately it is likely to meet its purported restorative aims. What emerged from my research was that these schemes required several characteristics in order for the young people not to view them purely as a punishment. This serves as a guide for future reparation projects, and also speaks more broadly about what young people see as meaningful in activities and work in general.

Firstly, young people wanted to do what they felt constituted 'real work' rather than doing work for the sake of it, which they saw as a punishment. Secondly and closely connected to this, they valued feeling that they had contributed to something or someone. It was important for young people to feel that they were contributing something to charity or could see how their work directly benefitted someone else. Thirdly, they felt it was important that they learnt something useful from their experience. In the reparation schemes this was often in the form of practical skills which they could use in the future, either in to help them in the labour market or in life generally. Fourthly, it was essential that the work and its aims were fully explained to young people in a way that they could understand. Fifthly, and very importantly it was essential that the whole process was facilitated by supportive staff who treated the young people with respect.

The young people tended to feel that the reparation scheme at YOTB fulfilled these characteristics, whereas they tended to feel that those at YOTA did not. Young people at YOTB generally felt positive about their experiences of reparation and when they were asked what they felt the aims of the scheme were, many said that it was to enable them to 'pay something back' and did not view it as a punishment. In contrast, the majority of young people at YOTA said that the aim of the reparation scheme had been purely to punish them. The aim of reparation within restorative interventions is not only to focus on the offender's obligation to repair material harm to the victim and the community, but also to mend the broken or weak relationships between the offender and the community (Bazemore & Dooley, 2001). Young people at YOTB felt they had achieved something that was making a positive difference. These feelings both boosted their self-esteem and made them feel part of society in a positive way, rather than being viewed as a 'problem'.

Reintegration

An important restorative outcome of reparation based work is that young people will feel that they have 'made amends' for their crime and are therefore 'reintegrated' into the community (Home Office 1997). As Polk (2001) has outlined, reintegration is a difficult concept when it applies to young people who feel alienated from society in that they may not have felt 'integrated' in the first place. He argues that these young people are likely to see the juvenile justice system as a major instrument in reinforcing the message of abandonment and rejection from wider society and hence reintegrating them into the community through a restorative youth justice processes is problematic (Polk, 2001).

Restorative literature and indeed much of the policy literature relating to referral orders largely neglects discussion of the way in which the law and criminal justice system reproduce inequalities within society (Cuneen 2010). Referral orders and other restorative interventions are often sold as offering a 'better' response to offending but it is important to remember that they form part of a mainstream response to crime. Before attending the youth offending team, young people have been through the potentially stigmatising process of arrest and sentencing in court and are legally obliged to attend the YOT.

Recent research evidence suggests that youth justice interventions can be criminogenic for young people and that those who are warned and charged and have no further contact with the youth justice system have far better outcomes in the future than those who progress to intervention (McAra and McVie 2010). However, although they argue for minimal intervention McAra and McVie suggest that where intervention *does* take place it should involve 'a close one to one relationship with a key worker who acts as an advocate for the child' (ibid, 2010:201). My research supports this suggestion and reveals that the one to one relationship between the young person and their case worker was extremely important in determining the positive impact of the referral order. It has also been argued that for youth justice interventions to be effective they must be undertaken within a broader context of educational inclusion and the provision of economic opportunity (McNeill, 2006).

My research suggests that young people do have the potential to be 'reintegrated' in a number of ways at the end of their referral order. Although the

young people in my research had experienced stigmatisation through their treatment at school and by the police and court system, they tended to see the YOT as separate from these institutions. Many of the young people felt strongly, at the end of their order, that their case worker and other staff at the YOT had helped them to turn their lives around. It was the quality of the relationships that young people had with YOT staff, and in particular their case worker, that was important in enabling this. Through one-to-one meeting with young people on a regular basis, case workers were able to build trusting relationships and help them to get into employment or education, repair relationships with their families and feel more positive about their future.

Procedural justice, restorative justice and referral orders

Research suggests that people's experiences with legal authorities, such as the police and the courts, have an effect on the way they view these authorities. Specifically research with adults has shown that judgements about whether the processes exerted by the police and the courts are fair (referred to as procedural justice) has an effect on whether people are willing to accept the constraints placed upon them by these authorities (Tyler and Huo 2002). Tyler (1990) found, in his research with adults, that in forming judgements about their experiences, respondents focused on their opportunities to state their case more than the influence which they had over the decisions of the police and courts. An important factor in respondents feeling that the procedures used by police and courts were fair was that they had an opportunity to take part in the decision making of those authorities. This included: having an opportunity to present their arguments; being listened to; and having their views considered by authorities (Tyler, 1990). Tyler also claimed that the effects of having these opportunities remained constant, regardless of the outcome of the respondents' encounter with the police or courts.

Specifically, it has been suggested that the perceived neutrality and trustworthiness of authorities are important as well as people being able to participate in decision making and feeling that they were treated with dignity and respect (see Tyler 2004). The majority of research in this area has been conducted with adults but there is a growing body of quantitative research which suggest that, as with adults,

fair and respectful treatment leads to more positive evaluations of the police and the court system among children (Fagan and Tyler 2005; Hinds 2007; Sprott and Greene 2008).

This is particularly interesting when comparing young people's assessments of their experiences in the courtroom and at the panel meeting. Restorative processes, such as panel meetings, have the potential to display many of the features associated with procedural justice. Offenders are able to **participate** in decision making in restorative processes and explain their side of things. Because offenders are involved in decision making they are able to see that the decisions made are **neutral** and without bias. In addition, restorative processes allow offenders to have an opportunity to evaluate the **trustworthiness** of authorities and give authority figures the opportunity to communicate **respect** for offenders (Sherman, et al., 2011). These four factors have been outlined by Tyler (2004) as being important in contributing to people's judgements about fairness.

The evaluation of restorative projects has revealed high levels of perceived procedural justice among offenders. Research evidence from the Australian Reintegrative Shaming Experiments (RISE) has consistently revealed that offenders experiencing restorative conferences displayed higher levels of procedural justice (defined as being treated fairly and with respect) than those who experienced a court sanction (Sherman et al.1999;2000;2011). In addition, the evaluation of referral orders revealed that young people perceived the process as fairer than the youth court and that they felt that they were treated with respect (Crawford & Newburn, 2003).

However, many legal scholars have raised concerns about the use of informal legal procedures because they challenge conventional ideas of justice. Ashworth (2002) links this point to restorative justice, arguing that the lack of procedural safeguards challenges the basic legal rights of offenders. He argues that it is important to maintain basic legal standards of consistency, impartiality and proportionality in restorative processes. When referral orders were first introduced there was much controversy over the likely 'fairness' of the procedure, particularly related to the fact that young offenders do not have legal representation during the panel meetings and could therefore feel coerced into signing the contract (see Ball, 2000; Wonnacott, 1999).

The majority of research in this area is with adults and there is comparatively little work focusing on young offenders' perceptions of criminal justice processes. As I outlined in chapter two of this thesis, the quantitative studies that do exist in this area tend to use pre-defined scales which were designed with adults in order to measure children's perceptions of procedural justice. There is very little research which considers the suitability of these measures and focuses on young offenders' perceptions of purportedly restorative processes. My research attempts to contribute to this gap in the research literature by exploring young people's experiences of both the formal court process and the comparatively informal panel meeting. In doing this I attempt to unpick how young people view these processes and what is important in making up their judgements.

Procedural justice and young people's perceptions of court and the panel meeting

In chapter five I explored young people's experiences of attending both the youth court, in order to be sentenced, and the panel meeting at the YOT in which their referral order contract was agreed. As I have outlined, young people in my research viewed the youth offender panel in a far more positive light than the court room. There were a number of things that were important to young people in determining their judgement of these experiences aside from the outcome of the process.

Young people's descriptions of court were coloured with anxiety and fear. Although the majority of the children in my research had not committed an offence serious enough to warrant a custodial sentence, many of them were very frightened of being sent to prison. This was largely due to the lack of information that was provided to them in court and was exacerbated by the long waiting times they endured before they were seen. This fits with quantitative research conducted in Canada which looked at young offenders judgements of their experience in court. The research found that independently of how fairly young people felt they were personally treated, general court disorganisation and time delays tended to lead young people to have more negative perceptions of the court (Greene, et al., 2010). In contrast young people distinguished the atmosphere of the panel meeting from that in court and said that it felt less 'formal' and that they were more 'comfortable'.

In line with research on procedural justice (see Tyler 1990; 2004, Shapiro and Brett 1993), most of the young people said that they liked the panel meeting better

than court and an important factor in this was that they were able to participate more in the panel than in the courtroom. Although it was important to young people that they were heard in court, most did not feel comfortable speaking and in particular addressing the magistrates or as they tended to describe them, the 'judges'. The magistrates were seen as unapproachable and detached from their lives and as result young people did not feel able to communicate with them directly and many said they preferred their solicitor to do the talking. It was, however, important to the children that their solicitor spoke on their behalf and told the magistrates about their personal circumstances particularly when they felt that they were doing something good or 'decent' with their lives. The few young people who *had* spoken to the magistrates objected to way in which they were questioned and often felt that the magistrate had been overly curt or accusatory in their questioning.

In sharp contrast to this young people strongly valued being able to explain the offence from their point of view in the panel meeting which they tended to feel was not possible in court. They not only valued being able to participate in the panel meeting but also felt it was important that they were listened to by the panel members. Most of the young people felt that the panel members cared about what they had to say and described them as 'friendly' and 'open' or approachable. They were particularly frustrated when they felt that they were not being listened to or when they were interrupted. This relates to Tyler's (2004) argument based on his research; he suggests that people must trust that an authority has sincerely considered their arguments, even if they were rejected, in order for participation to have an effect on procedural justice.

As I have mentioned in the previous section, young people's participation in the panel meeting did not result in them having an influence over what went into their contract. However, the young people did not tend to view this as unfair. Being able to explain the offence in their own words in the panel meeting was important to young people, regardless of the fact that they had very little control over went into their contract. This suggests that, as outlined by Tyler (1990), participation in decision making in criminal justice processes is very important to young people regardless of the impact that this has on the outcome.

Young people generally had negative perceptions of the 'judges' or magistrates in court. They were concerned about their neutrality and felt that they could be biased in their decision making and act on stereotypes based on their ethnicity, gender or their status as a young offender. Several young people described the judges as 'posh' and felt that they thought they were 'better than' them or looked down on them. In contrast, several young people specifically distinguished the panel members from the magistrates in court because they felt that they were not 'judging' them and that they listened to their point of view and cared about what they had to say.

Tyler (2004) outlines judgements about the trustworthiness of authorities as being important in shaping people's evaluations of the fairness of procedures. He argues that people's views of trustworthiness are shaped by whether the authority is seen to be caring, concerned about their situation and tries to do what is right for them (ibid:2004). In the panel meeting young people had more of an opportunity to observe these qualities in the panel members than they did the magistrates in the courtroom. Children tended to sit with the panel members in a circle and were therefore able to interact with them easily. They were encouraged to talk about the offence from their point of view and tended to feel that panel members were supportive, approachable, cared about them and wanted to help. Similarly, this was evidence that the young people generally felt respected by the panel members.

As I have mentioned several of the young people described the judges as being curt in their questioning and looking down on them, which does not communicate respect. However, outside of the formal court room young people are potentially able to view magistrates in a different light. One of the young men in my research changed his view of the magistrates after meeting them informally when they visited the youth offending team. He had previously viewed the magistrates as 'posh' and unapproachable when he was in court but after this meeting felt that they were 'all right' and 'just normal people'. This is significant and suggests that away from the formal courtroom environment, if young people are given the opportunity to engage with authority figures their perceptions can alter significantly.

Therefore, the factors that have been outlined in research on procedural justice as important in contributing to people's judgements about fairness were also important to the young people in my research. My findings suggest that, as with adults,

participation, neutrality, trustworthiness and respect are all important factors in making up young people's judgements of criminal justice processes (Tyler 1990;2004, Shapiro and Brett 1993). Further to this, my research suggests that young people experience the 'partly' restorative process of the panel meeting as more procedurally just than the formal courtroom. Young people felt that they were more able to participate in the panel meeting and most felt that they were listened to by approachable, caring panel members who generally treated them with respect. On the other hand, young people felt that they were less able to speak in court and tended to feel that the judges were rude, unapproachable and potentially biased in their decision making. This adds to the evidence which suggests that restorative processes lead offenders to view them as more procedurally just than the formal court process (Crawford and Newburn 2003, Sherman et al 2011).

Trust, authority figures and procedural justice

As I have outlined in the section above, research with both adults and children has suggested that if people experience what they perceive as fair procedures in their dealings with the police and the courts, then they are more likely to view these authorities as legitimate and are hence more likely to comply with their rules (Tyler and Huo 2002; Fagan and Tyler 2005; Hinds 2007; Sprott and Greene 2008). However, research with children in this area is in its infancy and there is 'no settled literature on the suitability of using adult measures to study the views of young people' (Hinds 2007:203). The way in which children experience policing and other criminal justice processes is largely reliant on the way that they are treated by authority figures. If we are to apply Tyler's framework of what makes a 'fair procedure' then the extent to which authority figures are viewed as neutral, trustworthy and respectful by young people is important and could potentially have an effect on whether they accept the constraints placed on them by these authorities.

Therefore, I aimed to look at the way in which young people formed judgements about different authority figures both outside and within the referral order process. I began in chapter four by looking at young people's perceptions of teachers and police officers which provided a context in which to look at their perceptions of the magistrates in court, the panel members and the youth offending team staff (YOT) in chapters five and six. I chose to look in chapter four at both young people's

experiences outside the criminal justice system, at school, as well as their experiences of policing because this offered some comparison of what they valued in their experiences with authority figures in two very different contexts.

Perhaps, unsurprisingly, what was important to young people in their encounters with teachers and police officers was very different. Young people's feelings about their teachers were largely based on whether they had a trusting relationship with them. In contrast, their perceptions of policing were largely concerned with the neutrality of police decision making and whether they treated them with dignity and respect. Tyler (2004) distinguishes between authorities securing people's compliance through the neutral application of rules *and* through trust which is linked to judgements about particular authorities and often to particular personal connections and relationships between citizens and authority figures.

It is important to highlight that the vast majority of children in my research sample were from ethnic minority backgrounds. Research has shown that poverty is still the largest driver of differential achievements at school and black Caribbean children, in particular young men, have been consistently identified as underachieving at secondary school level (Cassen & Kingdon 2007). In addition, research studies have pointed to the disproportionate extent of negative behaviour and misconduct by police towards young people from black and other ethnic minority communities (Norris et al 1992, Bland and Miller 2000).

Young people were asked about both their general experiences of policing prior to arrest and about their arrest and detention at the police station. Many of the young men described being stopped and searched by the police on a regular basis which they felt constituted harassment. The culmination of their experiences formed an extremely negative view of 'the police' as an organisation and many young people had very little trust in them. There was a strong sense that, as has been revealed in previous research on young people and policing, they needed the police for protection but were frustrated at the poor treatment and harassment that they experienced (see Loader 1990). Most of the young people described some more positive experiences of policing and said that some police officers were 'better' than others. Young people tended to distinguish between good and bad policing based on the way in which they were treated; particularly whether they were treated with respect and whether they felt

that the police were impartial or neutral in targeting their powers. Significantly, some of the young people suggested that they were more likely to co-operate with police officers who were 'better'.

Young people were frustrated and angry at police officers treating them disrespectfully. This was related both to the way they treated them physically and the way in which officers spoke to them. Children described officers swearing at them and being verbally abusive as well as being physically rough during stop and search. In addition, a small number of young people described being physically harmed by the police during arrest. They described the discomfort and degradation of being held in a police cell, many were held overnight and said they felt frightened, isolated and confused.

As well as objecting to way in which they were treated by the police many young people felt that the way the police targeted their stop and search power was unfair or unjustified. Although the young people felt that they needed the police for protection and could understand why they needed to conduct stops and searches, they felt that they and their friends were unfairly targeted at least some of time. Young people tended to feel that they were targeted because of police stereotypes about their youth, the clothes they wore and the area in which they lived. In this sense, their status as inner-city youths meant that they were under constant suspicion and surveillance from the police and they felt this was unfair. Young people valued police officers explaining the reasons behind their stop and search as this assured them that they were being stopped on the basis of facts rather than because of the personal bias of police officers. When police officers behaved in this way this indicated that they had 'respect' for them.

Therefore, the way in which young people formed judgements about police officers was based *both* on the fact that they did not perceive them to be neutral and fair in their procedures *and* because of the derogatory and disrespectful treatment they experienced at their hands. Because young people's experiences with the police were largely conflictual, there was little opportunity for them to establish a personal connection or to talk to the police when they stopped them. For example, young people described officers searching them aggressively and suddenly without fully explaining the reason for the stop. When police officers did take the time to explain to

the young people why they were being searched, and to talk to them in a respectful way, they were far more positive about their experience. Similarly, when police officers showed young people that they cared about them at the police station and made a personal connection with them, through comforting them or bring them something to eat, they were more positive about their overall experience.

In both their experiences with magistrates and police officers, young people placed a large amount of importance on neutrality and fair procedures. Because these authority figures were making decisions about what would happen to the young people, i.e. the sentence they would receive or whether they would be arrested, it is not surprising that they were concerned that these authorities were neutral. In addition, because police officers and magistrates had a large amount of power over them in these situations the disrespectful treatment that they experienced was all the more frustrating and they often felt powerless to do anything about it. Many young people described being angry and frustrated at the way magistrates and particularly the police treated them. In experiences with the police, this sometimes led young people to retaliate. However, many of young people were resigned to the fact that this would make the situation worse and they therefore tended to go along with what the police asked of them.

When young people were asked about getting into trouble at school they tended to focus on their experiences with particular teachers. The way in which young people formed judgements about their teachers was largely based on the personal connection or the relationship that they had with them. Young people did not have this relationship with all their teachers and particularly valued those who cared about them, were willing to support and help them and were open and approachable. This is in contrast to the importance young people placed on neutral and respectful treatment from the police and court staff (see Tyler 2004). Because young people saw teachers on regular basis and their job was to help them, rather than to arrest or sentence them, there was an opportunity for young people to build personal connections and relationships with them. They therefore assessed the trustworthiness of teachers on the basis of these personal connections.

In a similar way, young people built trusting relationships with their case worker at the YOT, something which is explored in chapter six. When young people

were asked to compare teachers, police officers and YOT staff, the vast majority held more positive judgements of staff at the YOT. Although young people realised that the YOT was part of 'the system' they felt that staff members were more 'on their side' than some of their teachers and certainly more so than the police.

Youth justice practitioners face a number of potential challenges to engaging young people in interventions and building relationships with them. The young people in my research attended the YOT as part of a court order and could have been sent back to the court and re-sentenced if they did not comply with the conditions. This meant that YOT staff had a large amount of power over them and this could potentially have led to a coercive relationship. However, I did not find this to be the case in my research. Young people at both YOTs saw the staff there in a far more positive light than police officers and magistrates and often described them in a similar way to the teachers that they liked at school. In addition, having a positive relationship with their case worker was important in ensuring both young peoples' engagement with interventions at the YOT and their positive assessments of their time there.

Like their assessment of 'good' teachers, young people valued the fact that their case worker talked to them about their behaviour and were not patronising or condescending. They also valued the fact that their case workers listened to them and were interested in what they had to say and described them 'caring', 'friendly' and 'open'. This was similar to the way they spoke about panel members and teachers and displays that participation as well as trustworthiness was important in their encounters at the YOT (Tyler 2004). Rather than telling them off or being overly directive in their approach, young people felt that their case workers showed empathy and understanding, taking a collaborative approach in which they talked to them about their behaviour. This type of approach has been found to be a successful way of working with young people who have offended (Whyte 2009) and also has strong parallels with a restorative approach which focuses on defining the act rather than the offender as bad (see Braithwaite 1989).

Because of the way in which the case workers engaged with the young people, establishing a trusting relationship, they tended to view the YOT as being separate from 'the system' of the police and courts. Young people generally felt that the YOT

was there to help them move on with their lives rather than to punish them. Case workers often went out of their way to engage young people and prevent them from being sent back to court but they were also open with them about what was required of them at the YOT and what would happen if they breached their order. Therefore, the young people tended to accept the boundaries placed on them by the YOT and tended not to harbour animosity toward their case worker, or feel that it was unfair, if when they did breach their order and were sent back to court. This is significant and suggests that the trusting and open relationships YOT staff fostered with young people led them to perceive the YOT as fair and to accept their rules as a result. This fits with procedural justice research which suggests that when people view authorities as fair they are more likely to see them as legitimate and comply with their rules (Tyler and Huo 2002; Tyler 1990).

Recommendations for Policy and Practice

The 2010 report from the Independent Commission on Youth Crime and Antisocial Behaviour advocated a 'fresh start' for youth justice in England and Wales. Part of that fresh start was the suggested expansion of restorative justice practices through a restorative youth conferencing service similar to that in Northern Ireland. The Commission suggests that this service provide a mainstream response for all children and young people considered for prosecution. Although, the current coalition government has thus far ruled out the piloting of such as service, they have displayed a sustained commitment to restorative justice. A recent government consultation, published in March 2012, sets out proposals for the reform of community sentencing practices and particularly advocates post-sentence restorative justice practices (Minsitry of Justice, 2012).

Restorative justice practices appeal to politicians of all stripes and are likely to have a continued prominence in mainstream responses to crime for years to come. It is therefore essential that research is carried out into the way that these processes operate and how they are received by offenders, victims and local communities. My research offers an insight into the way in which young offenders perceive the restorative elements of referral orders and there are a number of potential policy and practice implications from my work.

Ultimately, my research suggests that young people experience the 'partly' restorative process of the panel meeting as more procedurally fair than the youth court. In particular their ability to participate in the panel meeting, its informal nature and the respectful treatment they received from adults was valued by young people. This suggests that, as well as achieving restorative outcomes, restorative processes are also perceived as procedurally fair by young people. Rather than experiencing the panel as stigmatising, as was the fear when referral orders were first introduced, young people felt that its aim was to help them rather than to punish. If we are to follow the argument that fair criminal justice procedures lead people to be more willing to comply with the law (Tyler 1990), then these findings are indeed significant and advocate the expansion of restorative processes within the youth justice system.

In addition, my research offers the basis of some more specific recommendations about particular restorative elements of referral orders. My findings suggest that community based reparation schemes, in which the offender is intended to feel they are paying back to the wider community rather than the victim, can fulfil 'partly' restorative outcomes (see McCold 2000). One of the reparation projects that I looked at was far more successful at achieving this than the other. I found a number of factors to be important in enabling young people to feel that they were 'paying something back' for their crime rather than simply serving a punishment through reparation work. These findings can be useful in directing the practice of reparation schemes for young people on referral orders and more broadly, for those young people who conduct reparation as part of reparation orders or youth rehabilitation orders. Such reparation projects should offer work to young people that has a purpose and ensure it is not viewed as being given to them purely for the 'sake of it'. It is important for young people to feel a sense of achievement through reparation work and this work should therefore have a clear use or purpose.

In particular, reparation work should be of clear benefit to the community or to particular individuals. This could be achieved through raising money for charity or through the young people working directly for charities or community groups. It is essential that young people feel that they are making a tangible contribution through their work in order for them to feel that they are contributing to the community. As well as involving young people in such projects, it is essential that the projects are explained to them carefully by supportive staff. Young people in my research strongly

valued learning useful skills through their reparation activities. Where possible, reparation activities should involve the potential for young people to develop their skills. As well as being of general benefit to their self-esteem, such projects can potentially help them into training or employment.

My research also offers a basis for recommendations on the operation of youth offender panel meetings and potentially for restorative conferencing with young people more broadly. It is difficult to assess the suitability of the involvement of victims, in restorative processes with young people, on the basis of current research on referral orders. As I argued in the first section of this chapter, an expansion of victim involvement in panel meetings is needed before this suitability can be adequately assessed. My research revealed that bureaucracy in the form of national standards and risk assessment procedures could sometimes hinder victim involvement in panel meetings. Therefore, government legislation should consider these barriers and review such requirements in order to allow for victim attendance at panel meetings.

In the absence of victim involvement it is essential that the panel members encourage the young person to think about the consequences of the offence whilst at the same time avoid stigmatising them. My research suggests that panel members do not always have the requisite skills to be able to do this effectively and that this can result in their reticence to confront the young person with the consequences of their offence. My research suggests that when panel members are able to relate to the lives of the young people and engage them effectively the panel meeting has more of an impact; particularly in terms of encouraging young people to think about the offence and their behaviour. In addition, it was suggested by YOT staff that some panel members were more confident and proficient in doing this than others.

This suggests the need for review and perhaps revision of the training and support provided to panel members. At present, the training panel members receive does involve some focus on child development and how to communicate effectively with young people (Panel Matters Training Materials). However, my research suggests that this training is not always effective in building the requisite skills in panel members. Further research is needed into panel members and the skills, training and support they require in order to facilitate panels effectively.

The think-tank, The Centre for Social Justice, recently launched a review of the youth justice system, involving evidence hearings and meetings with over 200 professionals from youth justice. Their findings, which are grounded in the experience of those on the front-line, suggest that stable relationships between young people and practitioners are fundamental to the successful rehabilitation of young people (Centre for Social Justice 2012). In spite of this evidence the review suggested that the relationship between practitioners and young people and their families was increasingly neglected in favour of the increased paper work that youth justice staff were required to complete (ibid:2012).

A very strong conclusion resulting from my research is that positive relationships between young people and their case workers are vital in ensuring they get the best from their time at the YOT. Trusting, participative and supportive relationships enable young people to reflect on their behaviour and move forward with their lives. These relationships take time to build and are therefore more difficult to achieve when YOT staff are under pressure to complete increasing amounts of paper work. It is essential that policy and practice developments in youth justice recognise the central importance of a consistent adult for young offenders and ensure that professionals are able to maintain this role effectively. A reduction in the amount of administration that is required of YOT staff and the provision of additional administrative support would help free practitioners time to focus on direct work with young people.

There is much to be done to improve the relationship between the police and young people. Despite being treated well by some exceptional officers, young people in my research were very negative about police officers in general and had little trust in 'the police' as an organisation. In particular, many young men felt harassed, disrespected and degraded by their treatment at the hands of the police. This treatment sometimes made young people less likely to comply with police officers and resulted in retaliation. Hostility toward the police, particularly on the part of those in inner-city low income areas, has been documented in several other research studies and was highlighted as a cause of rioting by those involved in disturbances across England in the summer of 2011 (LSE and The Guardian 2011). My research reveals some important insights about the relationship between young people and the police and suggests some ways in which this relationship could be improved.

Young people value being treated with respect and dignity by police officers. Specifically, young people value being spoken to politely by officers when they stop them and being physically treated in a respectful manner whilst they are searched. In addition, young people were particularly vulnerable when they were arrested and held at the police station and need to be treated with dignity during this time. My research suggest that much needs to be done to improve the treatment of young people both during stop and search and arrest and when they are held at the police station. Treating young people respectfully does not require a large shift in policing priorities and could make a large difference to the way they are perceived in inner city communities.

In addition, my research revealed that young people often felt that they were stopped by the police too frequently and that this was the result of unfair targeting and stereotyping. Therefore, my research certainly suggests the need for further investigation into the targeting of stop and search powers and in particular their impact on young people in inner-city areas. In December 2011 the government announced a review of stop and search powers in the wake of the 'Reading the Riots' study conducted by the LSE and The Guardian newspaper. It remains to be seen how this review will effect policing practices and specifically the targeting of stop and search in inner-city communities. However, it is clear that frustration and anger about policing practices is not unique to my research sample and is something that needs to be further addressed if the police are to improve relations with inner-city communities.

Suggestions for further research

It is now over ten years since the initial evaluation of the referral order pilots was conducted and therefore further and more extensive research is needed into their operation. My research is not generalizable to the way in which referral operate across England and Wales. Therefore, research on a national scale is required in order to establish a picture of how referral orders are operating across the country. In particular, wide ranging research is needed into reparation schemes in order to assess their success at engaging young people and achieving their stated aims. This research would enable the sharing of good practice examples of reparation projects between youth offending teams (YOTs) both regionally and nationally, which would also

enable YOTs to learn from one another and to develop more effective reparation projects.

In addition, quantitative research, looking at the involvement of victims in panel meetings nationally is needed. The data from the initial evaluation of the referral order pilots is now dated and it would be useful to gain an up to date picture of victim involvement. This would enable researchers to illuminate particular YOTs that are successfully involving victims and to look at the factors behind this success.

Dramatic public spending cuts are likely to have a profound effect on the provision of children's services in the future; including YOTs and the voluntary sector services that they work in partnership with (see Morgan & Newburn, 2012). At this time of potential change, research into youth justice practitioners and the way in which they implement policy on the ground would be welcome and would plug a gap in the existing literature. An over-riding conclusion from my research is that the way in which these professionals work with young people has a profound effect on both the successful completion of their order and how the young person benefits from attending the YOT. Youth justice practitioners come from a variety of backgrounds and research into the different education and training they receive and how this prepares them for the role would be insightful.

References

Alderson, P. (2005). Designing Ethical Research with Children. In A. Farrell (Ed.), *Ethical Research with children*. Maidenhead: Open University Press.

Allen, M. (2003). *Into the mainstream: Care leavers entering work, education and training*. York: Joseph Rowntree Foundation.

Allen, R. (2011). Last Resort? Exploring the Reduction in Child Imprisonment 2008-2011. London: Prison Reform Trust.

Anderson, S., Kinsey, R., Loader, I., & Smith, C. (1994). *Cautionary Tales: Young people, crime and policing in Edinburgh*. Aldershot: Avebury.

Archer, L., Hollingworth, S., & Mendick, H. (2010). *Urban Youth and Schooling*. Maidenhead: Open University Press.

Ariès, P. (1996). *Centuries of childhood*. London: Pimlico.

Ashworth, A. (2002). Responsibilities, Rights and Restorative Justice. *British Journal of Criminology, 42*, 578-595.

Audit Commission. (1996). *Misspent Youth*. London: Audit Commission.

Aye-Maung, N. (1995). *Young People, Victimisation and the Police: British Crime Survey Findings on Experiences and Attitudes of 12 to 15 year Olds*. London: HMSO.

Ball, C. (2000). The Youth Justice and Criminal Evidence Act 1999 Part 1: A significant move towards restorative justice, or a recipe for unintended consequences? *Criminal Law Review*.

Barry, M. (2006). *Youth Offending in Transition: The search for social recognition* London: Routledge.

Bateman, T. (2012). Who Pulled the Plug? Towards an Explanation of the Fall in Child Imprisonment in England and Wales. *Youth Justice, 12*(1), 36-52.

Bazemore, G., & Dooley, M. (2001). Restorative Justice and the Offender: The Challenge of Reintegration. In G. Bazemore & M. Schiff (Eds.), *Restorative Community Justice: Repairing Harm and Transforming Communities*. Cincinnati: Anderson.

Becker, H. (1963). *Outsiders: Studies in the Sociology of Deviance*. New York: The Free Press.

Berridge, D., Brodie, I., Pitts, J., Porteous, D., & Tarling, R. (2001). *The independent effects of permanent exclusion from school on the offending careers of young people RDS Occasional Paper No 71*. London: Home Office.

Birkhead, T. (2009). Toward a Theory of Procedural Justice for Juveniles. *Buffalo Law Review, 57*(5), 1-72.

Blagg, H. (1997). A Just Measure of Shame? Aboriginal Youth Conferencing in Australia *British Journal of Criminology, 37*(4), 481-501.

Bradford, B., Jackson, J., & Stanko, E. (2009). Contact and Confidence: Revisiting the Impact of Public Encounters with the Police *Policing and Society, 19*, 20-46.

Braithwaite, J. (1989). *Crime, Shame and Reintegration*. Cambridge: CUP.

Braithwaite, J. (1999). Restorative justice: Assessing Optimistic and Pessimistic Accounts. *Crime and Justice: A Review of Research, 25*, 1-127.

Braithwaite, J. (2002). *Restorative justice & responsive regulation* Oxford: Oxford University Press.

Braithwaite, J., & Mugford, S. (1994). Conditions of successful reintegration ceremonies: Dealing with Juvenile Offenders *The British Journal of Criminology 34*, 139-171.

Braithwaite, J., & Roche, D. (2001). Responsibility and Restorative Justice In G. Bazemore & M. Schiff (Eds.), *Restorative Community Justice: Repairing Harm and Transforming Communities*. Cincinnati: Anderson.

British Educational Research Association. (2004). Revised Ethical Guidelines For Educational Research. doi:http://www.bera.ac.uk/files/guidelines/ethica1.pdf

Brown, S. (1998). Representing Problem Youth: the repackaging of reality. In S. Brown (Ed.), *Understanding Youth and Crime: listening to youth?* Buckingham: Open University Press

Brunson, R., & Miller, J. (2006). Young Black Men and Urban Polcing in the United States. *British Journal of Criminology, 46*, 613-640.

Bryman, A. (2008). *Social Research Methods*. Oxford: OUP.

Canton, R. (2011). *Probation: Working with Offenders*. Abingdon: Routledge.

Cassen, R., & Kingdon, G. (2007). *Tackling low educational achievement*. York: Joseph Rowntree Foundation.

Christie, N. (1977). Conflicts as Property. *The British Journal Of Criminology, 17*(1), 1-15.

Connolly, A. (2008). Challenges of generating qualitative data with socially excluded young people. *International Journal of Social Research Methodology: Theory and Practice, 11*(3), 201-214.

Crawford, A., & Burden, T. (2005). *Integrating victims in restorative youth justice* Bristol The Policy Press.

Crawford, A., & Lister, S. (2008). Young people, police and dispersal powers. *Community Safety Journal 7*(2), 4-7.

Crawford, A., & Newburn, T. (2003). *Youth Offending and Restorative Justice: Implementing Reform in Youth Justice*. Devon: Willan.

Criminal Justice Joint Inspection. (2011). *Not Making Enough Difference: A Joint Inspection of Youth Offending Court Work and Reports*

Cuneen, C. (2010). The Limitations of Restorative Justice In C. Cunnen & C. Hoyle (Eds.), *Debating Restorative Justice* Oxford: Hart.

Curtis, K., Roberts, H., Copperman, J., Downie, A., & Liabo, K. (2004). 'How come I dont get asked no questions?' Researching 'hard to reach' children and teenagers. *Child and Family Social Work, 19*(2), 167-175.

Daly, K. (2000). 'Revisiting the Relationship Between Retributive and Restorative Justice'. In H. Strang & J. Braithwaite (Eds.), *Restorative Justice: Philosophy to Practice,* . Aldershot: Ashgate.

Daly, K. (2001). Conferencing in New Zealand and Australia: Variations, Research Findings and Prospects'. In A. Morris & G. Maxwell (Eds.), *Restorative Justice for Juveniles: Conferencing, Mediation and Circles*. Oxford: Hart.

Daly, K. (2002). Restorative Justice: The real story. *Punishment and Society, 4*(1), 55-79.

Davies, B. (2005). Youth Work: A Manifesto for Our Times'. *Youth & Policy*(88), 5-27.

Denzin, N., & Lincoln, Y. (1994). Introduction: Entering the Field of Qualitative Research. In N. Denzin & Y. LIncoln (Eds.), *Handbook of Qualitative Research*. Thousand Oaks, California: Sage.

Erikson, K. (1962). Notes on the Sociology of Deviance. *Social Problems, 9*, 307-314.

Evans, J. (2006). Integrating Victims into Restorative Justice. *Practice: Social Work in Action, 18*(4).

Fagan, J., & Piquero, A. (2007). Rational Choice and Developmental Influences on Recidivism Among Adolescent Felony Offenders. *Journal of Empirical Legal Studies, 4*(4), 715-748.

Fagan, J., & Tyler, T. (2005). Legal Socialisation of Children and Adolescents. *Social Justice Research, 18*(3), 12.

Feilzer, M., & Hood, R. (2004). *Differences or Discrimination?* London: Youth Justice Board.

Flood-Page, C., Campbell, S., Harrington, V., & Miller, J. (2000). *Youth crime: Findings from the 1998/99 Youth Lifestyles Survey*. London: Home Office Research, Development and Statistics Directorate.

Fondacaro, M., Dunkle, M., & Pathak, M. (2004). Procedural Justice in Resolving Family Disputes: A Psychosocial Analysis of Individual and Family Functioning in Late Adolescence *Journal of Youth and Adolescence, 27*(1), 101-119.

Frankham, J., Edwards-Kerr, D., Humphrey, N., & Roberts, L. (2007). *School exclusions: Learning partnerships outside mainstream education*. York: Joseph Rowntree Foundation

Gau, J., & Brunson, R. (2010). Proceudral Justice and Order Maintenance Policing: A Study of Inner-City Young Men's Preceptions of Police Legitimacy. *Justice Quarterly, 27*(2), 256-279.

Gelsthorpe, L., & Morris, A. (2000). Something old, something borrowed, something blue, but something new? A Comment on the prospects for restoartive justice under the Crime and Disorder Act 1998. *Criminal Law Review*(Jan), 18-30.

Gelsthorpe, L., & Morris, A. (2002). Restorative Youth Justice: The last vestiges of welfare? In J. Muncie, G. Hughes & E. McLaughlin (Eds.), *Youth Justice: Critical Readings*.

Goldson, B. (2000). *The New Youth Justice*. Lime Regis: Russell House.

Goldson, B. (2011). 'Time for a Fresh Start', but is this it? A critical Assessment of the Report of the Independent Commisssion on Youth Crime and Antisocial Behaviour. *Youth Justice, 11*(3), 3-27.

Goldson, B., & Muncie, J. (2012). Towards a global 'child friendly' juvenile justice? *International Journal of Law, Crime and Justice, 40*, 47-64.

Gove, W. (1980). *The Labelling of Deviance: Evaluating a Perspective*. London: Sage.

Gray, P. (2005). The Politics of Risk and Young Offenders' Experiences of Social Exclusion and Restorative Justice. *British Journal of Criminology, 45*(March), 938-957.

Greene, C., Sprott, J., Madon, N., & Jung, M. (2010). Punishing Processes in Youth Court: Procedural Justice, Court Atmosphere and Youths' Views of the Legitimacy of the Justice System. *Canadian Journal of Criminology and Criminal Justice, 52*(5), 527-544.

Hagell, A., & Newburn, T. (1994). *Persistent Young Offenders* London: Policy Studies Institute.

Haines, K. (2000). Referral Orders and Youth Offending Panels: Restorative Approaches and the New Youth Justice. In B. Goldson (Ed.), *The New Youth Justice* (pp. 58-81). Lyme Regis: Russell House.

Harden, J., Scott, S., Blackett-Milburn, K., & Jackson, S. (2000). 'Can't talk won't talk?': Methodological issues in Researching Children. *Sociological Research Online, 5*(2).

Harris, B., Vincent, K., Thomson, P., & Toalster, R. (2006). Does Every Child Know They Matter? Pupils' Views of One Alternative to Exclusion. *Pastoral Care June*.

Hicks, A., & Lawrence, J. (2004). Procedural Safeguards for Young Offenders: Views of Legal Professionals and Adolescents. *The Australian and New Zealand Journal of Criminology, 37*(3).

Hinds, L. (2007). Building Police-Youth Relationships: The Importance of Procedural Justice. *Youth Justice, 7*(3), 195-209.

HM Government. (2008). *Youth Crime Action Plan* London HM Government.

Home Office. (1988). *Punishment, Custody and the Community*. London: HMSO.

Home Office. (1997). *No More Excuses: A new approach to tackling youth crime in England and Wales* London: Home Office.

Police and Criminal Evidence Act 1984 (PACE) Codes of practice – Code A Exercise by police officers of statutory powers of stop and search (2010).

Hoong Sin, C. (2007). Ethynic-matching in qualitative research: reversing the gaze on 'white others' and 'white' as 'other'. *Qualitative Research, 7*(4), 477-499.

Howard League for Penal Reform. (2008). *Punishing Children: A survey of criminal responsibility and approaches across Europe*: Howard League for Penal Reform.

Hoyle, C., Young, R., & Hill, R. (2002). *Proceed with Caution: An Evaluation of the Thames Valley Police Initiative in Restorative Cautioning*. York: Joseph Rowntree Foundation.

Independent Commission on Youth Crime and Antisocial Behaviour. (2010). *Time for a fresh start*. London: Police Foundation/Nuffield Foundation.

Jackson, S., & Fondacaro, M. (1999). Procedural Justice in Resolving Family Conflicts: Implications for Youth Violence Prevention *Law and Policy, 21*, 101-127.

James, A., Jenks, C., & Prout, A. (1998). *Theorizing childhood*. Cambridge, UK: Polity Press in association with Blackwell Publishers Ltd.

Johnstone, G. (2002). *Restoartive Justice: Ideas, values, debates*. Collumpton: Willan.

Labour Party. (1996). *Tackling Youth Crime, Reforming Youth Justice*. London: Labour Party.

Lemert, E. (1971/2000). Why Children Should Be Kept Out of Court. In C. Lemert & M. Winter (Eds.), *Crime and Deviance: Essays and Innovations of Edwin M. Lemert*. Lanham: Rowman & Littlefield.

Lind, E. A., Kanfer, R., & Earley, P. C. (1990). Voice, control, and procedural justice: Instrumental and noninstrumental concerns in fairness judgments. *Journal of Personality and Social Psychology, 59*(5), 952-959.

Loader, I. (1996). *Youth, Policing and Democracy*. London: Macmillan

LSE, & The Guardian. (2011). Reading the Riots: Investigating England's summer of disorder.

Marshall, T. (1999). *Restorative Justice: An Overview*.

Maxwell, G., & Morris, A. (2006). Youth Justice in New Zealand: Restorative Justice in Practice? *Journal of Social Issues, 62*(2), 239-258.

May, T., Gyateng, T., Hough, M., Bhardwa, B., Boyce, I., Oyanedel, J.-C., et al. (2010). *Differential treatment in the youth justice system*. London: Equality and Human Rights Commission.

McAra, L., & McVie, S. (2005). The Usual Suspects? : Street-life, young people and the police. *Criminal Justice 5*(1), 5-36.

McAra, L., & McVie, S. (2007). The Impact of System Contact on Patterns of Desistance from Offending *The European Journal Of Criminology 4*(3), 315-345.

McAra, L., & McVie, S. (2010). Youth crime and justice: Key messages from the Edinburgh Study of Youth Transitions and Crime. *Criminology and Criminal Justice 10*(2), 179-209.

McCold, P. (2000). Toward a Holistic Vision of Restoartive Justice: A reply to the maximalist model. *Contemporary Justice Review, 3*(4), 357-414.

McCold, P., & Watchel, B. (2003). Community is not a place: a new look at community justice. In G. Johnstone (Ed.), *A Restorative Justice Reader: Texts, sources, context*. Cullompton, Devon: Willan.

McIvor, G. (1992). *Sentenced to Serve*. Aldershot: Avebury.

McNeill, F. (2006). A Desistance Paradigm for Offender Management *Criminology and Criminal Justice, 6*(1), 39-61.

Millard, B., & Flatley, J. (2010). *Experimental statistics on victimisation of children aged 10 to 15: Findings from the British Crime Survey for the year ending December 2009*. London.

Ministry of Justice. (2009). *Referral Order Guidance (revised May 2009)*: Ministry of Justice.

Ministry of Justice. (2010). *Statistics on Race and the Criminal Justice System 2008/9*. London: Home Office.

Ministry of Justice. (2011). *Statistical bulletin on the public disorder of 6th to 9th August 2011 – February 2012 update*. London: Ministry of Justice Statistics bulletin.

Minsitry of Justice. (2012). *Punishment and Reform: Effective Community Sentences Consultation Paper CP8/2012,* . London: Ministry of Justice.

Morgan, R., & Newburn, T. (2007). Youth Justice. In M. Maguire, R. Morgan & R. Reiner (Eds.), *Oxford Handbook of Criminology* (4th ed.). Oxford: OUP.

Morgan, R., & Newburn, T. (2012). Youth Crime and Justice: Rediscovering devolution, discretion, and diversion? In M. Maguire, R. Morgan & R. Reiner (Eds.), *The Oxford Handbook of Criminology* (Fifth ed.). Oxford: Oxford University Press.

Morris, A., & Maxwell, G. (1996). Research on Family Group Conferences with Young Offenders in New Zealand. In J. Hudson, A. Morris, G. Maxwell & B. Galaway (Eds.), *Family Group Conferences: Perspectives on Policy and Practice*. Monsey NY: Criminal Justice Press.

Morris, A., & Maxwell, G. (2000). The Practice of Family Group Conferences in New Zealand Assessing the Place, Potential and Pitfalls of Restorative Justice'. In C. A. & G. J. (Eds.), *Integrating a victim perspective within criminal justice. International debates.* Aldershot: Ashgate.

Morrow, V. (2008). Ethical Dilemmas in research with children and young people about their social environments. *Children's Geographies, 6*(1), 49-61.

Muncie, J. (2001). Policy transfer and 'What works': Some Reflections on Comparative Youth Justice. *Youth Justice, 1*

(27), 27-35.

Muncie, J. (2009). *Youth and Crime*. London: Sage.

Muncie, J. (2010). The United Nations, children's rights and juvenile justice. In W. Taylor & R. Earle (Eds.), *Youth Justice Handbook: Theory, policy and practice*. Cullompton, Devon: Willan.

Muncie, J., & Goldson, B. (2006). England and Wales: The New Correctionalism. In J. Muncie & B. Goldson (Eds.), *Comparative Youth Justice*. London: Sage.

Newburn, T. (1998). Tackling Youth Crime and Reforming Youth Justice: The Origins and Nature of 'New Labour' Policy. *Policy Studies, 19*(314), 199-212.

Newburn, T., Crawford, A., Earle, R., Goldie, S., Hale, C., Hallam, A., et al. (2002). *The Introduction of Referral Orders into the Youth Justice System : Final Report*. London: Home Office.

Newbury, A. (2008). Youth Crime: Whose Responsibility? *Journal of Law and Society, 35*(1), 131-149.

Newbury, A. (2011). 'I Would Have Been Able to Hear What They Think.' Tensions in Achieving Restorative Outcomes in the English Youth Justice System *Youth Justice, 11*(3).

Noddings, N. (2003). Is Teaching a Practice? . *Journal of Philosophy of Education 37*(2), 242-251.

Norman, J. (2009). Seen and Not Heard: Young People's Perceptions of the Police. *Policing: A Journal of Policy and Practice, 3*(4), 364-372.

Ord, J. (2009). Thinking the Unthinkable: Youth Work without Voluntary Participation? *Youth & Policy* (103), 40-49.

Panel Matters Training Materials.   Retrieved 18/05/2012, 2012

Pearson, G. (1983). *Hooligan; A History of Respectable Fears*. London: Macmillan.

Pitts, J. (2001). *The New Politics of Youth Crime*. Basingstoke: Palgrave.

Pitts, J. (2003). Youth Justice in England and Wales. In R. Matthews & J. Young (Eds.), *The new politics of crime and punishment* (pp. xi, 260 p). Cullompton, Devon: Willan Pub.

Polk, K. (2001). Positive Youth Development, Restorative Justice, and the Crisis of Abandoned Youth. In G. Bazemore & M. Schiff (Eds.), *Restorative Community Justice: Repairing Harm and Transforming Communities*. Cincinatti: Anderson.

Povey, D., Mulchandani, R., Hand, T., & Kaur Panesar, L. (2011).

Police Powers and Procedures England and Wales 2009/1 (second edition). London: Home Office Statistical Bulletin.

Puffet, N. (Monday 19th December 2011,). Influx of youth remands after riots posed significant safeguarding challenges. *Children and Young People Now*.

Roe, S., & Ashe, J. (2008). *Young people and crime: findings from the 2006 Offending, Crime and Justice Survey*. London: Home Office Statistical Bulletin 09/08.

Rutter, M., & Giller, H. (1983). *Juvenile Delinquency: Trends and Perspectives*. Harmondsworth: Penguin Books.

Schaeffer, N. C. (1980). Evaluating Race-of-Interviewer Effects In a National Survey. *Sociological Methods & Research May 8*(4), 400-419.

Scribbins, M. E., Flatley, J. E., Hoare, J., Parfrement-Hopkins, J., Britton, A., & Hall, P. (2011). *Children's experience and attitudes towards the police, personal safety and public spaces: Findings from the 2009/10 British Crime Survey*

interviews with children aged 10 to 15 (Supplementary Volume 3 to Crime in England and Wales 2009/10), . London: Home Office.

Shapiro, D., & Brett, J. (1993). Comparing three processes underlying judgments of procedural justice: A field study of mediation and arbitration. *Journal of Personality and Social Psychology, 65*(6), 1167-1177.

Shapland, J., Atkinson, A., Atkinson, H., Chapman, B., Colledge, E., Dignan, J., et al. (2006). *Restorative Justice in Practice: The second report from the evaluation of three schemes* University of Sheffield: Centre for Criminological Research.

Sharp, D., & Atherton, S. (2007). To Serve and Protect? The Experiences of Policing in the Community of Young People from Black and Other Ethnic Minority Groups'. *British Journal of Criminology, 47*, 746-763

Shearing, C. (2001). Transforming Security: A South African Experiment. In H. Strang & J. Braithwaite (Eds.), *Restorative Justice and Civil Society*. Cambridge: Cambridge University Press

Sherman, L., & Strang, H. (2007). *Restorative Justice: The Evidence*. London: The Smith Institute.

Sherman, L., Strang, H., Barnes, G., & Braithwaite, J. (1999). *Experiments in Restorative Policing: A Progress Report on the Canberra Reintegrative Shaming Experiments (RISE)*. Canberra: Australian National University Law School.

Sherman, L., Strang, H., & Woods, D. (2000). *Recidivism Patterns in the Canberra Reintegrative Shaming Experiments (RISE)*. Centre for Restorative Justice: Research School of Social Sciences, Australian National University

Sherman, L., Strang, H., Woods, D., & Barnes, G. (2011). Experiments in Restorative Policing: Final Report on the Canberra Reintegrative Shaming Experiments (RISE). doi:http://www.aic.gov.au/en/criminal_justice_system/rjustice/rise/final.aspx

Silverman, D. (2010). *Doing Qualitative Research: A Practical Handbook* (Third Edition ed.). London: Sage.

Skogan, W. (2006). Asymmetry in the Impact of Encounters with the Police. *Policing and Society, 16*(2), 99-126.

Smith, D. (2004). *The Links Between Victimization and Offending: Number 5 The Edinburgh Study of Youth Transitions and Crime*. Edinburgh: The Centre for Law and Society, The University of Edinburgh.

Smith, R. (2008). *Social work with young people* Cambridge: Polity.

Sparks, R., Girling, E., & Smith, M. (2001). Educating Sensibilities: The Image of 'the lesson' in children's talk about punishment. *Punishment and Society, 2*(4), 395-415.

Sprott, J., & Greene, C. (2008). Trust and Confidence in the Courts: Does the Quality of Treatment Young Offenders Receive Affect Their Views of the Courts? *Crime and Delinquency (Online), March 12 2008*.

Stephenson, M. (2007). *Young People and Offending: Education, Youth Justice and Social Inclusion*. Cullompton, Devon: Willan.

Sykes, G., & Matza, D. (1957). Techniques of Neutralization: A Theory of Delinquency. *American Sociological Review, 22*(6).

Taylor, W. (2010). Refelctive Practice: Introduction In W. Taylor, R. Earle & R. Hester (Eds.), *Youth Justice Handbook: Theory, policy and practice*. Cullompton Devon: Willan.

The Centre for Social Justice. (2012). Rules of Engagement: Changing the heart of Youth Justice.

Thibaut, J., & Walker, L. (1975). *Procedural Justice: A psychological analysis*. New York: Hillsdale

Trotter, C. (2006). *Working with involuntary clients : a guide to practice* London: Sage.

Tyler, T. (1987). Conditions leading to value-expressive effects in judgements of procedural justice: A test of four models. *Journal of Personality and Social Psychology, 52*(333-44).

Tyler, T. (1988). What is procedural Justice? Criteria used by Citizens to assess the fairness of legal procedures. *Law and Society Review, 22*, 103-135.

Tyler, T. (1990). *Why people obey the law*. London: Yale University Press.

Tyler, T. (1997). *Social justice in a diverse society*. Boulder, Colo.: WestviewPress.

Tyler, T. (2003). Procedural Justice, legitimacy, and the effective rule of law. In M. Tonry (Ed.), *Crime and Justice: a review of research volume 30* (Vol. 30, pp. 431-505). Chicago University of Chicago Press.

Tyler, T. (2004). Procedural Justice. In A. Sarat (Ed.), *The Blackwell Companion to Law and Society* (pp. 435-452). Malden: Blackwell.

Tyler, T. (2006). Restorative Justice and Procedural Justice: Dealing with Rule Breaking. *Journal of Social Issues, 62*(2), 307-326.

Tyler, T., & Huo, Y. (2002). *Trust in the law: Encouraging Public Cooperation with the Police and Courts*. New York: Russell-Sage Foundation.

Tyler, T., & Lind, E. A. (1992). A Relational Model of Authority in Groups. In M. Zanna (Ed.), *Advances in Experimental Social Psychology* (Vol. 25). New York: Academic.

Tyler, T., Sherman, L., Strang, H., Barnes, G., & Woods, D. (2007). Reintegrative Shaming, Procedural Justice, and Recidivism: The Engagement of Offenders ' Psychological Mechanisms in teh Canberra RISE Drinking-and Driving Experiment. *Law and Society Review, 41*(3), 553-585.

Tyler, T., & Wakslak, C. (2004). Profiling And Police Legitimacy: Procedural Justice, Attributions of Motive, and Acceptance of Police Authority. *Criminology, 42*(2), 253-281.

United Nations. (1989). *The United Nations Convention on the Rights of the Child*. New York: United Nations.

United Nations Committee on the Rights of the Child. (2007). *Children's Rights in Juvenile Justice General Comment No 10*. United Nations: Geneva.

United Nations Committee on the Rights of the Child. (2008). *Consideration of Reports Submitted by States Parties under Article 44 of the Convention: United Kingdom of Great Britain and Northern Ireland (49th Session, CRC/C/GBR/CO/4)*. Geneva United Nations.

Walgrave, L. (1999). Community Service as a Cornerstone of a Systematic Restorative Response to Juvenile Crime. In G. Bazemore & L. Walgrave (Eds.), *Restoartive Juvenile Justice*. New York: Criminal Justice Press.

Walgrave, L. (2001). 'On Restoration and Punishment: Favourable Similarities and Fortunate Differences. In A. Morris & G. Maxwell (Eds.), *Restorative Justice for Juvenile: Conferencing, Mediation and Circles*. Portland: Hart.

Watchel, T., & McCold, P. (2003). *In Pursuit of a Paradigm: A Theory of Restorative Justice*. Paper presented at the World Congress of Criminology.

Westmarland, L. (2011). *Researching Crime and Justice: Tales From The Field*. Abingdon: Routledge.

Whyte, B. (2009). *Youth Justice in Practice: Making a difference*. Bristol: The Policy Press.

Whyte, B. (2010). Values in Youth Justice: Practice approaches to welfare and justice for young people in UK Jurisdictions. In W. Taylor, R. Earle & R. Hester (Eds.), *Youth Justice Handbook: Theory, Policy and Practice*. Collumpton: Willan.

Wilcox, A., & Hoyle, C. (2004). *The National Evaluation of the Youth Justice Board's Restorative Justice Projects*. Centre for Criminological Research University of Oxford: Youth Justice Board.

Wonnacott, C. (1999). The Counterfeit Contract- Reform, Pretence and Muddled Principles in the New Referral Order. *Child and Family Law Quarterly, 11*(3), 271-287.

Wright, M. (2002). The Court as a last Resort: Victim Sensitive, Community-Based Responses to Crime. *British Journal of Criminology, 42*, 654-667.

Yates, J. (2011). Structural Disadvantage: youth, class, crime and poverty. In W. Taylor, R. Earle & R. Hester (Eds.), *Youth Justice Handbook: Theory, Policy and Practice*. Cullompton: Willan.

Young, R., & Goold, B. (2003). 'Restorative Police Cautioning in Aylesbury- from Degrading to Reintegrative Shaming Ceremonies?'. In E. McLaughlin, R. Fergusson, G. Hughes & L. Westmarland (Eds.), *Restorative Justice: Critical issues*. London: Sage.

Youth Justice Board. (2009). *Making it Count in Court*
London: Her Majesty's Court Service HMRC.

Youth Justice Board. (2010). *Case Management Guidance: Planning and Delivering Senetences in the Community*: YJB.

Youth Justice Trust. (2003). *On the Case: A Survey of over 1,000 Children and Young People under Supervision by YOTs*. Manchester: Youth Justice Trust.

Zehr, H. (1985). an extract taken from 'Retributive Justice, Restorative Justice', Occasional paper number 4., New Perspectives on Crime and Justice series 1985, . In G. Johnstone (2003) (Ed.), *A Restorative Justice Reader: Texts, sources, context*. Devon: Willan.

Zehr, H. (1990). *Changing lenses : a new focus for crime and justice*. Scottdale, Pa: Herald Press.

Zernova, M. (2007). *Restorative Justice: Ideals and Realities*. Aldershot: Ashgate.

Appendices

Appendix 1

Details of Sample

<u>YOT A</u>

Interviews conducted with young people:

Age	Ethnic Origin	Gender	Length of Order	Interview 1	Interview 2
17	Mixed Ethnic Origin	Male	6 months	Completed	Completed
17	Asian	Male	6 months	Completed	Completed
17	White British	Male	4 months	Completed	Completed
17	Asian	Male	3 months	Completed	Completed
17	White British	Male	6 months	Completed	Completed
17	Asian	Male	4 months	Completed	Not possible
17	Asian	Male	4 months	Completed	Completed
18	White Other	Female	9 months	Completed	Completed
16	Asian	Male	6 months	Completed	Completed
16	Asian	Female	4 months	Completed	Not possible
15	Asian	Male	6 months	Completed	Completed
15	Asian	Male	9 months	Completed	Not possible
15	Asian	Male	3 months	Completed	Completed
14	Asian	Male	12 months	Completed	Not possible
14	Asian	Male	4 months	Completed	Completed

Interviews conducted to make up missing second interviews

15	Asian	Male	9 months	N/A	Completed
14	Asian	Male	12 months	N/A	Completed
17	Asian	Male	6 months	N/A	Completed
16	Asian	Male	6 months	N/A	Completed

Interviews Conducted with Staff:

Job role at the YOT
Senior case worker
Victim support worker
Case worker
Case worker
Case worker
Referral order coordinator

YOT B

Interviews conducted with young people:

Age	Ethnic Origin	Gender	Length of Order	Interview 1	Interview 2
17	Black African Caribbean	Female	4 months	Complete	Complete
17	Mixed Ethnic Origin	Female	3 months	Complete	Complete
17	Black African	Male	6 months	Complete	Not possible
17	White British	Male	4 months	Complete	Not possible
17	White British	Male	12 months	Complete	Complete
17	Mixed Ethnic Origin	Male	9 months	Complete	Complete
18	Black Caribbean	Female	6 months	Complete	Complete
16	Black African	Male	3 months	Complete	Not possible
16	Black Caribbean	Male	6 months	Complete	Complete
16	Asian	Female	6 months	Complete	Complete
15	Mixed Ethnic Origin	Male	12 months	Complete	Complete
14	Black Caribbean	Male	9 months	Complete	Complete
14	Asian	Female	4 months	Complete	Complete
14	Black Caribbean	Male	10 months	Complete	Complete

Interviews conducted to make up for missing second interviews

16	Mixed Ethnic Origin	Male	6 months	N/A	Complete
17	Black Caribbean	Male	6 months	N/A	Complete
17	Asian	Male	4 months	N/A	Complete

Interviews conducted with staff:

Job role at the YOT
Case Worker
Case Worker
Reparation Worker
Victim Support Worker
Senior Case Manager
Case Worker
Referral Order Co-coordinator
Case worker
Deputy head of service

Appendix 2

Interview Guides

Interview guide for Young Person- first Interview :

YP ref number:

Introduction- Read over the information sheet that I have prepared for them- explain verbally what the research is about, and that there are no right or wrong answers I am interested in what they think about things. Everything they say will be completely confidential, their name and the name of places, streets, and the YOT will not be mentioned in any writing that results from the research. They can decide at any time that they do not want to take part in the research.

Main Question	Prompts
Intro- I am going to ask you a bit about when you are at school first if that's okay- so when you are at school do you get told off/in trouble? **(If no- then ask- 'have the teachers or other adults at school ever told you off for doing/not doing something?', if still no then move on to (c))**	
Q1- Have you ever been in trouble at school? ** (a) Could you tell me a bit about what normally happens**	- What do you get told off for/ what do the teachers think that you have done wrong?

when you get in trouble at school?	- What happens because of that? (ie; punishment)
(b) What do you feel/think about it afterwards?	- How do you feel about what the teacher did/ what they said to you?
If experience is very negative ask- is it always like that are there any times where its been better? **(c) Are there any times when adults at school have acted well/okay towards you when you get in trouble/told off? Could you tell me a bout this?**	- What did they do? Why was this different/good?
Intro- When you are out and about with your mates or on your own, do the police ever come up to you? (If no- then ask last Q in this section about arrest for offence that they received referral order for).	

Q2-	
(a) Could you tell me a time when you have been in trouble/told off/stopped by the police?	- Where does it normally happen? - What do the police do/say to you? - What do they think you have done wrong?
(b) How do/did you feel about it - **during** - **afterwards?**	- How did you feel about the way the police treat you/your friends? - What did you think about the police afterwards?

If negative, ask are there any times when its been different to this?:	- Where were you?
(c) Has there ever been a time when you think that the police's actions have been good/okay? When was this? What happened?	-What did they police say/do? - How was it different to the way you were treated before?
(d) Was this what you got the referral order for? (If not then ask them to describe this experience with the police as well- including their arrest).	
Intro- **You are on a referral order now, how come? What happened?** **After you were arrested, then you will have gone to the**	

court where they gave you the referral order- do you remember that? (If not- explain to them a bit about what court is like, where in London it is, who would have been there etc to help them remember).	
3-	
(a) What happened when you were in court?	- Who was there? What did they do? - What did you do? - Did you have a chance to say anything? Did you want to?
(b) How did it feel, being in court?	- What was it like? - Did you feel scared/nervous/bored etc? - Who spoke to you? - Did you get a chance to speak? - How do you think you were treated? Were you treated fairly?

(c) What did you think/feel afterwards? **(d) What do you think was the point of court?**	- Why do you think you had to go there? What was it for?
Intro- After you went to court what happened next? **(Establish if they felt the YOT gave them any info about the panel meeting)** **4- (a) Could you tell me about what it was like being at the panel meeting?**	- Did you have a meeting with your youth justice worker? Did they send you anything in the post?

	- What did they tell you about the panel? (i.e. who would be there, why it was happening, what the outcome would be).
	- How did it feel being at the panel meeting?
	- What happened in the meeting?
	- Who was there? What was their job/what did they do?
(Establish whether victim attended or victim impact statement was read out- aim to establish this information from the case worker beforehand).	
	- If no- Prompt- Was the victim there? Did they read something

	out about what it (might have) felt like for the victim?
(b) Did anything happen at the panel meeting to help you understand what it was like for the victim?	- Did it make you think about what had happened (the offence), did it make you think differently, why was this?
(c) What did you think/feel about this?	- Do you think the adults listened to you? Did you want them to? - Which adults listened to you?
(d) Did you get to say anything at the meeting? Did you want to/was this a good thing?	- What was it like having your parent/guardian there? (If they were there)

5- **(a) What happened at the end of meeting, did you agree that you would do anything?** - Who had a choice/say in what was decided? - Did you have a say/choice about what was decided?	- If they don't mention the contract- prompt that did you have to agree that you would do certain things, go to certain places, come to the YOT etc?

- Who decided what was in the contract? - Did the adults listen to you? **(b) What is in the contract?**	 - What does it say that you have to do? - Does it say you have to go/stay away from certain places? Come to the YOT? Do certain activities?
6- What do you think was the point of the panel meeting?	- Why do you think you had to go there? What were the adults trying to do? (Was it to punish? Make sure you didn't do it again? Help you? Make you understand what it was like for the victim? Make a

	plan/contract?)
7- How would you compare the panel meeting with being in court?	- Did you get to speak more/less? - Do you think that people listened to you more in the court or the panel? - Who was in charge? Did they treat you differently? - Where the court and the panel meeting trying to do the same thing or different things?

Interview Guide- Second Interview (Towards end of contract):

Main Question(s)	Prompts
1- What has happened since the first panel meeting/since we last spoke?	- Have you had any other meetings at the YOT? What were they like? - What else have you been doing with the YOT?
2- (a) What activities have you been doing? (for each activity mentioned ask them- what was it like doing that? How did you feel about it?) (b) Was there anything that you found particularly useful/good? Why was this?	- What sort of thing have you been doing with the YOT? - Have you had to stay away from certain places? - Have you had to go to school? - Have you had to do any work?

(c) Was there anything that you found particularly frustrating/challenging/annoying? Why was this?	
Find out in advance whether they have been doing anything that is designed to make them have an awareness/emphasise with the victim or make reparation- and ask them specifically about this if they haven't mentioned it before. **3-** **(a) Why do you think you have been doing X?** **(b) How did it feel doing X? What was good/bad (useful/frustrating) about it?**	- What do you think was the point of the YOT getting you to do X? - Did you learn anything, did it make you feel/think differently about yourself/your behaviour/the offence?

Focus on the whole process: **4-** **(a) What has been good about doing the referral order?** **(b) What has been bad about it?** **(c) Has it made you think/feel differently about** **anything?**	- What has been helpful/useful to you? - What has been difficult/scary/frustrating/unhelpful? - About the offence/your behaviour/your future? - Why do you think you have had to do the things you have

	done? i.e. the panel meeting, the contract etc?
(d) What do you think has been the point of the referral order?	

Interview Guide- YOT worker

Main Question	Prompts (if needed)

1- Could you tell me a bit about you work background?	- Have you been working in youth justice for a long time? - How long have you been working at the YOT?
2- **(a) What do you think about referral orders in general ?** **(b) How would you define restorative justice?** **(b) Do you think that they are restorative? Why/why not?**	- Are referral order better or worse than other youth justice initiatives? - Are they different to other orders given to young people by the YOT?

(c) How suitable do you think RJ is for use within the Youth Justice System?	- The panel meeting- do offenders have opportunity to apologise, take responsibility for the offence/face the consequences - Reparation- are they able to make amends, is this meaningful to them - Reintegration- are they able to go on with their life afterwards, desist. - Could it work well? If so what would need to change? i.e. more resources, lower case loads, make it voluntary?
3- **(a) Do you think that young people see referral orders as a punishment?**	- Or do they see it more as helping the, giving them another chance, helping to steer them away from reoffending etc

(b) How do you think they see themselves within this?	- Do they tend to see themselves as criminals? - If this depends on the YP, what does it depend on? i.e. the nature of the crime, whether they are engaged in education/employment, previous family history etc.
4- **(a) How well do you think young people respond to YOT staff?**	- How well to they engage? - Why is this? - What effect does this have?
(b) How does this compare to the way they engage/respond to other authority figures: - **Teachers** - **Police** - **Magistrates in court**	- Do you think they engage better with YOT workers? - Why is this? - In what ways do these authority figures treat them differently?

4- **(a) What do you think makes processes (with the YOT, police) seem fair or right to young people?**	- I.e. I have found that they liked the opportunity to put their point of view across (particularly at the panel meeting), they also like being treated with respect, feeling that people care about them and what happens to them etc
(b) How do you think this effects them? (i.e. are they more likely to engage if they feel that processes are fair or right?	- In your experience from talking to young people about their interactions with the police and through working with

	them at the YOT?