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PhD Applied Social Studies

**EVALUATING DECISION-MAKING IN
THE YOUTH JUSTICE BAIL PROCESS**

NOEL CROSS

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Summary of thesis

This thesis is about the operation of the youth justice bail process, between initial arrest and sentence (or other final case outcome), in a particular area of England and Wales (known here as Baytown). Following a review of the literature on youth justice bail services, and a critical discussion of the methodology used, the study examines the outcomes of the bail process in Baytown over a three-year study period. It analyses the usage of the different options available for the granting, restriction and denial of young persons' right to bail, by comparing court bail decisions with key case characteristics. In undertaking this analysis, the study not only explains how systematic bail decisions were during the study period, but also shows the impact of these decisions on later stages in the youth justice process, such as sentencing.

However, the study also moves beyond quantitative discussion and analysis of the Baytown youth justice process. It does so by explaining the operation of the process in terms of the attitudes towards it of those who have a say in bail decision-making in Baytown. A mixture of quantitative and qualitative techniques, including surveys, semi-structured interviewing and participant observation, is therefore used to explain how local Youth Offending Team staff, local youth court magistrates, and young people on bail perceive the process which their own decisions help to shape. The study concludes by arguing that, despite recent Government rhetoric and policy, widespread discretion continues to exist at local and individual level within the youth justice bail process. Future Government policy in this area must therefore acknowledge the role of discretion in youth justice, rather than simply ignoring or attempting to eradicate it, if bail services for young people are to become more systematic and effective.

Declaration and Statements

DECLARATION

This work has not previously been accepted in substance for any degree and is not being concurrently submitted in candidature for any degree.

Signed(candidate)

Date 26.10.05

STATEMENT 1

This thesis is the result of my own investigations, except where otherwise stated.

Other sources are acknowledged by footnotes giving explicit references. A bibliography is appended.

Signed(candidate)

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STATEMENT 2

I hereby give consent for my thesis, if accepted, to be made available for photocopying and for inter-library loan, and for the title and summary to be made available to outside organisations.

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Preface

Youth justice in England and Wales is a constantly-changing field for discussion and analysis, both in the academic and the wider public domain. Even in this keenly-contested arena of process, policy and practice, however, the quantity and quality of research on some issues remains limited. Bail decisions made in respect of young people, and the influences upon those decisions, is one example of a neglected issue which is of fundamental importance for youth justice.

Research on bail which examines the impact of bail decisions upon what happens at later stages in the criminal justice process (and what happens after that process is complete), as well as how those bail decisions are made, has in itself been relatively rare in England and Wales in recent times. One notable exception has been the work of Anthea Hucklesby on the use of bail in adult magistrates' courts (1994, 1996, 1997a, 1997b; Hucklesby and Marshall 2000) and in the police station (Hucklesby 2001). Nonetheless, work of this kind specific to the youth justice context remains limited. This is so despite the recent (belated) attention paid by the current Government to bail services for young people, via the Crime and Disorder Act 1998 and its requirement that bail support be available for all young people aged between 10 and 17 in England and Wales.

This study shows ways in which insights from research into bail decision-making for adults can also inform similar research in the youth justice context. By focusing upon decision-making in a particular local context, research can take a holistic approach to bail decisions, how they are made, and their impact on criminal justice generally. In this way, the importance of bail processes can be truly acknowledged.

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Chapter One

Introduction

This thesis is about the way in which young people are treated at the bail stage of the youth justice process. The bail process covers the stage between a young person's initial arrest by police, and the final outcome of a young person's case. The final outcome can occur at a number of stages within the bail process, from the police deciding to take no further action against a young person following a period spent on police bail, to sentence at court following conviction. Between these two points in the criminal justice process, a series of decisions must be made about each individual case involving a young person.

Decisions during the bail stage of the youth justice process can loosely be broken down into two categories. The first category comprises decisions on whether a case can move on to the next stage of the process. An example would be the police decision regarding whether or not to charge a young person with an offence, and thereby to allow the case to progress to the court stage of the youth justice process. The second category comprises decisions on how to deal with an adjourned case until consideration of the case can be resumed. It is this second category in which decisions are made to grant, restrict or deny bail to young people. Such decisions are *prima facie* taken by either the police or the courts.

However, bail decisions are not made in a social vacuum. Decision-makers apply not just the applicable law when making judgments in individual cases, but also their own attitudes, cultures and norms. This is the case due to the discretion which is inherent in decision-making in the bail process (Hucklesby 1996, 1997a, 1997b). Also, other individuals and agencies have varying amounts of influence over

decision-makers and their actions. Young people themselves are among these influences, as well as those working for (or in association with) the youth justice process. Nor is influence over bail decisions restricted to those at the ground, or 'micro' level of decision-making. Those at the intermediate, managerial or 'mezzo' level of youth justice make policy decisions which affect decision-making at the micro level, but also implement legislative and policy directives from the Government, national or 'macro' level of youth justice. Those at the macro level, therefore, also have an influence over how decisions are made at the micro level.

It is clear, then, that any comprehensive study into the treatment of young people at the bail stage of the youth justice process cannot limit itself to scrutiny of the outcomes of bail decisions themselves, nor even to scrutiny of the effects which these decisions have at later stages of the youth justice process. Attention must also be drawn to who has an influence over these decisions, and how much influence particular individuals or agencies have in practice. Macro and mezzo-level policies and decision-making must be understood as forming a part of the field within which micro-level decisions are made (Hawkins 2003). This thesis incorporates the above concerns into a holistic study of the youth justice bail process in one area – 'Baytown'.

Before the structure and framework of this study is defined, however, it is necessary to consider briefly recent developments in youth justice in England and Wales. These developments form the context for the shaping of the youth justice bail process, at the macro, mezzo and micro levels, which is the subject matter of this study.

The present youth justice climate in England and Wales – politicisation, evidence on youth crime, and the New Labour approach

In the last 30 years, the youth justice process in England and Wales has become increasingly politicised (Pitts 1988). The stances taken by the major political parties on so-called 'law and order' issues have frequently been of vital importance in performances at general elections since the 1960s (Downes and Morgan 1994, 1997, 2002), and this phenomenon is especially noticeable with respect to issues regarding young people and youth justice. In this regard, both major political parties have abandoned traditional penological ideology and begun to compete against each other to issue youth justice policies saying what they believe the public and the mass media wish to hear (Pitts 2001). Interpretations of the impact of politicisation, however, differ greatly, and can be split into 'orthodox' and 'radical' accounts of youth crime in England and Wales.

The orthodox approach to youth crime, as reflected in current Government policy in this field, is influenced by so-called 'administrative' criminology (Garland 2002), and the focus on empirical crime figures rather than on theoretical approaches to their analysis. Another key influence is left realism (e.g. Young 1997), which advocates taking crime and crime victimisation seriously on its own terms, using the gathering of empirical evidence. A third influence on the orthodox approach to youth crime is centred around concerns of managerialism – economy of money and time, as well as the management of the risk posed by different categories of offender, in the response to crime (Feeley and Simon 1992, 1994). However, theoretical concerns are seen as subordinate to empirical evidence on the nature and frequency of youth crime.

This 'evidence-based practice'-led approach allows a pluralist range of theoretical bases for policy to be used, in response to different kinds of evidence on youth crime. Alongside the established punitivist response to public victimisation and fear of crime, the influence of criminal careers research (e.g. Farrington 1997) has encouraged a policy of early intervention in young persons' lives, in both welfarist and punitivist guises. In addition, the influence of restorative justice and reparation (e.g. Wright 1996) has recently been added to the range of responses to youth crime. Finally, the managerialism discussed above has provided the impetus for an increased rate of bureaucracy, monitoring and data collection of local-level youth justice practice by central Government (e.g. Thomas and Hucklesby 2002), and such data collection drives (or claims to drive) the evolving policy response to youth crime, tailoring different approaches to different categories of offender.

The radical account of youth crime and justice takes a very different approach to the politicisation of youth justice, and the evidence on youth crime. For proponents of the radical account, the 'populist punitivism' approach (Bottoms 1995) carries with it serious and well-documented dangers for young people. In British society, young people are the persistent focus of the Establishment's 'respectable fears' (Pearson 1983), which portray the latest generation of youth as reaching new depths of delinquency, making each new generation of young people far more of a threat than previous generations (and masking the fact that the same complaints have been made about British youth for centuries). Youth is characterised in a number of different ways in the British media, but these different portrayals share the common factor of 'the assumption of the *different* or *deviant* nature of *all* young people' (Muncie 1999: 10, emphasis in original). This image of deviancy is periodically aggravated by sensationalist media reports of youth crime (Cohen 1973). Thus youth justice policy is the victim of the increasing interaction between

unjustifiable 'moral panics' in the media and a Government which is pragmatic to the point of cynicism:

'Youth justice has evolved into a complex object in which a patchwork of processes and disposals, drawing upon justice, retribution, rehabilitation, treatment, punishment, prevention and diversion, has a constantly shifting presence as political priorities, central directives and local initiatives veer from one position to another.' (Muncie 1999: 275)

Given the insidious impact of media sensationalism and political pragmatism on images of youth crime and justice, it was no surprise that when the Labour Party won the 1997 general election, one of its first major pieces of legislation aimed to radically re-organise the youth justice system in England and Wales. It was also no surprise that this legislation, the 1998 Crime and Disorder Act, was a mixture of diverse youth justice ideologies (Fionda 1999). Partly because of Labour's participation, at least on the level of political rhetoric, in the 'Great Moving Right Show' (Hall 1988), when it returned to government in 1997 after 18 years in opposition, it was anxious to apply its new reputation, as the party that would be 'tough on crime and tough on the causes of crime' (Blair 1993), to youth justice. At the same time, statements of youth justice policy had also included ideas drawn from less punitive philosophies, such as restorative justice and the idea of social inclusion (Home Office 1997). This mixture of apparently contradictory policies has been described as 'post-ideological' (Pitts 2000: 3), and produced widespread confusion when it was applied to youth justice in the aftermath of the 1998 Crime and Disorder Act. The New Labour approach to bail policy for young people is an excellent example of this contradiction, as the following extract illustrates:

'The move to re-invigorate pre-trial services is a development which has every prospect of making a difference to the number of people who are unnecessarily held in the squalid conditions of remand . . . The problem remains, however . . . of pursuing reform without becoming vulnerable to a new outbreak of popular punitiveness. As a result, Labour's struggle is to find a way of reducing the prison population, without appearing to do so – or of doing good by stealth. This is in itself complicated by other

policy trends within the same administration which are likely to add to prison numbers.' (Drakeford and Vanstone 2000: 377)

Therefore, the provision in the 1998 Crime and Disorder Act (section 38(4)(c)) that all youth offending teams in England and Wales must offer a bail support service for young people aged between 10 and 17 leaves many questions unanswered. On the most basic level, the 1998 Crime and Disorder Act offers no definition of the concept of 'bail support'. To understand what is meant by this term, a definition must be found within the literature published on this subject.

Bail support, the law on bail, and the youth justice context

Bail support is the name given to activities designed to address the criteria for denying bail at key pre-conviction decision-making points in the youth justice process, and therefore to intervene in cases where young people are at risk of being denied bail. It has been noted in this context that:

'The problem of how to deal with serious and persistent offenders awaiting trial or sentence has been a long-standing one. Policy has sought to meet two aims: of keeping the numbers of those remanded to institutions, particularly penal and secure institutions, to a minimum; and of protecting the public from the risk of serious harm caused by offending on bail.' (NACRO 1998: 1)

The question of juvenile (or indeed any) bail is therefore one of a balance of rights, namely those of the person on bail and those of the public. This balance is primarily enshrined in the 1976 Bail Act, which must be the starting point for the discussion of bail. The 1976 Bail Act (in section 4) states that a presumption in favour of bail operates with regard to any person charged with, but not yet convicted of, a criminal offence. This presumption also applies to any person convicted of an offence, but not yet sentenced to allow for the preparation of reports or further inquiries. As a result, everyone has a right to bail unless a court decides that there

are 'substantial grounds' for believing that one or more specified grounds for denying bail exist. These exceptions are set out in Schedule 1 of the 1976 Bail Act and comprise the following: the likelihood that the defendant would fail to surrender to the court; the likelihood that the defendant would commit offences while on bail; the likelihood that the defendant would interfere with witnesses, or pervert the course of justice; that custody is necessary for the defendant's own protection (or welfare if the defendant is a juvenile); or that the defendant is currently serving a custodial sentence or has been remanded to custody by another court.

In addition, the 1976 Bail Act provides for the use of conditions to bail, which are designed to overcome the exceptions to the right of bail outlined above. These conditions must specifically address the circumstances of denial of bail, and section 3(6) of the 1976 Act authorises the use of such conditions as appear to the court to be necessary to ensure that the defendant surrenders to custody, does not commit an offence while on bail, does not interfere with witnesses or otherwise pervert the course of justice, and is available for the purposes of inquiries or the making of a court report.

Various factors which may influence a sentencer's decision to remand a young person in custody, or impose conditions on his or her bail, include: the nature and gravity of the offence, and probable sentence if the young person is found guilty; the character, antecedents, peer associations, and community ties (or lack of) possessed by the accused; a record of any previous bail conditions; probable co-operation (or lack of) for the purposes of obtaining reports; and behaviour towards, or proximity to, prosecution witnesses (NACRO 1993a: 1-2). However, these are not the only key factors in the youth justice bail process. Another is the apparent inconsistency with which 17-year-olds are treated, before and after conviction:

'A further concern in relation to new custodial remand arrangements for children relates specifically to the issue of 17-year-olds. The most recent youth justice 'reforms' have failed to recognise this group as being children for the purposes of remand arrangements despite the unequivocal definitions of the child being a person under the age of 18 years as contained in the Children Act 1989 and the United Nations Convention on the Rights of the Child. Thus, the court will deal with remand decisions for such children under adult legislation.' (Monaghan 2000: 149)

Reasons for studying the youth justice bail process

It has been shown (Smith 2003) that the youth justice bail process is both complex and susceptible to fluctuating policy implementation as youth justice in England and Wales becomes increasingly politicised:

'The policy of successive governments has been to end prison remands for (those aged less than 17) but the provisions in the Criminal Justice Act 1991 to replace them with court ordered remands to secure accommodation have not been implemented.' (NACRO 1998: 1)

In fact, following a decrease of over 50% during the 1980s, the rate of juvenile remand to custody (particularly for boys) escalated rapidly year-on-year after the implementation of the 1991 Criminal Justice Act (e.g. NACRO 1993a, 1995, 1996; ACOP/NACRO 1993). Overall, this data shows that the number of young people denied bail while awaiting trial has risen sharply during the 1990s. As issues of law and order have increasingly been a matter for public debate, there has been *'considerable public disquiet about the consequences of detaining young people, particularly those aged 15 and 16, in prison establishments'* (NACRO 1993b: 1). In this situation, a need for credible community-based remand alternatives for young people (especially those charged with more serious offences) has become apparent. It is in this context that the concept of bail support has developed. The continuing problem of young people who are remanded in custody while awaiting trial makes bail support, and its effectiveness in achieving the stated aim of preventing time

spent in custody, a relevant topic for research. As the definitions of bail support given above state, either implicitly or explicitly, bail support has been primarily developed with the aim of reducing the number of young people remanded to custody in mind.

Recent legislative developments in the sphere of youth justice provide a further reason for studying bail support. Under section 38(4)(d) of the 1998 Crime and Disorder Act, all Youth Offending Teams (hereafter YOTs) in England and Wales must offer bail support services to young people aged between 10 and 17 in their area. To this end, the National Youth Justice Board for England and Wales invited bids from YOTs for three-year funding packages to allow development and extension of bail support services in line with the new requirements. Government funding has therefore been invested in bail support. In addition, bail support is capable of seriously infringing the liberty of young people awaiting trial. Bail support often involves additional supervision and control over them as well as more 'positive' elements, such as help with accommodation and employment training (Haines and Drakeford 1998: 115-6). This kind of intensive scheme must be shown to be effective in order to justify its impact on young people's lives, as well as the level of government investment in it. It is therefore argued that studies of bail support's effectiveness are not merely desirable, but an essential part of research into how the juvenile bail process works.

This study therefore undertakes an analysis of the bail services for young people in the Baytown area. Its aims are twofold: to quantitatively examine the operation of the youth justice bail process in Baytown, in terms of offender and offence characteristics and court decision-making outcomes; and to qualitatively examine the influences on this decision-making process, drawing upon the views of those connected with bail policy and practice in the Baytown youth justice process –

magistrates, court clerks, defence solicitors, YOT workers, and the young people themselves. This second aim is equally as important as the first, as the extent to which bail support is used, regardless of government enthusiasm for it, depends ultimately upon those involved with the youth justice process and their attitudes towards bail support (and other, related bail services). Similarly, bail services rely on the co-operation of the young people placed upon them for success in terms of reducing the number of remands to custody.

The layout of the study

The thesis will be organised in the following way. Chapter Two reviews the literature on the history of bail support and the use of bail support schemes in England and Wales to date, including previous evaluative work done on bail support schemes. Chapter Three draws on the previous literature to construct and apply the methodology used in the study, and sets out the hypotheses to be tested in the research. Chapter Four reports on quantitative data detailing the operation of the Baytown youth justice bail process, in terms of decision-making, during the research's three-year study period. Chapter Five discusses and analyses the data reported in Chapter Four. Chapters Six, Seven and Eight report and analyse the qualitative data collected as part of the research, which offer insights from different individuals and agencies into their decision-making processes. Chapter Six presents and analyses the ethnographic, participant observation data collected from the Baytown Youth Offending Team staff responsible for bail services over the three-year study period. Chapter Seven presents and analyses the results of interviews conducted with magistrates sitting in the Baytown Youth Court, highlighting their views on the local youth justice bail process. Chapter Eight presents and analyses

data from semi-structured interviews with young people who were involved in the local bail process during the study period. Chapter Nine concludes the study by setting the empirical findings and analysis in the context of the wider youth justice process in England and Wales. Discussing academic perspectives on discretion in criminal justice decision-making, the final chapter examines the theoretical implications of the study, and offers suggestions for future research, policy and practice in the field of the youth justice bail process.

Two brief notes on the terminology used in the study are necessary here. Firstly, it is recognised that, in the research and literature on the subject, the terms 'bail' and 'remand' are used interchangeably to describe what happens in criminal justice between initial arrest and final case outcome. In this study, the term 'bail' is used to refer to the above part of the process, rather than 'bail or remand', as a means of saving space. Secondly, as will already be apparent, the term 'process' is used in preference to 'system' when discussing the ambit and operation of youth justice, except where the specific 'systems management' analytical approach is being discussed, or where others have used the term in a direct quotation.

Chapter Two

A review of the youth justice systems management and bail services literature in England and Wales

Introduction

This chapter will examine the available literature on bail support and other 'remand management' work in the youth justice process in England and Wales. It will locate bail support and 'remand management' work within its historical origins, which lie within the development and use of systems management analysis to understand and reform youth justice.

The purpose of the chapter is, firstly, to provide a definition of systems management analysis, and then to review the literature on its use in the youth justice process in England and Wales, as well as literature which criticises and offers alternatives in terms of analysis of the process. The results of this review will determine whether systems management analysis can be justifiably used in constructing the methodology for this study. The second purpose of this chapter is the discussion and analysis of what is known about the effectiveness of youth justice bail support work in England and Wales. Discussion will therefore centre around whether it is viable to place analysis of bail support work's effectiveness within the wider context of bail services generally, using systems management analysis as the means of doing this.

It should be noted at this point that the bail process for adults, and the agency work done within it, is outside the ambit of this study. Therefore the body of literature on adult pre-trial services will not be discussed in this chapter. However, a small

amount of evaluative work on bail information schemes (designed to provide court decision-makers with all of the relevant information on defendants' circumstances when making bail decisions) for adult defendants has been published (e.g. Stone, 1988; Godson and Mitchell, 1991; Lloyd, 1992). Similarly, detailed evaluation of general pre-trial services available for adults in England and Wales can be found in Paterson (1996), Haines and Octigan (1999) and Drakeford et al. (2001). Also, while it is recognised that there is an extensive body of literature on partnerships and multi-agency work within criminal justice generally, this literature will not be reviewed here, due both to lack of space and to the need to maintain specific focus on the context of bail within the youth justice process.

A review of the systems management literature

Introduction: definitions of 'systems management'

'Systems management' is the generic name given to a collection of analytical techniques first used to address issues relating to the youth justice system in the early 1980s. The starting point for all of these techniques, however, was the idea of systems analysis. The concept of systems analysis as applied to the youth justice system in England and Wales was developed by a group of academics linked to the Lancaster University Centre for Youth, Crime and Community, often collectively known as the 'Lancaster School' (Cavadino and Dignan 1997: 254). They were influenced in turn by earlier attempts to link social work practice together in a theoretically coherent model, which attempted to change social systems rather than individuals, in an attempt to promote clients' needs in the context of hostile systems.

The basic concept of systems management analysis, and the Lancaster School contribution to it, has been defined in the following way:

'This (i.e. systems analysis) means ... looking at the ways in which all the different agencies interact and interconnect to form the entire system . . . however, the Lancaster approach stresses the need to apply systems analysis to the youth justice system in a particular local area. Accurate systems analysis facilitates effective systems intervention: the system can be modified in ways which the analysis suggests will achieve specific desired results, such as a decrease in the numbers of juveniles ending up in custody.' (Cavadino and Dignan 1997: 255, emphasis in original)

The systems management literature: a review of its theoretical basis and impact upon the youth justice process in England and Wales

Arguably the most influential 'Lancaster School' publication, *Out of Care* (Thorpe et al. 1980), took as its starting point the effects of the 1969 Children and Young Persons Act on the custody rate for young people in England and Wales. Noting that the numbers of young people sentenced to custody in England and Wales had risen throughout the 1970s, while the numbers sentenced to supervision orders, probation orders and care orders had decreased, Thorpe et al. saw this as an unintended consequence of the *partial* implementation of the 1969 Act¹. However, the particularly damaging results of the 1969 Act's implementation, which were highlighted by Thorpe et al.'s empirical research, were primarily caused by the expansion of the youth justice process. This was in turn caused by the co-existence of two processes in the 1970s juvenile court – the old 'custodial' one, and the new 'welfare-based' one, which the 1969 Act had partially brought into effect via such developments as intermediate treatment. Therefore:

¹ Following the defeat of the Labour Party (who had drawn up the legislation) by the Conservative Party in the 1970 general election. Conservative youth justice policy was more punishment-orientated than that of Labour, which was based upon welfare/interventionist principles (Gelsthorpe and Morris 1994).

'The two systems have, in effect, become vertically integrated, and an additional population of customer-clients has been identified in order to ensure that they both have plenty of work to do.' (Thorpe et al. 1980: 22-3)

Thorpe et al. (1980) offered a critique of the juvenile justice process and of the individuals in it, accusing all concerned of making the wrong decisions about the wrong young people at the wrong time (ibid.: 3). They were able to explain why the juvenile justice process was not working, and how it could be made to work better, by their reliance upon a research-based account of what happened to young people in the process. This allowed them to put forward a series of evidence-based arguments to counteract various myths about the nature of juvenile crime².

The importance of *Out of Care* and other Lancaster School literature lies in the fact that its arguments were based on empirical evidence illustrating what happened to young people in the criminal justice system in practice. These works represented a move away from the mainly ideological, or 'general social theory' (Bottoms 2000: 36-7) approach to youth crime and justice, characterised by welfarist (or positivist) and justice-based (or retributivist) theories. Between them, these theoretical models informed much of the political and social response to youth crime between 1945 and 1970 (Pitts 1988). They formed the basis of youth justice legislation during that time, but avoided discussion of what was actually happening to young people in the youth justice process (Thorpe et al. 1980: 25). In contrast, the Lancaster systems management theory, and indeed any such similar analysis, was derived from day-to-day youth justice practice, and was *of itself* value-free:

² These arguments included the fact that most juvenile crime was of a trivial nature; the idea that most young people offend at some point during their teenage years but then grow out of crime as they progress into adulthood (Rutherford 2002); the effect of 'up-tariffing', whereby young people, once brought into the criminal justice system, are often rapidly moved upwards through the sentencing tariff for minor offences; and the concept of 'net-widening' (Cohen 1985), based on the idea that welfare-based systems tend to bring more and more young people into the criminal justice system on the grounds of their failure to comply with welfare measures not related to the causes of their offending behaviour (Haines and Drakeford 1998: 48).

'Systems management of itself is a value free management tool that says nothing about the aims of intervention. But it is the linking of systems management with the critique of welfarism and the over-use of custody which creates such a powerful mixture.' (Bell and Haines 1991: 121, quoted in Haines and Drakeford 1998: 50)

The most powerful justification for the use of systems management analysis of the youth justice system in England and Wales, therefore, is that it recognises the characteristics of the youth justice process in practice. The most important of these is that much of the real power in terms of making and influencing decisions about what happens to young people in the criminal justice process lies in the hands of youth justice workers. This fact was emphasised by Thorpe et al. (1980) in their arguments that youth justice sentencing trends were made up of many individual decisions at local level, and that the operation of the youth justice process comprises a whole series of such decisions. Therefore, each decision has implications for future actions and future decisions to be taken with regard to young people (Thorpe et al. 1980: 25; Haines and Drakeford 1998: 49).

However, it was not inevitable that the systems management approach *per se* would lead to the subsequent youth justice 'successes' of the 1980s³. It was the gradual development of an anti-custodial, pro-diversionary orthodoxy among youth justice workers, and the *combination* of this orthodoxy with systems management approaches, that helped to facilitate changed outcomes for young people involved in the youth justice system in the 1980s, i.e. notably, an increase in diversion and decrease in custodial sentencing (Haines and Drakeford 1998).

The origins of the pro-diversionary element in youth justice practice are more difficult to ascertain in the youth justice literature of the 1980s. The anti-custody movement shared the determination of the justice movement to move away from unfettered welfare approaches, which research has shown had widened the net of

³ These will be discussed in more detail in the next section.

the youth justice process by sentencing on the basis of welfare needs (Thorpe et al. 1980). However, it was also distinct from the arguments of the proponents of the justice model in several important ways. On the most fundamental level, the concept of proportionality of punishments to the gravity of offences is of central importance to supporters of the justice movement (e.g. von Hirsch 1976, 1993), but this concept is not necessarily compatible with diversion as it came to be viewed by youth justice practitioners in England and Wales in the 1980s.

Diversion, as it was employed in conjunction with systems management techniques at the local level of the youth justice process in the 1980s, signified a strategy of pushing young people out of the criminal justice process wherever possible, mainly through the increased use of cautioning (Haines and Drakeford 1998: 58-9). Closer examination of important justice model-based texts published in the early 1980s reveals that diversion was accordingly welcomed very cautiously therein. Sarri (1983), for example, having reviewed literature on the effects of youth justice diversion schemes both in the United States of America and the United Kingdom at the time, concludes that diversion of young people has some major drawbacks. These include the coercive potential of diversion, and the problems of diverting young people out of the criminal justice process and into other processes (for example the care system, which could and did involve sometimes long-term removal from home). The latter phenomenon, it was claimed, had resulted in 'minimisation of penetration' rather than 'true diversion' (Sarri 1983: 70), and this in turn led to the risk of 'net-widening' (Cohen 1985). It was the occurrence of 'net-widening' which had formed one of the cornerstones of Thorpe et al's (1980) critique of the juvenile justice process in the 1970s.

Similarly, Giller and Covington (1983: 143) suggest that only tightly-defined criteria for diversion can guard against the apparent tendency of diversion

programmes to widen the criminal justice net (Morris et al. 1980) – although it should be said at this point that Thorpe et al., whose work is by no means exclusively justice-based, make the same claim (1980: 128). Again, however, Thorpe et al. emphasise that successful diversion means different things to different youth justice practitioners in different areas:

'We must emphasise that there is no one 'solution', no 'right' way of going about diversion. This is because there is no one juvenile criminal justice system, only an aggregate of local systems, local practices and local procedures – and, as an earlier chapter has already made clear, local situations differ widely. Hence, diversionary intervention also calls for research skills on the part of the practitioner. Local data must be collected and analysed, and appropriately local strategies suggested and discussed.' (Thorpe et al. 1980: 128)

Juvenile justice practitioners made use of justice-based requirements within the youth justice process (such as those in the 1982 Criminal Justice Act) and incorporated them in local level strategies. But there was far more to systems management-based approaches than justice-based work. More central was a firm belief that time spent in the criminal justice process did the majority of young people more harm than good. This belief came from such theoretical standpoints as labelling theory (e.g. Becker 1963), but was reinforced by empirical research which came to the same conclusion, which was again provided by the Lancaster School among others (e.g. Thorpe et al. 1980: Chapter Four).

In conclusion to this section, then, the key to systems management analysis as it was developed for use in the youth justice process in England and Wales in the early 1980s was its pragmatic, evidence-based, 'bottom up' view of what actually happened to young people in that process. In a movement away from the unfettered welfarist approach of youth justice workers in the 1960s, but also from the strict tariff-based theories of the justice movement, systems management eschewed grand

ideology⁴. In place of macro-level theory, it empowered individual youth justice workers, using evidence to show them where they had been going wrong previously in their work with young people in trouble, while emphasising the power that they retained over what happened to young people in the criminal justice process. It allowed practitioners to reflect each local area's unique combination of causal factors for youth crime and multi-agency, multi-decision interaction in the youth justice process in the development of a strategy that, it was claimed, would reduce youth crime rates.

The effectiveness of systems management in the English and Welsh youth justice process in practice

The previous section shows that systems management analysis has the ability to reflect the reality of youth justice practice and effects at a local level – indeed, it could be argued that this was the whole point of its development. However, another crucial test of systems management's suitability for use in this study is its success rate when applied to the youth justice process in England and Wales in the 1980s. The question addressed in this section is quite simply: did the systems management approach actually work in terms of its stated aims, namely reducing custody and increasing diversion for young people (Haines 1996)?

The assumption that, after initial conflict and resistance at local level, systems management approaches to youth work became 'the new orthodoxy' (Jones 1984) in England and Wales is supported by contemporary literature on youth justice (e.g. Pitts 1988; Bottoms et al. 1990; Cavadino and Dignan 1997; Haines and Drakeford

⁴ The closest Thorpe et al's (1980) work moved towards 'grand theory' was the idea that the decarceration of the majority of young people from custodial institutions was necessary, and should form the basis of local strategy. Even this idea was the result of extensive empirical research on their part.

1998). If this assumption is correct, the results which systems management achieved are impressive, especially in the climate of tough, punitivist Government rhetoric prevalent at that time (Downes and Morgan 1997). This account explains the significance of the decreased rate of young people being sent to custody which accompanied the increased rate of young people being cautioned during the rise of the systems management approach to youth justice:

'Sentencing trends clearly demonstrate a proportionate decline in the use of custody over the decade of the 1980s to around 8% ... Two further factors put this decline in an even sharper focus. Firstly, research showed that the growth in community supervision was at the expense of custody . . . Secondly . . . account has to be taken of the impact of trends in cautioning over this same period⁵. But juvenile justice practitioners were not just successful in reducing the custody rate, they were even more successful in reducing this rate for a relatively older and more serious cohort of offenders.' (Haines and Drakeford 1998: 59-60)

Allen (1991) offers a multi-causal explanation of the sharp decline in youth custody in England and Wales during the 1980s. He highlights the importance of micro-level youth justice workers and welfare professionals in promoting the anti-custody, pro-diversion strategy derived from systems management. However, Allen also points to a range of other factors which help to explain the decline in custody rates. Some of these factors could not be influenced by systems management, such as the decline in the numbers of young people in the general population.

Other factors were indirectly beneficial to the systems management approach, such as the implementation of the 1982 Criminal Justice Act. Although the Act resulted in longer sentences for those young people who were sent to custody, because of magistrates' preference for semi-determinate youth custody sentences over 'short sharp shock' detention centre sentences (Burney 1985), it also introduced just deserts principles to youth justice. These included the criterion that custody

⁵ Cavadino and Dignan (1997: 258) support this argument by noting that 'in 1992, 82% of known indictable offenders under 17 were cautioned compared with 49% in 1980'.

could only be imposed where no other sentence could be justified, and the provision of an opportunity for youth justice workers to articulate alternative, non-custodial options in the form of a social inquiry report (Allen 1991: 36-42). These legislative changes were undoubtedly beneficial to the systems management approach and the principles associated with it at the time. Practical effects included more widespread legal representation for young people in court, and more (and better-targeted) interventions designed to divert young people from custody. However, while systems management work certainly took advantage of the new legislative climate, it would be wrong to say that micro-level initiatives were entirely responsible for the success in decreasing custody and increasing diversion for young people during the 1980s.

Care must also be taken, when reviewing the literature, to problematise the idea of diversion from the youth justice process. Systems management work considered increasing levels of diversion to be a measure of its effectiveness. Yet the effectiveness of diversion from custody itself (in the form of community sentences) was questioned in research. Bottoms et al. (1990), for example, in their survey of intermediate treatment (hereafter 'IT') for young people in England and Wales, illustrated the beneficial impact of systems management on IT, in terms of achieving the stated aims of systems management as well as improving the effectiveness of multi-agency work. Yet the survey also illustrated widespread confusion in practice about the exact meaning of the term 'alternatives to custody', questioned the specificity of systems management-related aims and objectives at a local level, and showed that IT itself covered a wide variety of activities, not limited to work aimed exclusively at those who were at risk of either care or custody. Therefore, the research argued that the impact and effectiveness of the systems management approach to analysis, despite organisational improvements, depended significantly upon local youth justice cultures, norms and circumstances.

Research also questioned the usage of diversion in the form of cautioning. Gelsthorpe and Morris (1994: 976-7) use official youth crime statistics to show that it was the increase in this form of diversion that reduced custody, rather than increases in the usage of community sentences and IT. However, other researchers pointed to inter-area inconsistency in police cautioning policy, based on local practices (Evans 1991), hostility on the part of the police towards cautioning, particularly with regard to older children (Evans 1991, 1993), the reduction in transparency and accountability for cautioning decisions (Pratt 1986), and the increased scope for discrimination in cautioning decisions (Farrington and Bennett 1981). In addition, Davis et al. (1989) criticised cautioning policy for insufficient consideration of, and consultation with, the victims of youth crime. Overall, therefore, research suggests that although systems management, with its anti-custodial and pro-diversionary aims, had a significant impact upon the outcomes for many young people involved in the youth justice process in England and Wales during the 1980s, there were limitations to its overall usefulness as an approach to work done with young people in trouble.

Other weaknesses of the systems management approach can be found in literature critiquing the politics of such an approach in the youth justice context. Holt (1985) offers an account of the youth justice process in England and Wales in practice, and the theoretical and practical factors which guided its operation and effectiveness, at the time of systems management's rise to prominence during the 1980s. He argues (1985: Chapter Five) that Thorpe et al's (1980) work marked an important shift in perceptions of youth crime, because it offered a radical critique of the positivistic, interventionist youth justice process of the time.

Holt argues that there were three main ideas behind this critique. The first was the increased accountability of State employees, moving towards democratic checks on the decision-making processes of 'welfare' institutions involved in juvenile

justice. The second was the defensive strategy of 'gatekeeping' to ensure that young people were not dragged 'up-tariff' unnecessarily. The third was the idea of a 'theory of atonement', based on principles of reparation, and aimed at breaking away from dualistic conceptions of juvenile intervention⁶. As a result, Thorpe et al. disowned pathological and positivistic conceptions of criminality.

However, Holt also claims that *Out of Care* overlooks fundamental political questions about social control, because it does not question the positivistic framework *behind* juvenile justice (Holt 1985: 42-3). He argues that Thorpe et al's concept of 'the correctional curriculum' represents an unwillingness to acknowledge the importance of resisting the dominant ideology and as a result it legitimises (with the apparent backing of the IT profession) the continued existence of the problematic 'penal continuum'. Because of this, he argues (1985: 19) that *Out of Care* falls short in terms of its political analysis of youth justice work.

Holt claimed, further, that bifurcation would lead to the concepts of 'treatment' and 'punishment' being legitimised in the same continuum of disposals for young people, both promoted in the name of prevention of further offending (1985: 25)⁷. Given the recent increasing attempts by successive governments to centralise political control over youth justice in England and Wales (Goldson 2000), Holt's claim that lack of analysis at the political and ideological level is a flaw in the systems management approach to analysing youth crime and justice may have even more relevance now than it did during the 1980s.

Cavadino and Dignan also acknowledge political issues in their discussion of systems management. They state that *'it (i.e. systems management) is necessarily anathema to proponents of "law and order" ideology because it seeks to limit*

⁶ I.e. the traditional 'welfare vs. justice' dichotomy (e.g. Gelsthorpe and Morris 1994).

⁷ It is interesting, in the light of this comment, to note that following the 1998 Crime and Disorder Act, the 'prevention of youth crime' is now the sole statutory aim of youth justice in England and Wales.

punishment rather than intensify it' (1997: 259-60), and relate this factor to the Government's decision to turn against systems management in the early 1990s, having supported it (albeit tacitly) in the 1980s. This is true, but the move away from systems management was also related to the increasing power over youth justice practice at ground level which central government gathered during the 1990s, under the process known as managerialism (Pratt 1989; Haines and Drakeford 1998).

Managerialism, or corporatism, can be defined generally in the following way:

'This sociological concept refers to the tendencies to be found in advanced welfare societies whereby the capacity for conflict and disruption is reduced by means of the centralisation of policy, increased government intervention, and the co-operation of various professional and interest groups into a collective whole with homogenous aims and objectives.' (Pratt 1989: 245)

Pratt (1989: 246) also notes the influence of economic and industrial policies and practices upon the development of managerialism in the public sector. Managerialism was characterised firstly by the introduction of National Standards for those working in the youth justice process, under the Conservative government. Subsequently (and more directly) it came to dominate youth justice practice under the Labour government which won the 1997 general election, via the 1998 Crime and Disorder Act. The 1998 Act radically re-organised the structure of the youth justice process, and introduced more intrusive National Standards, including those for bail workers (Youth Justice Board 2000a, 2001). So, during the 1990s, the Government decided to impose its punitive rhetoric on youth justice practice at a local level, and this rise in managerialism dealt a major body blow to the important (and successful) work that had been done in the previous decade, using systems management principles combined with an anti-custodial stance. Further, with the implementation of the 1998 Act and the introduction of the Youth Justice Board and Youth Offending Teams, the government deliberately set about discrediting (often with the assistance

of the Audit Commission) everything that had gone on before, and set about replacing previous good practice with a whole new raft of measures and interventions designed to usher in a 'new youth justice' (Goldson 2000).

Pitts (1988, 1996, 2001) has offered a more detailed critique of systems management, again related to its lack of political analysis. Pitts has described systems management analysis of youth justice as the 'collusion and cock-up' thesis, arguing that it *'ignores government and the role of the state in elaborating both an ideology and an apparatus of social control'* (Pitts 1988: 24). He further feared that systems management would inevitably result in the co-option of practitioners into the government's "law and order" strategy. Pitts instead favoured a radical, politicised approach to youth offending, focusing on macro-level policy on youth justice and other social spheres, and its role in disciplining and excluding young people, both inside and outside the youth justice process.

Cavadino and Dignan accept the validity of Pitts' criticisms to some extent, concluding that *'systems analysis neglects the political and ideological dimensions and (so) cannot provide a complete theory of the penal system'* (1997: 261). However, they also accept that managerial techniques of analysing youth justice can still be useful in limiting punishment where it is ineffective, in the financial sense or otherwise. Crucially, however, they favour the managerialist approach only in line with just deserts and restorative principles, and criticise the mixture of systems management concerns with a more punitive agenda in current Government youth justice policy (Cavadino et al. 1999: Chapter Seven). This pluralist approach views systems management as a means to an end⁸, rather than as an end in itself. Such an approach takes into account the macro-level concerns central to Pitts' work, while

⁸ The end being a less punitive and more inclusive youth justice process, on Cavadino et al.'s analysis.

maintaining the micro-level perspectives key to Thorpe et al.'s (1980) approach to youth justice.

Conclusions

This review of both the techniques used in systems management analysis of the youth justice process, and of the results which application of this research technique achieved in the youth justice system in England and Wales in the 1980s, seems to indicate that systems management analysis is well-suited to the context of the youth justice process. It is, however, vulnerable to attack (because of its inherently value-free paradigm) from 'law and order', punitive youth justice policy, and more particularly the politicisation of the youth justice process in England and Wales where such 'law and order' policies are involved (Pitts 1996; Cavadino and Dignan 2002).

This literature review's analysis of systems management theory and practice in the context of the youth justice process has two very important implications for this study. The first is that it can be used as the basis for the study's methodology. This study is concerned only with the operation and effectiveness of one part of the youth justice process (namely the bail process) in one particular area of England and Wales. Nonetheless, the bail process is part of the larger youth justice process⁹. It is therefore argued that systems management analysis is equally applicable in this smaller, more localised context.

The second implication for this particular study is that bail support must be considered and analysed in the context of the wider bail process, as an integral part

⁹ Or at least a part of one in a series of local youth justice processes, which if considered together comprise the youth justice process. This approach would be more consistent with that taken by Thorpe et al. themselves.

of that wider process. It cannot be meaningfully analysed independently, particularly in terms of effectiveness in working with young people and success or failure on those terms. Other parts of the bail process must be considered alongside bail support practice and outcomes, and evaluated in the same way. The preceding literature review has shown that the impact of the youth justice process on young people cannot be accurately examined without looking at all aspects of a distinct section of that process – in this case, all possible experiences of young people in the process between initial arrest and final sentencing outcome.

The second part of this chapter will examine what is known about the effectiveness of youth justice bail support schemes in England and Wales, in the light of the conclusions drawn above.

A review of the youth justice bail services literature

Introduction: history and definitions of 'bail support' and 'remand management' in youth justice

The literature available on the nature and usage of bail support schemes in England and Wales shows that bail support services developed from the 'bottom up' in individual youth justice teams¹⁰. This process of development began in the 1980s (NACRO 1993a: 1). At that time, there was no statutory requirement that bail information or bail support be provided. As mentioned in the introduction, such a requirement was put in place only in the 1998 Crime and Disorder Act. As a result, the early bail support schemes were developed in response to identified need at a

¹⁰ As they were known prior to the 1998 Crime and Disorder Act. Since the 1998 Act, they have been labelled 'Youth Offending Teams' – perhaps indicative of the New Labour shift in focus from 'doing justice' and promoting due process to 'tackling offending'.

local level (NACRO 1998). This portrayal of the development of bail support work in England and Wales appears to endorse Haines and Drakeford's view that it was work done by youth justice teams at a local level which helped to reduce the number of young people remanded and sentenced to custody (Haines and Drakeford 1998: 55-61).

Haines and Drakeford also argue that local youth justice teams were able to bring about these anti-custodial practices by employing systems management techniques to analyse what happened to young people in the criminal justice process. It is clear that the development of youth justice bail support work and the anti-custodial, pro-diversionary application of systems management principles to youth justice were inexorably linked. As such it is appropriate to conclude that the earliest recognised bail support schemes were one example of the grass roots, systems management-based 'anti-custody orthodoxy' in England and Wales in the 1980s, and developed in a piecemeal way.

Evaluation of the literature highlights the fact that 'bail support' and 'remand management' are inherently flexible and loosely defined terms. Although the exact definition of the term 'bail support' varies from source to source, the following definition focuses on services and information designed to facilitate the granting of bail:

'The provision of a service or services designed to facilitate the granting of bail where bail would otherwise be denied.' (NACRO 1993b: 2)

This can be contrasted with the following, much longer definition of 'bail support', also set out by NACRO, which focuses on activities undertaken with defendants after they have been granted bail:

'Community-based activities in programmes designed to help ensure that defendants awaiting trial or sentence successfully complete their periods of unconditional or conditional bail by returning to court on the

due date, without committing offences or interfering with the course of justice, and to assist the bailee to observe any conditions of their bail. Activities and programmes may be aimed at: improving social and life skills, controlling anger and aggression, reducing drug or alcohol misuse and tackling difficulties with family relationships, schooling, employment or accommodation. Such programmes may be run by the bail support project itself or through referral to specialist organisations.' (NACRO 1995: 4)

The concept of 'remand management', similarly, covers a great deal of ground. On its most basic terms, it is defined in the literature as an extension of the systems management principles discussed in the first part of this chapter to the bail process. It has been perceived as including the following aspects of practice:

'Interagency co-operation, common information bases and gatekeeping strategies, sustained and methodical monitoring of remand patterns, systematic diversionary strategies, good community-based resources, careful writing of PSRs ...' (Hoare 1992: 13)

More specifically, 'remand management' has been seen as starting from the point of arrest by police, and including strategies covering young people's detention in police custody under the Police and Criminal Evidence Act, bail information for the courts, conditional bail, bail support, specialised remand fostering schemes and supported lodgings, remands to residential childcare facilities, remands to secure accommodation, and bail hostels (Hoare 1992: 12-13). Remand management work can cover any, some or all of the decisions made in the youth justice process, between arrest and final sentence in court. Of course, the quotes from Hoare above presuppose a particular set of principles to be applied in conjunction with the systems management approach. The early literature takes it for granted that these principles revolve around diversionary strategies, designed to restrict young persons' involvement with the youth justice process to the minimum level necessary or achievable. Later literature, however, moves away from this pure diversionary approach, as the next subsection shows.

The features of effective bail services

More evidence of the fact that bail support developed in a piecemeal way lies in the apparent lack of any national guidelines on bail support policy and practice until 1994. In that year representatives of probation, social services and voluntary organisations drew up Principles for Policy and Practice for working with young offenders (NACRO 1995). These Principles highlighted the potential for 'net-widening' (Cohen 1985) in bail support work, meaning the referral of defendants who would otherwise have been given unconditional or conditional bail. The Principles also emphasised the need to relate closely the nature, quality and intensity of support offered to the reasons given by the court for denying bail. Finally the Principles seemed to emphasise the need to distinguish bail support from other forms of supervision. This is true in that they included the importance of respecting the legal status of unconvicted defendants, *inter alia* by not describing bail support as 'supervision', and the inappropriateness of using bail support as a test of future potential for supervision (NACRO 1998: 2). Later literature, however, casts doubt upon the validity of this approach to how bail support should work:

'While schemes are still concerned to target juveniles at risk of custodial or secure remand, more pragmatic approaches to the content of bail support have developed as a result of growing concern about high levels of offending on bail by the juvenile age range ... In particular, bail support programmes will need to be guided by an assessment of the risks presented by the juvenile, and strategies for managing those risk factors.' (NACRO 1998: *ibid.*)

The latter quote provides no empirical evidence for the change in appropriate focus for bail support work (such as evidence of the effectiveness of various approaches to bail support). Instead, it points towards the changing political priorities

attached to youth justice during the mid-1990s¹¹ and uses them as a guide for bail support policy and practice. In a paper whose stated aim is to '*summarise what is known about bail support with a view to assisting agencies ... in their area*' (NACRO 1998: 1), the complete absence of empirical evidence to support the arguments made in favour of changing the focus of bail support work is not an encouraging sign. The absence of any acknowledgement of the author of this paper¹² also makes it very difficult to inquire further into the rationale and supporting evidence underpinning these publications.

Earlier literature on bail support takes a similarly narrative approach to bail support work. In 1993, NACRO, who were the main source of bail support literature at this time, published a series of papers on pre-trial initiatives in the youth justice system, which in practice focused upon bail support work. The papers acknowledge the need to locate bail support work within a wider pre-trial 'remand management' strategy (1993a: 3), and emphasise the diversity of bail support schemes in England and Wales (ibid: 1). Consequently, they generally focus on the promotion of greater consistency in underlying principles, a common approach to the assessment of bail support needs, and the incorporation of bail support strategy into the legislative framework for bail.

The first paper acts as an introduction to these key themes (NACRO 1993a). The second paper in the series (NACRO 1993b) outlines a possible theoretical framework for bail support services, based on the twin foundations of the legislative framework (of the 1976 Bail Act) and the provision of bail information¹³. The paper then sets out a framework for bail support services, based upon the separation of

¹¹ Particularly 'actuarial justice' or risk management (Feeley and Simon 1992), and punitivism.

¹² And indeed the other NACRO papers on the subject of bail support discussed below.

¹³ A pre-trial service which involves the provision of relevant, verified and positive information about defendants in respect of whom the CPS is likely to oppose bail in court. There is some uncertainty in the literature as to whether bail information is separate from bail support, or simply one particular variety of it: see the two definitions on pp.42-43 above.

assessment of need and provision of services, as well as the provisions of the 1976 Bail Act, and systems management principles (see earlier). Nonetheless, there is no actual evidence to suggest that these measures will improve the effectiveness of bail support schemes – in fact no other sources of information are cited in this paper at all.

Later papers in the series go on to develop the themes outlined in the second paper, using systems management principles to outline a blueprint for pre-trial review (e.g. NACRO 1994: 2). Again, however, there is no evaluation of the effectiveness of these policies in terms of reducing remands to custody, and no examples of evaluation of bail support schemes which have adopted these measures in practice. Regardless of the soundness of these systems management principles when applied to bail support services, this paper is again prescriptive but lacking in any corroboration.

More recent literature, unlike the NACRO papers described above, has attempted to place bail support work in the context of what evaluation has previously been done. A good example is the work of Moore and Smith, who, in their recent guide to good practice in pre-trial work, devote a whole chapter to bail support work (2001: Chapter Five). Moore and Smith reaffirm many of the points made in the earlier bail support literature described above. There is an attempt – albeit a very limited one – to put forward the idea of bail support services as one integral component of a wider overall bail strategy (2001: 65). Elsewhere the authors state that the foundation of bail support services should be the 1976 Bail Act, and the exceptions to the general right to bail which it includes (2001: *ibid.*). They argue that:

'Prior to the Youth Justice Board funding stream becoming available ... the provision of bail support was patchy and of an inconsistent standard.' (Moore and Smith 2001: 66)

They also state that the specific role of bail support programmes is to reassure the courts in cases where there are serious doubts about the ability of the young person in question to meet the conditions of bail, and where the young person presents a risk of serious harm to others (2001: *ibid.*). In making this argument they emphasise that bail support programmes are only appropriate in the above circumstances, and advocate the use of conditional bail as an alternative in less serious cases. They do also allude to the threat of 'net-widening' for young people wrongly placed on bail support schemes. However, they cite wasted financial resources as the main (managerialist) reason for guarding against this, rather than the more traditional concern of young people being unnecessarily pushed 'up-tariff' and thereby being exposed to the increased risk of a custodial sentence through excessive infringements on their liberty (Thorpe et al. 1980; Cohen 1985).

Finally, Moore and Smith argue that bail support is a specific, short-term method of intervention, and put forward a number of criteria by which schemes' success or failure can be judged. These are: compliance with National Standards; ability of the scheme to reduce the use of remands to local authority accommodation, secure and custodial remands; a high rate of compliance with the scheme; the presence of identifiable short-term benefits to young people; and the ability to meet the needs and expectations of courts and other agencies (2001: *ibid.*).

As argued above, many of Moore and Smith's arguments comply both with the earlier bail support literature generated by organisations such as NACRO, and with a systems management approach to analysis of bail support effectiveness. However, again as with the earlier bail support literature analysed above, they do not cite any precedent or literature authority as corroboration for any of their arguments. This weakens the power of their work, but this lack of evidence is perhaps more of a

reflection of the scarcity of suitable bail support literature which can be relied upon when constructing a guide to effective bail support practice.

Other recent guides to the youth justice process also deal with bail support work and the hallmarks of its effectiveness. Haines and Drakeford (1998) refer to it as part of their systems management analysis of the youth justice system in England and Wales. Like Moore and Smith, they emphasise the need to restrict the level of supervision of as yet unconvicted young people on bail support schemes to the minimum necessary (1998: 115). Haines and Drakeford, however, argue far more explicitly than Moore and Smith that bail support work should comprise constructive work with young people as well as restrictions on their liberty:

'Of course bail support has to include elements of supervision and control. These formal aspects, however, have to be counter-balanced with a genuine interest in the well-being of those made subject to such schemes and a genuine desire to see them succeed within it, and in which the provision of advice and assistance is a cornerstone of effective practice.' (Haines and Drakeford 1998: 115-6)

Again, this analysis is only supported by one example of a bail support scheme in practice, that of the Pembrokeshire bail support scheme. Although an evaluative report of the findings from this project was produced (Raynor 1995), it was apparently not published, and details on the scope, content and effectiveness of the scheme are scarce in the report. This seems to reinforce the fact that there is little practical evaluation of bail support work at a local level to be found.

Due to the lack of evaluative material, what little there is will now be analysed in more detail, in order to ascertain what is known about effective bail support work.

Evaluation of youth justice bail schemes in practice

The literature reviewed in this section will be divided into two sections: that which has originated from the Home Office and the National Youth Justice Board (hereafter YJB) for England and Wales, and that which has originated elsewhere. The latter group of literature will be examined first in this section.

1. Non-governmental research

Outside the criteria for effectiveness set out for bail support schemes by the YJB (via literature issued by NACRO and the National Standards for Bail Support), independent evaluation of bail support schemes has been extremely rare. If such evaluation has taken place it is seldom published formally in a way which is accessible to the public, or to a professional researcher.

However, some sources of evaluation, usually taking the form of accounts of evaluative work cited in more general publications, are available. Most of these are works published by the Children's Society, which give examples of bail support schemes in action, with some evidence of evaluation included. Such publications remain scarce, however. It is also noticeable that the publications dealing with bail support schemes' work in practice (rather than with bail support at a theoretical level) tend to rely on a very small 'core' of projects for evidence of bail support work's effectiveness.

In particular there is heavy dependence upon the work of the Greater Manchester Bail Support Scheme since 1997 (e.g. Goldson and Peters 2000; Moore and Smith 2001). The reason for the concentration on the Greater Manchester project is not clear. It possibly relates to the fact that so little rigorous evaluative work

has been done (or at least published) in relation to bail schemes for young people, leading to a heavy dependence upon whatever evaluative work has been done in particular areas, regardless of its validity and generalisability to other areas' bail support work. Whatever the reason for this reliance on the Greater Manchester project is, further discussion of it is required at this stage.

The crucial issue for present purposes is the nature and extent of evaluation of the Greater Manchester Project's effectiveness in achieving its stated aims. Its aims were the reduction of remands to custody, the reduction of non-compliance and re-offending by young people on bail, and the reduction of custodial sentences for young people. These aims, in turn, determined the two stated overall measures of success for the Bail Support Project, namely how credible it was perceived to be by the courts in the Greater Manchester area, and how successfully the young people put on the scheme completed their programmes.

Examining the targeting of the project firstly, all the available evaluation (Moore and Smith 2001: 78-85; Foster 1998: 6-14) refers to the audit of the scheme done in 1998. In that year 136 referrals were made to the project, of which 102 were offered a place on the programme. In turn, of these 102 young people, the court accepted 51 referrals (50%). Of the 51 young people not given bail support, the majority (39) were remanded in custody. As the evaluation points out, this would seem to suggest that the project was targeting its services at those who were at risk of receiving a secure or custodial remand (Moore and Smith 2001: 78). This, as mentioned above, was one of the project's stated aims, so to this extent the project could be described as effective.

The next issue that must be addressed at this point is the level of compliance shown by those who were accepted onto the Greater Manchester programme. Of the 37 young people who completed the programme during the evaluation period, 24

(64%) were successful, 5 (14%) were partially successful¹⁴, and 8 (22%) failed, so that total or partial success was achieved in 78% of cases (Moore and Smith 2001: 82).

Moore and Smith also include information on sentencing outcomes for those placed on the Greater Manchester bail support scheme. They show that the majority of cases (46%) that reached final outcome during 1998 resulted in a community sentence (Moore and Smith 2001: 82)¹⁵. Moore and Smith do admit (2001: 82) that it cannot be said with certainty that the success of the young people who completed the bail support scheme without any breach gave courts in the Greater Manchester area more confidence in making non-custodial sentences, as there is not enough information on how young people not placed on the bail support scheme were sentenced. However, the lack of a complete account of effectiveness surely makes the need for similar information from other bail support schemes in England and Wales even greater. The fact that Moore and Smith do not provide any such comparison implies that such information was simply not available to them, even when writing a publication as recently as 2001.

It is not until details about the young people placed on bail support schemes and their history of offending are taken into account in evaluation, as well as comparisons with young people who are not considered suitable for bail support work, that a true picture of the effectiveness of bail support work with young people can be built up. Such considerations are completely absent from the literature under review here. Their presence and importance is disguised by the efforts of literature

¹⁴ I.e. where the young person did re-offend, but less seriously, and otherwise complied with the programme; or where the young person did not comply, but did not re-offend and has not been incarcerated.

¹⁵ In the 30 cases where the constructive work done while on the bail support scheme might have influenced the sentencing decision of the court, 63% of sentences were either community sentences or absolute or conditional discharges – a slight decrease compared with the 1997 figure of 66% (Foster 1998: 7).

such as the work by Moore and Smith to promote the Greater Manchester Bail Support Scheme as a blueprint for bail support work elsewhere in England and Wales, and to claim that whatever successes that scheme may have had can be emulated in other areas by using the same methods in practice.

The evaluation also investigated the credibility of the programme in the eyes of the courts. The evaluators sought anecdotal evidence from those involved in the running of the bail support project, particularly from magistrates, court clerks and defence lawyers. Only three of the comments obtained are printed in the Moore and Smith evaluation (2001: 81). Extra comments are included in the 1998 evaluation published by the Children's Society (Foster 1998: 16-17). Taken together the comments on the scheme are universally favourable. However, there is no account, in any of the published work, of how many people were interviewed as part of the evaluation, what the response rate was, or of how many (if any) negative comments were made about the scheme by those involved with it. No information is given in either the original project evaluation report or Moore and Smith's account about the methodology of obtaining this anecdotal evidence – whether the information was obtained using interviews, focus groups, or questionnaires, for example.

This lack of information makes the account of the Greater Manchester project's effectiveness very inconclusive. As regards Moore and Smith's account, they do not acknowledge the fact that although they purport to be offering a general guide to good bail support practice, all of their information is derived from the evaluation of one bail support project during one particular year, with no further comparative work to test the validity of the data obtained.

As a final point about Moore and Smith's account, it is also argued that the positive effects of incorporating bail support services within an integrated overall bail strategy are not made sufficiently clear. As stated above, Moore and Smith begin

their chapter on bail support by setting it in the context of 'remand management' strategies. However, nothing is said in discussing the work in Greater Manchester about how this way of working relates to an overall remand management strategy *in practice*, or to what extent bail support work is linked into it.

Another Children's Society publication (Goldson and Peters 2000), although published earlier than Moore and Smith's work, offers slightly more up-to-date information about the Greater Manchester bail support project's success rate, alongside a narrative account of the kind of work done on the scheme. According to their analysis, in 1999, 95% of young people completed the Greater Manchester programme without any breach; 70% of the young people referred to the programme completed the programme without re-offending; and 70% of the young people with whom the project worked were eventually sentencing by way of community disposals – an improvement on the 1998 rate (Goldson and Peters 2000: 19). However, the above caveats about the limitations of evaluation apply again here, as little additional information is given.

One other comment should be made about Goldson and Peters' evidence here. If 95% of the young people in 1999 completed the bail support programme without breach, but only 70% completed it without re-offending, then this strongly implies that some young people re-offended while on the bail support scheme, but were not breached for it. This raises possible issues about breach policy and the attitude of local courts towards breaches of bail support conditions. However, these questions are not addressed, or even acknowledged, in Goldson and Peters' account.

Published evaluation of other schemes suffers from similar difficulties as the evaluation of the Greater Manchester Project. An example is Goldson and Peters' (2000) brief discussion of the Dorset Bail Support Scheme, without any analysis of

effectiveness along the lines of impact on remands to custody, targeting, and local youth justice credibility. The scope of the Scheme's remit is similarly unclear. The authors remark that the Scheme '*provided less formalised support for many more young people while they were on bail*' (ibid.: 20). What exactly is meant by this comment is not made clear. It raises a number of issues which are not adequately resolved in this account. These might include some explanation of why this 'less formalised' work does not count as bail support work, what sort of work is done in both categories, and where the boundary between 'less formalised' and 'official' bail support work is drawn by this particular Scheme. Also, there is no mention of how this Scheme fits into a remand management strategy, if it does at all.

Before fieldwork for this study began, attempts were made to expand the range of literature reviewed by contacting Youth Offending Teams and asking whether any information or evaluation of the sort analysed in this chapter was available for the bail support schemes which they were running. However, the Youth Offending Teams contacted (a total of 20 in all) were generally only able to provide basic information about the services offered under the auspices of their bail support scheme. Evaluation of effectiveness was virtually non-existent, or at least if any had been done, the YOTs involved were not willing to make it available.

II. Home Office and Youth Justice Board evaluation

Before the implementation of the YJB under the Crime and Disorder Act 1998, Government-sponsored evaluation of youth justice bail services was very scarce. Even *Misspent Youth* (Audit Commission 1996), often cited as a key influence on New Labour's youth justice policies, devotes just three pages to remand generally (ibid.: 30-33) and only discusses one bail support project. As with the

evaluation in Part I of this chapter, there is no analysis of this project's effectiveness, only a description of its activities. Discussion of remand is primarily framed in terms of the great financial cost of remanding young people to the secure estate, rather than other measures of the effectiveness of bail services.

However, the introduction of the YJB, together with the new statutory requirement that all Youth Offending Teams (hereafter YOTs) provide bail support services for all young people within their area of jurisdiction aged between 10 and 17 inclusive, signified a change in the YJB's evaluative approach. The YJB began to collect and analyse data on youth justice bail services – a requirement it placed directly on YOTs – and it indirectly commissioned evaluative research on bail as a condition of funding YOT based developments in this area. This data was obtained from all YOTs in England and Wales, four times per year, and disseminated to all YOTs by the YJB, as well as being made available on the YJB's website.

An example of the evaluation approach taken to bail services can be found in the Second Evaluation Report on Bail Supervision and Support Schemes (Bail Support Policy and Dissemination Unit 2001). In contrast with the literature reviewed so far in this chapter, these reports have taken a nationwide, comprehensive approach to evaluation of bail services which have been funded by the YJB. Statistics were gathered only for projects which were partially or wholly funded by the YJB, rather than all projects in existence in England and Wales at the time of the report. Whilst this raises questions about the generalisability of the projects surveyed to bail services generally, it does represent a more systematic attempt to evaluate youth justice bail support services than the research discussed earlier in this chapter.

The Evaluation Report is a review of 102 local reports into bail support and supervision schemes across England and Wales. It covers a range of issues, including local schemes' operational status, factors helping and hindering the

development of schemes, accommodation issues, the bail supervision process itself, the content of locally offered programmes, and compliance with YJB-devised National Standards for Bail Supervision and Support. The three key performance indicators by which the Report judges schemes' effectiveness are attendance at court, reducing offending on bail, and reducing the number of remands to custody.

The Report takes a primarily descriptive approach to evaluation. The bulk of information is presented in the form of short, descriptive vignettes on aspects of particular schemes' practice. Analysis of schemes' progress against national standards accounts for only four pages of a 42-page report. The report also struggles to put performance in a wider context. For example, court attendance rates are given for funded schemes during the time period covered by the report, but no attempt is made to compare these rates to what occurred previously. Similarly, when discussing the target of reducing offending on bail, the report concedes that this target *'is the less (sic) tangible of the three aims'* (ibid.: 40) and will depend on a number of factors beyond the scope of the report. These include individual young persons' circumstances and offending, previous offending and levels of support offered by each scheme. Similarly, the report goes on to state that:

'it is difficult to say to what extent bail supervision and support has reduced remands to custody ... however, it is likely that it has been a contributory factor' (ibid.: 41)

However, no empirical evidence is offered to support this argument.

The report therefore offers evaluation of youth justice bail services on only a superficial level, and does not analyse the effectiveness of schemes against its defined criteria. There are also other measures of effectiveness which are overlooked, such as effectiveness and credibility of schemes in the view of young people and magistrates. Neither does the report show the rate of cases in which a bail support application was made by YOTs, but rejected by the courts. Further,

although some information is given on re-arrest and breach rates, no attempt is made to connect these to sentences given, or otherwise to compare sentences given to those successfully completing bail support programmes with sentences given to those who partially completed or failed programmes, or who were not accepted onto a bail support scheme.

The report discussed above is representative of much of the literature on bail services regularly published by the YJB since its inception. Thomas and Goldman's (2001) report acts only as a guide to YJB-imposed national standards for 'bail supervision and support', for example, and does not provide any evaluation of effectiveness (however defined). Despite a normative approach, based around an integrated bail strategy, the only references corroborating the report's arguments are the YJB National Standards themselves. There is no reference to particular examples of individual YOTs' practice, or any indications of current level of compliance.

Other YJB publications have attempted to meet the deficiencies outlined here. One example is Thomas and Hucklesby's (2002) report, prepared for the YJB. This report acts as a guide to effectiveness in youth justice bail services. It has several advantages over the 'regular' YJB reports. Firstly, it firmly locates bail support as one important part of a coherent, systematic bail strategy – something which the previously discussed literature failed to make clear. Secondly, it prioritises analysis of effective practice over description¹⁶ (as well as providing an introductory review of bail legislation, such as the 1976 Bail Act). Thirdly, applying the systems management approach, it addresses and gives guidance for each decision-making stage within the youth justice bail process, from arrest to sentence. Finally, it provides a theoretical basis for its systems management analysis, by advocating a

¹⁶ This was done by drawing upon the unpublished returns, from individual YOTs, of information required by the YJB. These returns were not disseminated publicly.

'children first', proactive, rights-based approach to 'remand management', which prioritises the least restrictive bail status necessary for young people (Thomas and Hucklesby 2002: 5-6).

There are also limitations to the usefulness of this source, however. Perhaps the main disadvantage is the lack of primary empirical evidence underpinning the study and complementing the secondary literature review. The authors do claim that:

'semi-structured interviews were conducted with a sample of YOTs, prison service establishments, secure units and significant individuals within the field.' (ibid.: 4)

They also include excerpts from interviews throughout the report. However, no information is given on how many interviews were conducted, which role each interviewee played within the youth justice process, or what questions were asked. More information is required to assess the reliability and validity of this data, and to avoid the accusation that this primary evidence has been 'bolted on' to the secondary analysis, rather than being triangulated with it. Further, although feedback on bail services has been sought, to some extent the approach is meta-analytical. It therefore overlooks the context of local bail policy and practice, and does not give enough information about exactly which strategies are likely to be effective in which youth justice context. Indeed, the report admits this problem by stating that:

'at the time of writing, there is no published research which indicates how well strategic partnerships undertake their functions, or their contribution in assisting YOTs to develop and deliver services.' (Thomas and Hucklesby 2002: 73)

Nor is there any apparent research in this report into the views of young people on the effectiveness of bail services. Therefore, the views of young people on these services remain hidden as a measure of effectiveness. Other YJB publications have sought the views of young people, alongside those of victims and offenders' parents, on youth justice generally (Youth Justice Board 2003), but these data focus

mainly on the Intensive Supervision and Surveillance Programmes (hereafter ISSP) which can be undertaken by young people on bail, rather than bail services generally. This report also does not include the views of youth justice agencies, so that a comparison can be made between different standpoints on youth justice, and lacks focus on particular local contexts of youth justice. As with previously reviewed literature, then, the report offers a partial view of service effectiveness, but lacks a holistic and focused case-study approach, and an appreciation of differences between local youth justice processes, such as that advocated by Thorpe et al. (1980).

A rare recent example of empirical research into bail practice, which does include research into the views of decision-makers in the bail process, is the Home Office-sponsored study by Morgan and Henderson (1998). This study measures the impact of the Bail Process Project, which aimed to provide better information to those making bail decisions (i.e. police and magistrates), so that those groups could, in turn, make more accurate predictions of defendants' suitability for bail¹⁷. The study's methodology was to undertake case studies in five different areas of England and Wales. In each area, data were collected on offenders, offences and bail decisions taken, during two separate three-month periods – the first before the Project had been implemented, and the second afterwards. Data were also collected on recorded re-offending, in terms of charges and convictions, occurring while on bail. In addition, focus groups, comprising the criminal justice agencies involved in bail decisions in each area¹⁸, were conducted for two purposes. Firstly, focus groups were asked to conduct a systems management analysis of the bail process in their area, identify problems in the operation of that process, and devise possible solutions to those problems. Secondly, focus groups were held to discuss the information

¹⁷ And therefore reduce unnecessary denials of bail.

¹⁸ Magistrates, police officers, CPS staff and probation officers were included in the study.

which agencies wanted to possess when making decisions, and how important different kinds of information were to them in making decisions, based on the criteria for denying bail contained in the 1976 Bail Act. The results obtained were complex: however, rates of offending on bail decreased following the Project's implementation, across the five selected areas overall¹⁹.

A clear advantage of this research is its sophisticated, triangulated methodology, and its involvement of the various agencies who have an impact on bail decisions, as well as the magistrates who make such decisions. It also identifies factors which were more likely to be associated with offending on bail²⁰ and compares these to factors which decision-makers thought to be important when remanding defendants to custody²¹. Also, the study examines variations between the decision-making contexts in different areas.

However, there are several limitations in the particular context of this research. The most prominent is that the study does not specifically focus upon the youth justice process, where some age groups have different criteria for denial of bail than criteria applicable to adults. Also, although the study focuses on factors important in offending on bail, it does not specifically focus on the services offered to those on bail, the different ways of measuring their effectiveness, and the impact which these services might have on court decisions. Finally, the study does not attempt to 'connect' offending on bail, and interventions on bail, with later sentencing decisions. Therefore, although it is more advanced than other recent literature in the methodological sense, the Morgan and Henderson study leaves several key questions about youth justice bail processes unanswered.

¹⁹ Although there were differences in the scheme's impact between the areas.

²⁰ E.g. homelessness, the current offence and previous offending history.

²¹ Mostly the factor groups were similar, with some exceptions – e.g. age affected the rate of offending, but did not affect the remand to custody rate consistently.

Conclusions

The literature reviewed in this chapter highlights the historic importance of systems management analysis in both theoretical and empirical evaluation of youth justice bail processes. However, it also highlights the vulnerability of a value free method of analysis, like systems management, to political development of youth justice policy. Traditionally combined, with some success, to a strategy of diversion and minimum necessary intervention in the field of youth justice bail practice, systems management analysis has been affected by recent moves to make youth justice policy more centralised and punitive (Downes and Morgan 1997; Home Office 1997).

The second part of the review examined research into bail services for young people under New Labour, and found that, despite the great increase in the quantity of evaluation since the introduction of the YJB and other Crime and Disorder Act measures, there has not been a corresponding match in the quality of evaluation. Early systems management research, such as Thorpe et al.'s (1980), emphasised the need to understand the youth justice process in terms of a network of local youth justice processes. Recent research has reflected the centralising macro-level policies of the YJB – an exercise in systems management in itself, but one which does not obviate the need for detailed research into the key influences on the youth justice bail process in particular areas, and the different ways in which the effectiveness of local processes can be measured.

The lack of research which assesses the role of all of the key decision-makers in the youth justice bail processes, but which also takes into account the effectiveness of such processes in the view of those involved (including young people), was noted by Thomas and Hucklesby (2002) in their own research. These

gaps in research knowledge formed the foundation for the current research study, and, in particular, provided valuable guidance on an appropriate methodology for the study. The following chapter sets out the methodology used, as well as providing justifications for the decisions taken in constructing the methodology, and discussing problems faced in its practical implementation.

Chapter Three

Methodology

Introduction

The main conclusion drawn in Chapter Two was that little or no systematic evaluation of bail services for young people in England and Wales had previously been produced. Bail support and intervention projects have existed for some time in England and Wales (since the mid 1980s), but there has been little organised evaluation of effectiveness. Moreover, much of what has been done was very limited in its scope, not just in terms of looking at particular local projects (which this project also does), but also in terms of methodology (e.g. little combination of quantitative and qualitative research methods in the same study) and theoretical development (e.g. locating findings in a wider context). The literature review therefore showed the need for new research in this area – but it also pointed towards appropriate directions for epistemology, research design and the methodology itself.

The aim of this chapter is therefore to explain the methodology used in the study. This will involve detailed explanation of the role of theory in the chosen methodology, the approach taken here towards research design, and the exact methods used in the study. However, description of the research process is not all that is required in the chapter. Critical evaluation of the decision-making process at each stage of the research is also a key concern. This will reveal not only how decisions at each stage of the research process were taken, but also the strengths

and weaknesses of the chosen approach at each stage. Finally, the impact of practical issues on the chosen approach to research will also be discussed and analysed throughout the chapter.

Epistemological issues

Introduction

The first step taken here was to consider possible research epistemologies in terms of criminal justice research. There are several of these.

Bottoms points out (2000: 35) that all of these epistemological approaches have their own strengths and weaknesses. In particular, he points to the tradition in criminological research to take one of two polarising epistemological approaches to the research process. On one side, there is the research tradition known as positivism. Robson (2002: 20) identifies the key features of this epistemological approach as the principles that only direct observation can generate factual knowledge; that science is free of researchers' values; that science is largely based on quantitative data; that all scientific propositions are founded on facts; and that causation is established by demonstrating empirical regularities.

Positivism is the theoretical standpoint most associated with the idea that theory-neutral facts do exist in social research. In other words, positivism takes the view that social facts can be (and should be) separated from the values held by social researchers. Yet many of those writing on social research philosophy and practice dispute this view:

'Facts are "theory-impregnated". What we see as factual is a product of our theories and an agreement between them and reality itself ... (yet) value-freedom of such a "naïve" kind continues to be a claim in

the actual practice of social research. British Home Office research on crime can be seen as an example of such an approach'. (Williams and May 1996: 111-13)

Values (whether acknowledged or not) always play a part in social research design and methodology. Even an apparently 'value-free', quantitative method of research, such as the use of a questionnaire, involves theory and value decisions – regarding the wording and order of the questions in the questionnaire, for example. Yet, as Williams and May (ibid.: 116) go on to point out, this need not mean that objectivity cannot be pursued as an aim of social research:

'The objects of social science are constituted by values and this presupposes an appreciation of the values peculiar to the part of the social world being studied. Without this, the researcher cannot evaluate the phenomena under investigation and their research is without relevance. However, it is appreciated that the investigator will be motivated by her own presuppositions that will shape her evaluative framework. This is inevitable and even desirable. However, to admit of this need not compromise "value" neutrality, for the researcher is able to objectively describe the values under investigation.'

In the context of this research, where a review of relevant literature has revealed the amount of discretion enjoyed by individuals and agencies at each stage of the process, any research strategy endorsing the existence of theory or value-neutral facts appears to be inappropriate. It also militates against research which examines feelings and attitudes which are not directly observable (May 2001), and these would seem to be an essential part of research into a neglected and discretionary part of the criminal justice process. It is therefore rejected here. This should not, however, preclude any particular theoretical research strategy, apart from the more traditional forms of empirical research which regarded objectivity and value freedom as equivalent. The real principle here is that social research must be open and reflexive about the theoretical assumptions that underpin the ways in which it is

carried out. This will therefore be a key feature of the current chapter, particularly where the context of the research is discussed in more detail below.

The second traditional epistemological approach, which is often in direct opposition to positivism in social research, is known as relativism, or interpretivism. This, like positivism, encompasses a range of research principles, but basically argues against the objective, value-free approach to research which is characterised by positivism:

'Interpretivism is predicated upon the view that a strategy is required that respects the differences between people and the objects of the natural sciences and therefore requires the social scientist to grasp the subjective meaning of social action.' (Bryman 2004: 13)

Interpretivism therefore prioritises revealing the meanings attached to the social world by individuals within it. Far from promoting value-free research, as positivism does, it takes the view that that the researcher's values are an integral part of research. A related approach, constructionism, goes further by stating not only that social phenomena are produced through social interaction, and are constantly being revised, but also, in a more recent version of the principle, that researchers can only produce a subjective view of the social world, rather than an objective, definitive view (Bryman 2004: 17).

Writers such as Robson (2002: 22) illustrate the difficulties of an interpretivist approach to research, especially when it makes claims that there is no external social reality other than that which is observed by each individual. Apart from the problems of generating theory through carrying out this type of social research, there is the more practical argument that such a view simply does not fit in with the 'real world' (ibid.). In addition, interpretivism can lead to difficulties for researchers in prioritising different accounts of the social world and meanings attached to it (Hammersley 1993).

This dilemma is summed up by Bottoms (2000), who highlights five key approaches to epistemology in the particular context of criminological research: classicism, natural science-based positivism, active-subject socially-oriented criminologies, active-subject individually-oriented criminologies, and political-activist criminologies. While moving beyond the traditional positivism-interpretivism debate in some respects²², these approaches mirror the difficulties faced by researchers in choosing an appropriate epistemology, as discussed above. Positivism and interpretivism each have their own strengths and weaknesses²³. Bottoms' key theoretical approaches, similarly, each have strengths and weaknesses of their own.

Recognition of this leads Bottoms to propose guidelines for the relationship between criminological theory and practice, which draw pluralistically on the strengths of different epistemological approaches (Bottoms 2000: 44). As Bottoms points out, the challenge is to link theory to practice through research design. With this in mind, Bottoms advocates an adaptive theory approach similar to that of Layder (1998), combining the strengths of different theoretical approaches to social research (and of inductive and deductive theoretical approaches in particular) in an attempt to combat the weaknesses of each individual approach.

However, another key feature of this study, which had a direct influence on the methodology, must be discussed at this point. This feature was the exploratory nature of the research being carried out. Chapter Two showed that little detailed evaluative analysis of the bail process for young people in England and Wales had previously been carried out. Therefore an epistemological approach which reflected the need for theory-building in this context was required. The next subsection

²² For example, the recognition and promotion of power and its effects in political-activist criminologies, and the distinction made between social and individual forms of interpretivism.

²³ The key strength of positivism, which is not always acknowledged in practice, is the emphasis on a scientific and rigorous approach to research, as noted by Robson (2002: 21).

considers the appropriateness of one such approach to the current study – the approach known as grounded theory.

Evaluating the usefulness of a 'grounded theory' epistemology

In line with Pawson and Tilley's (1997) argument, it is submitted that context is crucial in selecting the right research design (and subsequently an appropriate methodology). This subsection, and those that follow, deal with the context of the topic and the specific research setting, comparing different research designs with this context to assess their suitability for this particular project. Here the focus is on 'grounded theory' (Glaser and Strauss 1967) and its usefulness in addressing the research issues outlined above.

Briefly, 'grounded theory' is the process of research which involves theory emerging inductively from collected data, in contrast to more traditional, experimental approaches to research in which data emerges from a theory or hypothesis. In this way, proponents of grounded theory argue, it is more likely that a theory which is easily understandable and which fits the data of social research will be produced:

*'The principal method advocated by Glaser and Strauss to further the discovery of grounded theory is that of "comparative analysis", an approach that they say places "a high emphasis on **theory as process**; that is, theory as an ever-developing entity, not as a perfected product" (Glaser and Strauss 1967: 32).' (Bottoms 2000: 43, emphasis in original)*

Bryman (2001: 395-7) outlines some criticisms of grounded theory which have been put forward. These include the difficulty (for various reasons) of narrowing down the field of enquiry and disregarding theory until a late stage of the research process²⁴; doubts over whether grounded theory is really capable of generating

²⁴ Bottoms (2000: 43) also identifies this mistaken assumption that theory-neutral facts can exist.

formal (or broad-range) theory beyond the specific context of the research; concerns over whether the discrete coding of data (which grounded theory, in its purest form, often demands, in terms of categorising data in preparation for use as theory) damages the context of the research; and the vagueness surrounding the precise nature of the grounded theory approach²⁵.

Clearly there are problems with the specific grounded theory approach of finding conceptual categories in the data, finding relationships between these categories, and explaining these relationships by finding core categories (Glaser and Strauss 1967; Strauss and Corbin 1998). The systematic coding techniques usually involved in grounded theory may be too specific for a particular study. However, the key to overcoming this problem, particularly in the context of the present research, may lie in the following observation:

*'Grounded theory is **both** a strategy for doing research **and** a particular style of analysing the data arising from that research.'* (Robson 2002: 191, emphasis added)

Arguably the problems highlighted previously are primarily concerned with the second meaning of the term 'grounded theory' given in the above quotation. The difficulties posed by the closely-defined rules on the categorisation of data are surmountable by adopting the first meaning of 'grounded theory' above – the more general sense of the term. This returns to the idea of inductive theory, which develops from the data collected, without necessarily prescribing the research methods themselves.

It is this more general application of grounded theory to research epistemology which was therefore adopted for this research study. While the key principles of grounded theory remained – the generation of hypotheses emerging from data,

²⁵ E.g. confusion over the different meanings of constructivism in research.

which would then be tested by further research – it was used as a strategy for doing exploratory research, rather than as a prescriptive method of gathering and analysing data generated by the research.

Returning to Bottoms' research guidelines set out above, the challenge facing the methodology for this study was to incorporate this exploratory, grounded theory approach to research, while still avoiding the polar extremes of positivism and interpretivism. One advocated solution to this challenge is that of realist research. The next subsection therefore defines and assesses the applicability of realist research in the context of this research study.

Evaluating the usefulness of realism in research epistemology

As a starting-point to this discussion, it is useful to return to one of Bottoms' key criticisms of both positivistic and 'pure' grounded theory methods of doing social research. This was that both of these models assume, wrongly, that theory-neutral facts exist in the social world. It is submitted that what is needed, in this study at least, is an approach to research which accepts that 'knowledge' and 'facts' are never indisputable, and always social and historical products (Robson 2002: 32).

One possible solution to this problem is the social research paradigm known as realism. Proponents of realism have argued that it offers a 'middle way' in social research between positivism and relativism (e.g. May 2001). They have pointed out that the fallibility of researchers' knowledge about the social world which they are investigating shows that the world exists independently of what individuals think about it – a belief that realism shares with positivism (Bryman 2001: 13).

Evidence of this fallibility is easy to find. Examples include the 'messiness' in research mentioned above – the mistaken beliefs, wrong turnings and unexpected

outcomes (good or bad) that characterise social research. This belief in the existence of a social world independent of individuals' world-view avoids the problem faced by purely constructionist, relativistic approaches to research – namely the difficulty of reconciling competing social accounts or theories.

On the other hand, realism also clearly rejects the positivist belief that research is value-free, and direct observation is the foundation of social research. As stated above, realism argues that knowledge can be specific to a particular time, culture or social situation (Robson 2002: 34). Theories are developed to explain the social world, and then accepted, rejected or amended in the light of research in practice. It is therefore argued that realism is an appropriate basis for the methodology used in this study.

However, realism is, like any other research paradigm, not without its problems. A key issue here is the different labels attached to different strands of realism, reflecting its development from empirical, or 'naïve' realism. This merely asserted that reality could be understood by using appropriate research methods. It did not, however, acknowledge the underlying social structures which generate observable social phenomena and events (Bhaskar 1989: 2). It is so-called 'critical' realism which takes this extra step. Moreover, critical realism aims to change society for the better by evaluating and revealing these underlying social structures. This, it is argued, emphasises the reflexive, critical approach to collecting and analysing research data which should be a key element of the social research process.

The main principles of realist research explanation are set out by Pawson and Tilley (1997). They argue that social phenomena only occur when the conditions are right for them to do so. The outcome of a social action follows from mechanisms acting in particular contexts. In this study, the outcome can be seen as the patterns of bail usage for young people, and their impact on later stages of the youth justice

process. This arises from actions, which are the decisions made by key individuals and agencies regarding young people in the youth justice process. These actions follow from hypothesised underlying mechanisms, which, in the context of the Baytown youth justice bail process, lead to the outcomes of that process and its operation. It was therefore the task of the research methodology, and the research itself, to uncover possible underlying mechanisms, and analyse their ability to explain outcomes in the given context.

The context in this research study was the structure, social organisation and practical outcomes of bail policy and practice in a particular area (Baytown). The latter was shaped by the reorganisation of youth justice services in England and Wales into Youth Offending Teams following the implementation of the 1998 Crime and Disorder Act (see Chapter Two). The outcomes to be measured were the outcomes of bail decisions made during the study period. Further, the study aimed to explain these outcomes with reference to the attitudes of those having a say in the Baytown youth justice bail process. When coupled with the fact that the study aimed to gather knowledge specific to a particular geographical context, this brief summary indicates the basic suitability of realist research for the research study. In particular, critical realism was applied to the research. This was so because the aim of the study was not merely to describe how the bail process worked for young people in Baytown, but also to evaluate how well the process worked. As Bhaskar (1989) notes, it is this evaluative and normative dimension to critical realism which distinguishes it from other forms of realist research.

Next, having established a general framework for research design, the particular decisions about the priority given to different aspects of the research process will be discussed, in the light of the research context. The issues raised

here follow those highlighted in Bryman's discussion (2001: 29). The discussion begins with analysis of the selection of an appropriate research design for the study.

Decisions involved in constructing the study's research design

The development of research design is a key (but not always well-acknowledged) stage in any research study's methodology. It is discussed here since it is necessarily antecedent to the selection of the research methods themselves:

'(Research) design deals primarily with aims, uses, purposes, intentions and plans within the practical constraints of location, time, money and availability of staff ... Methods texts are about how to get there, once the goal is defined or chosen.' (Hakim 1987: 1)

Research design is therefore the structure around which the actual research methods are built. Detailed examination of it is required because it is the preparatory stage of social research, allowing for careful consideration of the appropriateness of different research philosophies and theories, and of ontological and epistemological issues. As Hakim's quote above illustrates, though, it also requires consideration of more practical issues and constraints relating to the research. It is therefore argued that decisions about suitable research design should be made with just as much consideration of the context of the research as the later decisions regarding the actual research methods themselves. This is done as a key part of constructing the research design in the paragraphs that follow.

Causal connections between variables

This issue really concerns internal validity, or whether independent variables identified in the study are really responsible for the variation identified in the dependent variable. Of course, this issue is always relevant in social research to some extent. However, this study was cautious about the prominence of internal validity. Internal validity is often linked with mainly or purely quantitative research studies (Bryman 1988), but this study was at least partially concerned with the beliefs, attitudes and social behaviour of individuals at the 'micro' or ground level of youth justice practice. This aim is often linked with qualitative research methods. It should also be remembered that the research was based in one particular geographical area (Baytown), managed by one particular Youth Offending Team and Youth Court.

Therefore, returning to Pawson and Tilley's (1997) arguments above, the recognition of the significance of *context* in evaluating the outcomes of social actions and mechanisms limits the importance of causal connections in this study. This is not to imply that causative relationships played no part in the research. Rather, the aim was to move away from the positivistic view of causation, which emphasises the image of a closed system in which causal relationships are predictable, regular, and not affected by external influences. A realist approach to research acknowledges that, in social research, not all of the relevant factors influencing results can be controlled by the researcher:

'Because we are dealing with open systems, we have to accept that we are dealing with tendencies and probabilities. Causal processes may sometimes, even usually, lead to particular outcomes. But on some occasions, and in some circumstances, they may not. Our hypothesis is that there are one or more mechanisms at work which will trigger these outcomes; and that there are other mechanisms which will interfere so that the outcome does not occur.' (Robson 2002: 40)

Therefore, following the realist approach to research, this study required a research design which would allow the investigation of hypothesised mechanisms about the operation of the youth justice bail process in Baytown. This, in turn, would allow examination of causal configurations, involving mechanisms, which had the particular pattern of results achieved. Internal validity played a generative role in the study's research design, rather than the successive role it would have played if a positivist approach had been taken.

Generalisation outside the research study

This issue is concerned with external validity, or whether the results generated by the research could also apply to other groups outside the specific research context. This issue is linked into the importance of selecting the research participants so as to ensure a representative sample. However, the particular context of the research determined the way in which the issue of generalisability would be approached in this study. Following preliminary investigation into the possibility of comparative research (i.e. comparing the bail process in Baytown with that of other YOT areas), it was decided that such an approach would dilute the rigour and analytical power of the study.

This was so for several reasons. Firstly, the systems management exercise described earlier indicated that there were several different key decision-making points in the youth justice bail process. A comprehensive investigation of how this process works necessitated detailed, long-term fieldwork, including observation of the beliefs and attitudes of individuals and agencies who had influence over bail decisions. Because of the complexity of the organisation of decision-making power

in the process, fieldwork was time-consuming, and required several different research strategies to uncover the different mechanisms leading to the observed bail outcomes for young people. Therefore it was decided to concentrate the research on one particular area – Baytown – rather than dividing research resources between this area and others.

Similarly, such in-depth research required access to various organisations and individuals who had a say in bail outcomes. Given the often complex process of negotiating access in social research, not just at ‘gatekeeper’ level but often also on an individual-by-individual basis to ensure fully informed consent (Robson 1993), it was felt that negotiating access in more than one local youth justice area would be so time-consuming as to limit the impact of the research.

The study originally grew out of independent evaluation of part of the Baytown YOT’s bail services, which had been initially funded by the Government, via the National Youth Justice Board for England and Wales (hereafter ‘the YJB’). The design of this evaluation, which was prescribed by the YJB and disseminated by a youth justice organisation which will be referred to in this study as ACORN, was limited in several respects, which will be discussed below. However, this initial research did entail access to those members of Baytown’s Youth Offending Team (hereafter ‘YOT’) staff responsible for bail services. It also involved the provision of office space at the YOT. It is submitted that this access was essential in providing a thorough understanding of how the bail process worked locally. It would, it is argued, have taken a great deal of time to build up a sufficiently close working relationship with other YOTs so as to allow such in-depth access to their staff²⁶. This was another reason, then, for not including other YOTs in the research: it would have been hard to build up a sophisticated understanding of the context of micro-level policy and

²⁶ Not to mention other key agencies and individuals, such as court users and young people, in these other areas.

practice at other YOTs outside Baytown, and attempting to do so would have diverted time (and money) away from research in Baytown itself.

A third reason for not including other areas in the research was quickly revealed by preliminary research enquiries. These included visits to other YOT areas, for regional bail meetings and conferences. It soon became apparent, on visiting other areas, that each area had a unique context which determined what kind of bail services that area operated for young people, and how well these services worked. To give one example, in the Steeltown²⁷ YOT area, the YOT's offices were located just a few metres away from the Steeltown youth court. This enabled Steeltown YOT staff to travel to and from court quickly when a young person they were involved with was due to appear. In contrast, Baytown's YOT were based several miles away from the Baytown youth court. This increased the time spent travelling, and may have had an effect on service efficiency.

These differences may seem trivial when taken in isolation, but they had an impact on the kind of bail service offered in each area. Other factors included the amount and nature of youth crime in different areas, the geography and size of different YOT areas, and the staffing levels at different YOTs. All of these factors varied between Baytown and other nearby areas. Their effects made meaningful comparison difficult, and so it was decided to avoid the issue by concentrating the research purely on Baytown.

These factors also have implications for external validity. It is argued that, given the exploratory nature of the research, external validity would be difficult to obtain in any case. It was better, following the realist explanation, to search for underlying social structures that help to explain bail outcomes in this study, and leave further testing of these theories to future research. Again, therefore, external validity

²⁷ A town located a few miles from Baytown, with its own youth justice agencies and YOT.

was not a priority in this research study – but it aimed to contribute to a wider understanding of the mechanisms operating to produce particular outcomes in the bail process, while recognising the importance of the research context (the Baytown youth justice process).

Understanding social behaviour and its meaning

A realist approach to the study of crime and criminal justice recognises the importance of social structures, which shape individual action – but it also recognises the importance of human agency within the limits of these social structures (e.g. Young and Matthews 1992; Young 1999, 2004). Therefore, investigating the meanings attached by individuals to the structures within which they work was a priority of the research design here.

There are various ‘power sites’ in the youth justice bail process. Given that this was so, there seemed to be a great deal of *discretion* in this part of the criminal justice process, as there undoubtedly is in other pre-sentencing processes (e.g. Galligan 1987; Gelsthorpe and Padfield 2003). As a result, the behaviour and attitudes of those involved in bail decision-making needed to be understood in its context. This suggests a preference for qualitative research (Jupp 1989), although it need not lead to a purely qualitative approach. Questionnaires and other research instruments which are usually thought of as being quantitative research can also ascertain feelings and attitudes, although they usually do this in a more structured, inflexible way than qualitative research²⁸. In any case, the meaning of different agencies’ and individuals’ decisions and behaviour in the bail process was clearly

²⁸Bryman (1988) has used this point as evidence for his argument that quantitative and qualitative methods are in reality not diametrically opposed to each other in practice.

central to the research, and this factor was clearly very important in deciding the actual research methods to be used.

Which research design paradigm is best in this context?

Bryman (2001: 28) identifies five prominent research designs: experimental and related designs, cross-sectional, longitudinal, comparative, and case study. The suitability of each of these will now be discussed in the context of the research.

Experimental designs are closely linked with positivism. The 'classic' experimental design involves the assignment of cases to two groups: one of these receives a predetermined 'treatment', the other (control) group does not. In this study into an aspect of the social world, as has already been explained, there cannot be sufficient control over who receives the treatment to undertake a study of this kind. An alternative would be to use a 'quasi-experimental' design, where there is no random allocation of cases to the treatment and control groups (Bryman 2001: 38-9); but even in this situation, it is argued that there is insufficient control over the factors governing bail outcomes in this study, and the context of the study, for this kind of design to be effective (Pawson and Tilley 1997: 53-4). A related problem is that there is no one clear-cut 'treatment' at issue here. Perhaps the Government-funded part of the Baytown YOT's bail support scheme could have been regarded as a 'treatment', but the nature of bail support work itself was not always clear²⁹, and there were always other bail options available, some of which did not involve any

²⁹ As will become evident in Chapter Six below, which deals with YOT staff attitudes to the local bail process and bail services.

recognisable 'treatment' at all³⁰. Therefore, experimental research designs of any kind are rejected here, largely on grounds relating to realism's critique of positivism.

The next research design to be discussed is the cross-sectional design. Bryman (2001: 41) identifies this as the collection of data on more than one case, at a single point in time, in order to collect quantitative or quantifiable data on two or more variables, in order to examine patterns of association between them. This design is closely linked to the use of social surveys (e.g. questionnaires or structured interviews) in practice. This was in itself a problem for the current research, because it had already been established that a central part of the study would be to ascertain the feelings and attitudes of those with a say in bail outcomes for young people in the Baytown area (including the young people in the bail process themselves). Although it is possible to do this using questionnaires and structured interviews, some way of evaluating the behaviour of those involved was also needed in this study.

Also, even though qualitative research methods can be used within a cross-sectional study (e.g. Beardsworth and Keil 1992, discussed in Bryman 2001: 45), what this kind of design cannot do is to inject any sense of temporal sequence of events into the research. As mentioned above, the cross-sectional design is designed to carry out research at a single, given point in time. Since the initial, non-doctoral evaluation (i.e. that discussed above, which was carried out for the YJB) had to last for three years³¹, it seemed logical to conduct the doctoral research fieldwork over roughly the same period of time, so as to make the most of the access given to the Baytown youth justice process. Therefore, without ruling out the use of any of the particular research methods usually associated with it at this stage, the cross-sectional research design was rejected.

³⁰ E.g. unconditional bail, which only imposes two obligations on the young person – that of not re-offending while on bail, and that of attending court at the next due date and time.

³¹ The length of time during which part of the Baytown YOT's bail support scheme was being funded by the YJB.

The longitudinal research design is the next to be discussed here. This design, effectively, is the cross-sectional design with the added dimension of time, since it takes the form of a research sample being socially surveyed at two (or more) separate points in time. The problems with this design for the purposes of the current study are therefore very similar to those outlined above when discussing the merits of the cross-sectional design. There are also problems regarding sampling strategy. Random sampling was not possible in the context of this research, since it was initially planned to include whole groups in the study³². An alternative longitudinal design, the cohort study, allows for whole groups sharing a particular characteristic to be studied. But as intimated above, there was certainly more than one identifiable cohort in this study (young people, staff, magistrates), and the aim was not to survey them at two or more identifiable points in time, but rather to collect data continuously during the fieldwork period. The aim of this approach was to allow for a holistic type of data triangulation, enabling constant comparison of emerging data with that which had already been collected and analysed (see pp. 114-17 below for more details). Although the dangers of confusion in constant collection and analysis of data were recognised, there was awareness of the unpredictability of data access and availability for a lone researcher utilising information from a number of simultaneous sources. As a result of these factors, therefore, the longitudinal design was rejected for the purposes of the present study.

The comparative research design model will not be discussed at any length here, since its problems in the context of the present study have already been discussed above. The nature and amount of discretion and power-sharing in the youth justice bail process, together with the multitude of other factors which impact on a particular area's services, made meaningful comparison between Baytown and

³² E.g. whole groups of young people who entered the bail process in Baytown; all the magistrates sitting in the Baytown youth court; and all the YOT staff responsible for bail services in Baytown.

other areas too difficult as an aim within the confines of the present study. Again, therefore, this design must be rejected here.

Bryman's fifth research design model is that of the case study. As Bryman (2001: 47) points out, *'the basic case study entails detailed and intensive analysis of a single case'*. The 'case' can comprise a wide range of social phenomena, from a single person or event, through a single location, to a single community or organisation. The design is therefore inherently flexible – useful for exploratory research into previously un-researched or under-researched areas or subjects, such as the present study. Robson (2002) advocates the use of a case study approach as possible in realist research. The current research attempted to address the hypotheses from several different angles, which pointed towards the desirability of different research methods. The one factor which united all of the different strands of the research together, though, was the location of the research – Baytown. No other locations were researched into, so that the study's focus was purely on one site. Therefore the research context, at first glance, seemed amenable to the case study design.

Another advantage of this design in the current context is its flexibility as regards the traditional criteria for assessing the suitability of research designs – namely internal and external validity, reliability and replicability. It has already been pointed out that the nature of the youth justice bail process, with its widespread discretion and important local variations, means that these criteria are difficult to meet without distorting or damaging the faithfulness of the research to what actually happened at the research site during the fieldwork period³³. This is an important issue in any social research, but is even more so, it is argued, in exploratory research such as the present study.

³³ This factor is sometimes referred to as ecological validity.

The case study approach offers a way around this problem by arguing that the above criteria, while still important issues to be considered, are not necessarily crucial in the context of this type of research design (Hakim 1987; Robson 2002). It recognises that while important information about social research theory and structure can be drawn from specific research studies, the context of such studies can and does change constantly. This, of course, is also congruent with the approach of critical realism, as argued above (Pawson and Tilley 1997). Given that critical realism has been highlighted as a suitable epistemology for the present research, the case study paradigm seemed appropriate for this study, on both an epistemological and a research design level.

More practical considerations also pointed towards the suitability of the case study design. As shown above, the study was to take place in a specific geographical location, a research context singled out by Bryman (2004) as being particularly suitable for the case study design. The research proposed was exploratory in nature, with no particular research methods suggested by previous studies. The case study design allows flexibility in chosen research methods according to the research context, with no inherent tendency towards quantitative or qualitative techniques, and scope for combining both paradigms in the same study. The research also aimed to explain outcomes, and to evaluate critically the implementation of youth justice policy and practice at a local level. There was precedent for using the case study design for critically evaluative, empirical work in this field (e.g. McConville et al. 1991).

Like any other research design approach, the case study approach has weaknesses as well as strengths. These relate to difficulties in generalising research results to other contexts, i.e. the external validity issue discussed earlier in this chapter (Bryman 2004: 51). Given the flexibility of the case study design, there is

also an increased danger that the methodology of collection and analysis of data will not be sufficiently rigorous (Jupp 1989). However, it is submitted that the realist approach addresses the problem of generalisation. As previously shown, realist research emphasises the importance of context in investigating mechanisms which lead to particular results in practice. The case study approach was therefore adopted here.

This, of course, does not remove the need for rigour in social research at the next level of the methodology – that of the specific research methods to be used in practice. In fact, it is argued, such an approach requires especially detailed consideration of appropriate methods, as the case study design does not suggest any research method in particular as being more suitable than the rest. As a result, the next section of the chapter will discuss the various research methods options available, again referring to the context of the research (and the critical realist approach) as well as evidence from other sources in assessing suitability.

Assessing the suitability of different research methods

The study's 'framework': tracking young people from arrest to final case outcome

Critical realism, as mentioned above, aims to reveal the meanings of social behaviour and attitudes within social structures which limit and frame them (Bhaskar 1989). The task here, then, is to identify the relevant social structure(s) underpinning the mechanisms being investigated. A necessary corollary of this process is to measure the outcomes generated by social structures in practice. This then

facilitates the hypothesising and investigation of mechanisms which could explain the outcomes of particular social structures.

In this case study, as shown above, the framework of the research is the youth justice bail process in Baytown, within the geographical area under the jurisdiction of the Baytown YOT. Before the process can be activated, however, a young person must be arrested. It should be noted here that arrest is the 'trigger point', not charge. This must be true, since a young person can be released on bail by the police (with or without conditions) without being charged with an offence. Arrest was therefore the starting point of the research framework. Moreover, the effects of the bail process, as the systems management flowchart (see Appendix A) makes clear, stretch as far as the final outcome of the case against a young person. This could be a sentencing exercise, or the withdrawal of the case at some point prior to sentencing, from the police deciding to take no further action in a particular case to withdrawal of a charge following a guilty plea at court.

Initially, however, the anticipated focus of this part of the research was on the Baytown YOT's court-based bail support scheme in particular. The plan was to include all young people³⁴ who were placed onto the bail support scheme, and to track their cases through the process using quantitative analysis, examining what effects (if any) the bail support scheme had on their offending patterns. Given the launching of the new bail support project and the Government funding behind part of it, it was anticipated that there would only be sufficient time and space to examine those young people on bail support itself. This, however, presupposed the fact that there would be a large number of young people placed on the bail support scheme in Baytown. This in itself is a warning not to take even the most basic aspects of social research fieldwork for granted. In the event, it quickly became apparent that the

³⁴ i.e. those between the ages of 10 and 17 inclusive, who were within the jurisdiction of the youth court.

number of young people placed on the scheme was very small indeed (as will be explained below). This trend continued over the three years of fieldwork. Given this situation, a change in approach was needed. There was simply not enough material to undertake any meaningful quantitative analysis on the basis of bail support scheme usage alone.

This change took the form of looking at 'the bigger picture' of bail outcomes for young people in the Baytown area. Instead of examining bail support in isolation, the entire youth justice bail process was examined. Although this clearly represented a change to the original research plan, it was, it is argued, a change for the better. Looking at the whole process enabled bail support to be placed in the context of other bail options and outcomes for young people. As the literature review illustrated earlier, this has rarely been done in previous research in this area. This also achieved a greater depth of understanding of the effectiveness of the bail process in Baytown as a whole, and of the individual bail options within that process. The low usage rate for the Baytown YOT's bail support scheme was unexpected, but it arguably led to a more incisive analysis, not just of the scheme itself, but also of the other parts of the bail process which seemed to impact upon it, as shown on the systems management flowchart (see Appendix A).

For this part of the study, then, the aim was to find a method of research which was capable of tracking each case (involving a young person from Baytown) through the bail process, from initial arrest to final outcome. This general aim immediately suggests some form of quantitative research, since one of the key characteristics of this kind of social research is the central part played by numerical data (Bryman 1988). It was also anticipated that looking at every case involving the Baytown youth justice bail process would probably produce a large number of cases. This, it was feared, might limit the depth and incisiveness of the analysis which could be carried

out in the time allowed. As a result of this, it was decided to limit the study sample by age, so that only cases involving young people aged 15, 16 or 17 (males and females) were included. The reasons for restricting the sample in this way, apart from ease of analysis in a limited time-frame, included the ability to compare usage of bail with usage of remand to custody for this age group³⁵.

The next step was to decide on an appropriate research method for studying this bail framework. It was clear that in undertaking this task, the research was relying on information collected by other individuals and agencies, for purposes other than the research itself. It was not possible for one researcher working alone to keep up-to-date records of every arrest and court appearance and their outcomes, given the fairly large scope of the sample and the necessary length of the fieldwork. As a result, the only viable research method for this part of the study was secondary data analysis of police and court records.

The Baytown YOT offices were the base for the research during the fieldwork period, and shortly before the fieldwork began, a computer database was installed on the networked computers at the offices. This database claimed to contain complete records for every young person from the Baytown area who entered the youth justice bail process: every arrest, the alleged offences involved, court appearances and bail decisions, and final case outcomes. This was the key to a detailed analysis of how bail processes worked for young people in the Baytown area. Unconditional access to the database was granted throughout the fieldwork period by YOT staff.

³⁵ In reality, the law here is somewhat more complicated. Following the Crime and Disorder Act 1998's amendment of section 23 of the 1969 Children and Young Persons Act, young men and women can be remanded to secure accommodation by the youth court from the age of 12 onwards (Monaghan 2000: 147). Therefore the sample did not cover all young people who *could have been* remanded to the secure estate. However, it was felt that given the greater likelihood of older children being remanded in this way, and especially the continued treatment of 17-year-olds of both sexes as adults for bail purposes (Monaghan 2000: 149), if the analysis was going to be limited at all, it should be limited to older children. In hindsight, this 'instinct' was proved to be accurate, as no children under the age of 14 were remanded to the secure estate during the fieldwork period.

However, there were some drawbacks with use of the database, as indeed there are with any secondary data or documentary analysis. The main difficulty was that the database was originally constructed for purposes other than the research. Also, it was constructed on the basis of data obtained from external sources – namely the police (for arrests) and the courts (for court appearances), so that only offences for which someone was actually arrested could be included. Fortunately, in the context of the present research, this did not pose a problem, since the focus of the study was not merely on the incidence of youth crime in itself, but also on the youth justice process's response to it. Therefore the data obtained from the database was still suitable for use here, while acknowledging its limitations.

There are, however, other problems with use of secondary data, including lack of familiarity with the data on the researcher's part, and complexity of the data for the purposes of secondary analysis (Bryman 2001: 200). Neither of these caused serious difficulties in this case. Provision of office space at the YOT offices allowed full immersion in the data, and sufficient time for full familiarisation with the organisation of the database at an early stage in the fieldwork.

Also, although the database was not built up for the purposes of facilitating the research, it shared the research's objectives as regards the data collected. This may have been due to a stated local commitment to systems management principles in deciding on a youth justice strategy, and a belief in the importance of monitoring youth justice 'inputs' and 'outputs'. Parallels can be drawn here with the systems management approach investigated in the context of youth justice bail services in Chapter Two.

The results of the application of systems management analysis to the Baytown youth justice bail process can be seen in Appendix A. This exercise related to the research methodology rather than the collection and analysis of data later on in the

research process, since its influence was over the selection of appropriate epistemology, research design and research methods in the context of the current study. However, it must be emphasised again here that the stance taken towards the systems management approach – and its purported reflection of actual practice in the youth justice bail process – is a critical one. Therefore the methodology did not take it for granted that the overall bail process in Baytown was systematic, or that systems management was necessarily the best way of analysing that process. Instead, in line with a critical realist and grounded theory-based approach, it allowed theory to be guided by the emerging data.

This said, it seemed clear from the basic nature of this part of the research that only this kind of quantitative research could critically analyse the bail process in Baytown. As mentioned above, the process had to be examined in terms of the outcomes of bail decisions. The systems management flowchart offered assistance in identifying the key stages of the process for young people. By ‘key stage’ reference is being made to crucial decision-making points in the process – points at which a young person’s case could be removed from the process, or at which bail could be limited or denied by decision-makers. From the systems management flowchart it is clear that bail decisions cover the period of time between initial arrest and detention by the police and final case outcome. However, final case outcome could be situated at a number of points in the bail process, as again shown by the flowchart (see Appendix A). These are, in chronological order:

- The police station, when the police decide to take no further action in a particular case – either immediately or after a period of time spent on police bail³⁶;

³⁶ It should be noted, however, that time spent on police bail is still time spent on bail, even where a case is subsequently dropped by the police, and was treated as such by the research.

- Initial appearance in court following charge, where charges can be immediately withdrawn by the Crown Prosecution Service;
- Subsequent appearances in court, again where charges are withdrawn following a period of time spent on court bail;
- At initial appearance in court, where a young person either pleads or is found guilty, and the court moves directly to a sentencing exercise; or
- At subsequent appearances in court, again where a young person either pleads or is found guilty, and the court reaches the sentencing exercise stage.

Data was able to be collected on outcomes at each of the stages above. The YOT database used as the source for quantitative data in the study covered information on all of the above stages of each case. In addition, the database recorded the date of arrest³⁷, the nature and number of offences in respect of which each arrest took place, and any re-arrest taking place while young people were already inside the bail process in Baytown. The systems management flowchart shown in Appendix A was used as a guide to data collection, and information was available at each 'key stage' identified on the flowchart.

There was, however, another important problem with using the database for analysis. To gain access to the information in it, it was necessary to enter a young person's name. However, there was no mechanism in place in the database for alerting users to new arrests day-by-day³⁸. Therefore, it was at first glance fortunate that the Baytown YOT's 'remand management'³⁹ team kept a record of daily arrests, in what was known as the 'trawl book'. This was the product of daily phone calls by

³⁷ I.e. the date at which each young person entered the bail process.

³⁸ In terms of who had been arrested by the Baytown police, when, and on what grounds.

³⁹ The 'remand management team' was the official title given to those members of YOT staff responsible for co-ordinating the YOT's various bail services.

YOT bail staff⁴⁰ to police stations in the Baytown area which dealt with young persons who had been arrested. These phone calls, which were usually made at around 7.00am, revealed which young persons had been arrested overnight – or, more accurately, which young persons had been arrested *and detained* overnight, and who were therefore still in police custody at the time of the phone call.

This 'trawl book' covered all young persons aged between 10 and 17, and therefore was used as a guide to information on the computer database, in the form of a record of the names of new arrestees. However, it quickly became apparent that the book could be used only as an introduction to data collection, and nothing more. When the book's records of arrest were followed up on the database, it became clear that the book was, for whatever reason, failing to record a large number of arrests involving young people whose age meant that they were within the ambit of the study⁴¹.

As a result, a 'snowballing' approach was taken to investigating who had entered the bail process. When a name was recorded in the 'trawl book', that young person's whole record was then checked on the database, to uncover any arrests that had been missed. Names of any co-arrestees were also investigated, and their records checked in turn. In this way a record of arrests and outcomes for males and females aged 15, 16 or 17 was built up. It would be wrong to claim that this approach was representative of all young people of these ages who were arrested during the fieldwork period. The sample obtained was purely a 'convenience sample'

⁴⁰ This only took place on weekdays. At weekends and on public holidays, the Baytown Emergency Duty Team (hereafter EDT) were responsible for recording arrests. The EDT was supposed to pass details of young persons' arrests at these times onto the YOT staff – but the EDT was not based on the same site as the YOT, and there was no fixed process for passing the data on. Evidence that the data was not always passed on in practice was found in the form of the computer database's recording of arrests taking place at these times which were not recorded in the 'trawl book', and also in the form of YOT staff's complaints to this effect (see Chapter Six below).

⁴¹ The main reason for this, as analysis of the database revealed, was that the 'missing' young people had been arrested but not detained overnight by police – because they had been 'NFAed' (i.e. police decided to take no further action, released on police bail, given an immediate reprimand or final warning, or charged and bailed to appear in court at a later date - as opposed to the following day).

(Bryman 2001: 98). The approach taken to obtaining data was not 'textbook', but represented the most viable way of getting the data that was required in the circumstances. While the methodology was not ideal in this respect, highlighting its problems and weaknesses here again illustrates the 'messiness' inherent in social research of any kind, and the fundamental principle that the researcher can only make the best use of the data that is available in attempting to answer the questions raised by research.

Over the study period of three years, information on each stage of the bail process was gathered for each case. This information was then operationalised to produce variables, through which outcomes at each key decision-making point in the bail process were measured. Variables were also used to collect information contained on the YOT database about the young people involved in the process (in particular, their age at time of arrest, and their gender), and the offences which they had (allegedly) committed (in terms of offence type and seriousness).

The full list of offence-related variables used can be found in Appendix B, but some introductory discussion of them is appropriate here. The offence type variable classified offences into eight categories. Categorisation was based around that found in the *Criminal Statistics for England and Wales*, measuring police-recorded crime, and published annually by the Home Office (e.g. Dodd et al. 2004). There were slight differences between the Home Office categorisation and that used in the study, however, to reflect the nature and frequency of offending in Baytown. Certain Home Office categories included only small numbers of offences recorded in the study, and so adjustments were made to aid practicality. As a result, the Home Office 'burglary', 'robbery' and 'fraud and forgery' categories were subsumed into a general non-vehicular theft category in the study, and sexual offences were included in the 'violence against the person' category. Also, because of their frequency in the

study, public order offences and motoring offences were each given their own categories therein, although they do not have their own categories in Home Office statistics. Other than these differences, the offence type classification matched that of official statistics (see Maguire 2002: 338-9 for discussion and a full list of Home Office categories).

The offence seriousness variable in the study classified offences on a scale of offence gravity. Each offence was allocated a score of between 1 and 8, with a score of 1 denoting the least serious offences, and a score of 8 denoting the most serious. Again, a full list of offences and their scores can be found in Appendix B. The score for each offence was included in the database discussed above, and was calculated according to local police guidelines. It was recognised that this offence gravity scale could not be considered authoritative, especially with regard to 'middle range' offences (e.g. Hough 1996), but it was used here because of its ready availability on the database, and its usefulness in analysis of offending patterns.

It was not possible to measure the outcomes at every decision-making point in the Baytown youth justice bail process, however, for two reasons. Firstly, time restrictions played a part here. The quantitative dimension of the research had to be balanced with other aspects of the study, which were of equal importance in determining the outcomes, context and mechanisms central to a critical realist methodology. More will be said about these other aspects and research methods below. Secondly, to return to a point made earlier, the study relied upon the YOT database for information. The database contained detailed information on the outcomes of the formal police and court process for young people in Baytown, but did not contain information on the more informal processes which contributed to each key decision point (as the systems management flowchart illustrates). Nor did it contain the actual grounds given for restricting or denying bail in court – and court

records to verify this information were not accessible. Variables were selected and operationalised on the basis of these practical considerations.

Subject to these limitations, the aim of selecting and operationalising variables was to measure and evaluate the outcomes of the bail structure at each available key decision-making point. The aim here was not to undertake sophisticated statistical analysis with this material. Rather, the intention was to give an overall picture of the extent to which the bail process (including the bail support scheme itself) was used during the study period, and how it operated with regard to young people from the Baytown area.

In particular, attention was drawn to the number of young people who were remanded to custody during the study period. This is so since the high rate of young people being remanded to custody, and particularly to young offenders' institutions as opposed to secure units⁴², was one of the stated rationales behind the statutory requirement, contained in section 38 of the 1998 Crime and Disorder Act, that all YOTs in England and Wales should provide bail support services for all young people between the ages of 10 and 17, so that young people might be removed from the 'corrupting influence' of prison service custody (Muncie 1999: 296). This is supported by the fact that, from the outset of YJB funding in 1999, the reduction in the number of young people being remanded to custody was made one of the national aims of YOT-run bail support schemes in England and Wales.

To aid evaluation of the quantitative data, information for each of the variables used was processed using version 11 of the SPSS statistical software package. It was recognised that in order to evaluate the outcomes of the bail process, the relationships between different variables used would need to be cross-tabulated, to

⁴² See discussion in Chapter One above. Although Government policy in the early 1990s was to phase out custodial remands for all those young people aged 16 or under, this policy was a casualty of the 'law and order' backlash regarding 'persistent young offenders' after 1993, and is no longer part of Government discourse on youth justice pre-conviction processes (Moore 2000).

allow for investigation of the existence of statistically significant relationships between different variables. As the variables generated nominal data, contingency tables were used to illustrate the relationships between the variables, along with the chi-square test for statistical significance, which is recommended by Bryman (2004) for measuring relationships in nominal-by-nominal data. The level of probability for each chi-square value (the p value) was also measured, to enable assessment of the significance of chi-square values for each contingency table. The SPSS package used to analyse data was capable of generating chi-square values and p values automatically for contingency tables, and it was used to do so in the study.

Finally, the results of this quantitative analysis were reported (see Chapter Four). Reporting of the results was organised along the lines of the key decision-making points in the bail process, which also formed the basis of the selection and operationalisation of variables used in the quantitative analysis. Following this, the results were discussed and placed in context (see Chapter Five). It was decided to separate reporting and analysis of results into different chapters, to ensure the accessibility and readability of the study.

The next subsection moves on to discuss the methodology used to investigate the meanings attached to the structure of the Baytown youth justice bail process by those having an influence over its outcomes. In this way, following the critical realist approach to research as supported by Pawson and Tilley (1997) and Robson (2002) among others, the context of the research could be established, and possible mechanisms leading to the process outcomes (as discussed in Chapters Four and Five) could be hypothesised and tested.

Investigating the meanings and attitudes held by those within the social framework of the youth justice bail process

The part of the methodology described above established a framework for understanding how the youth justice bail process worked in the Baytown area. However, it was argued above that this process is characterised by discretion in decision-making. It was also argued that the power to influence decisions taken in the youth justice bail process, in Baytown and elsewhere in England and Wales, was shared among various individuals and agencies within the process. Given that this is so, a research strategy was constructed, in line with the critical realist approach adopted above, to reflect the above arguments. As May (2001) points out, critical realism seeks to challenge the two polar opposites of social research: that the world exists independently of people's own knowledge, and that there is no reality except that which can be directly observed. It has been argued that critical realism, as developed by Bhaskar (1989), attempts to avoid these two poles:

'It attempts to provide explanations of social phenomena whilst at the same time pointing to "what real people on the ground are doing".'
(Davies 1999, cited in Hill and Wright 2003: 285)

This approach, and the search for the meanings of social behaviour and attitudes generally, are usually associated with qualitative research of some kind (Bryman 1988). However, there are various options to choose from within the paradigm of qualitative research methods. The main options are identified by Bryman (2001: 266) as being ethnography and participant observation, qualitative interviewing, focus groups, various forms of discourse analysis, and qualitative documentary analysis. Again, the suitability of these methods must now be assessed in the context of the present research.

It seemed clear that, when deciding which individuals and agencies to study in this part of the research, the focus of study needed to be on those with power to influence outcomes in the Baytown bail process. Again, the systems management flowchart discussed above played an important part here. An important distinction was made between individuals and agencies who had such power and discretion, and those who advised or assisted young people during the process, but did not have the power to make decisions about them. Re-examining the flowchart, it was clear that court sentencers (magistrates and judges) had the power to decide how to deal with young people from the point of view of bail⁴³. Their attitudes towards bail services for young people in the Baytown area, and the local bail process generally, therefore needed to be measured in some way.

Similarly, the YOT's bail staff appeared to have power over the process, in several ways. They were able to make recommendations in court to the magistrates as regards appropriate bail outcomes; they wrote pre-sentence reports to aid magistrates in sentencing decisions; and they made decisions about whether or not to refer a young person onto the bail support programme. These roles also needed to be investigated in this part of the research.

Thirdly, the young people involved in the Baytown bail process had the power to affect the outcome of that process. Their behaviour, offending or otherwise, during the process (in terms of whether they committed further crime while on bail, or otherwise breached the conditions of bail⁴⁴) had a key influence on bail outcomes in

⁴³ Magistrates, in both adult and youth courts, deal with all court cases in England and Wales initially. Although some cases are remitted to the crown court, either at the committal stage or the sentencing stage, the vast majority (95%-97% of all court cases) are dealt with entirely by magistrates (Cavadino and Dignan 2002: 93). A similar proportion of cases were dealt with by magistrates in the youth court in this study. Therefore, for the purposes of this research, it can be said that magistrates in the youth court were the dominant source of power over bail decisions in court, rather than Crown Court judges.

⁴⁴ In some circumstances breach of bail does not necessitate the commission of a crime *per se*. For example, where a condition of bail is reporting to a police station at given dates and times, and the young person involved fails to do this, the way is open for that young person to be breached and returned to court.

their own case. Their opinions on how (if at all) being on different types of bail helped to prevent them re-offending, and what role they felt bail should play in this and other respects, needed to be ascertained.

By contrast, it was felt that, despite the vital role they played in the bail process for young people, defence solicitors, Crown Prosecution Service staff, and appropriate adults would not be studied as part of the research. Although they contributed to decision-making in important ways, by providing help and advice to those making the decisions in the bail process, it is argued that they did not actually make decisions about what happened to young people in the same way as the groups mentioned above. Although their roles were acknowledged, and certainly discussed with the decision-making groups in the course of the fieldwork, they were not approached directly to contribute for this reason.

The next step was to identify appropriate research methods for each of the chosen groups above.

Researching YOT bail staff

Fieldwork with the YOT staff was greatly facilitated by being present at the YOT headquarters (in terms of having office space there) throughout the data collection period. Several options were available for uncovering their attitudes towards bail services for young people in the Baytown area. Ethnography was one such option. Ethnography has a range of meanings in research practice, but it is taken by Bryman (2001: 291) to include the following features, where the researcher:

- 'is immersed in a social setting for an extended period of time;*
- makes regular observations of the behaviour of members of that setting;*
- listens to and engages in conversations;*
- interviews informants on issues that are not directly amenable to observation or that the ethnographer is unclear about (or indeed for other possible reasons);*
- collects documents about the group;*

develops an understanding of the culture of the group and people's behaviour within the context of that culture; and writes up a detailed account of that setting.'

The research was based at the YOT offices for the duration of the original, non-doctoral research mentioned above (i.e. three years), allowing 'immersion' to take place. Moreover, access to the YOT staff for research purposes was obtained. These factors removed some of the main ethical problems associated with ethnographic research, such as the use of covert observation (Hammersley and Atkinson 1995), which does not give research subjects the opportunity to give their informed consent to being studied.

This should not, however, be taken as implying that access was instant and straightforward. It was initially granted by the Baytown YOT manager, who gave permission for the use of office space at the YOT, as well as permission to talk to the YOT staff. However, as Hughes (2000: 241) points out, there can be a crucial difference in research between formal political access to the research setting, and informal social access to it. The real focus of the proposed observational work was to be the staff on the YOT's bail team. They were the individuals responsible for turning bail policy into ground-level practice, for assessing the circumstances of young people in the bail process, and so on. Therefore, it was necessary in practice to negotiate access to each one of the micro-level staff in turn. This involved gaining the staff members' trust in doing the research. Various strategies had to be deployed to do this. Nonetheless, access was fully granted, although it was certainly an ongoing process (ibid.). This issue will be returned to below.

With the obstacle of access to YOT staff essentially overcome, it was felt that ethnographic research would offer the best opportunity for ascertaining YOT staff's attitudes to bail issues. Nor, as Bryman's list above intimates, would choosing

ethnography in this context rule out the use of informal, loosely structured interviews – another available research method option.

Further consideration of the research context cast doubts upon the viability of other qualitative research methods for the work to be done with the YOT staff. It was known from the outset of the research that the bail team itself was small – comprising only four people who were responsible for bail services at the YOT, at the beginning of the study period. This also resolved the issue of sampling, or who to include in qualitative research of this kind: the group of YOT staff responsible for bail services was so small that all the staff had to be included in the study, but the sample was not ‘representative’ in any statistical sense.

Since there were only four bail workers at the YOT, there were not enough participants to enable focus groups to be organised (Bryman 2004). Moreover, although documentary analysis could play a role in the research in the circumstances, it was felt to be more important to obtain information on staff’s experiences of and attitudes towards bail services directly, through observation and informal interviews⁴⁵. Overall, then, it was decided that the research method to be used in work with the YOT staff would be ethnography (including participant observation).

This method of research, it should be noted, was only made possible by the provision of office space at the YOT throughout the period of fieldwork. Without this provision, it would have been very difficult to achieve some measure of ‘blending in’ at the YOT, and thereby to gain the staff’s trust and obtain useful data. The ‘gatekeeper’ for the bail staff at the micro level of YOT work was the YOT manager, who granted formal access to the bail team (who were responsible for the operation

⁴⁵ In any case, as the quote from Bryman above makes clear, ethnography does not exclude the collection of documents about a particular social group and setting as a source of additional information.

of the YOT's bail services). However, the staff themselves were co-operative with the research, and were all fully aware of the research's aims and objectives.

Success as regards the co-operation of the YOT staff in the research was achieved partly by physical presence at the YOT, but also (as is often the case in observatory social science research) by good luck. The building of a rapport with the team's senior practitioner was aided greatly by social characteristics held in common. Coming from the same city as this member of staff was especially important in this regard. Even more specifically, again with regard to the senior practitioner in particular, common interest in and support of the same football team also aided in building up trust, simply by giving several good topics of conversation in the office. Of course this was simply good luck, and may not have been very important given the extended amount of time eventually spent at the YOT, but even so it was certainly useful in building up the initial relationship.

The fact that the fieldwork began at the same time as the new YOT staff who were in post (at least in theory) to deal specifically with the newly extended bail support project was also beneficial to methodological development. It was therefore possible to receive introductions to the rest of the YOT staff alongside them, as well as settling into YOT life with them generally. This again helped to build up a working relationship. As will become evident in Chapter Six below, it quickly became apparent that there were different approaches and attitudes to bail services *within* the team. This is, therefore, a good example of the need in more qualitative forms of social research to continue past the point of gaining initial access to the research subjects, and to continue to 'renegotiate' access with individual members of staff at ground level where they are the focus of the research (e.g. Robson 1993: 295-7).



Renegotiating access is obviously desirable from the point of view of ethical issues in social research⁴⁶, and in particular the principle of securing the informed consent of research participants throughout the fieldwork process (Kent 2000: 81). But the ability to renegotiate access was also invaluable in the context of this particular research study, simply because the individual team members were so different in their perspectives to the topics at issue in the research issues. If the focus had remained on the gatekeepers⁴⁷, in terms of building working relationships, then these alternative views might have been at best underdeveloped as research data, and at worst overlooked completely.

The bail team expressly accepted the research process as a part of their daily working lives, and the researcher as 'one of them'. They began introducing the researcher to others in these terms. This raises a well-documented problem with participant observation – that of 'going native', or the development of bias in favour of the research's subjects during fieldwork time spent in close proximity to them (e.g. Burgess 1984). There was awareness of this throughout the project, given the placement in the YOT offices and the provision of office space there.

Some basic, practical steps were taken against this pitfall. This part of the research, in practice, centred around the constant taking and reviewing of field notes on a computer in the office. For the first two and a half years of the fieldwork the office was not shared with anyone else, and so this practice enabled notes to be taken immediately (or almost immediately) after incidents or conversations of interest. More importantly it also enabled them to be written up in private, allowing reflection on initial responses and checks for any signs of bias. Finally, although the trust of the staff was soon gained, some steps were taken to preserve some elements of 'outsider' status, so as not to project the image of being on the staff's side. One

⁴⁶ Considered in more detail below.

⁴⁷ The YOT manager initially, and then the YOT bail team's senior practitioner.

example of this was not participating actively in the social events which played an important part in the lives of the YOT staff: evenings out, parties, and so on. Contact with the staff was mainly limited to office hours. Again, this may not seem fundamentally important in the context of the research, but it played a symbolic part in defining the relationship between researcher and researched.

Following collection of the detailed ethnographic data, decisions needed to be made about how the data would be analysed and written up. Robson (2002: 458) outlines various approaches to the analysis of qualitative data, characterised by the rigidity with which the data is coded. At one end of Robson's scale, there are quasi-statistical approaches, in which word or phrase frequencies are used as a way of determining the relative importance of terms and concepts. At the other end of this scale, there are immersion approaches, which are unstructured and fluid, relying much more upon the researcher's creativity (ibid.).

However, there are also intermediate approaches to analysis between the polar opposites mentioned in the previous paragraph. These are identified by Robson (ibid.) as template approaches⁴⁸ and editing approaches⁴⁹. In fact, these approaches should be seen as points on a continuum rather than completely divergent from one another. They all involve a process of initial coding, reflection on coding, a more detailed process of coding, testing of coding against emerging data, and the gradual build-up of patterns and generalisations, which form the basis of theory generation (Miles and Huberman 1994: 9).

In fact, the approach taken to the analysis of the participant observation data was closest to the 'template approaches' described above. Coding of the data was carried out on the basis of research questions and hypotheses formulated prior to

⁴⁸ In which key codes for analysis are derived from research questions, theory or data, and the codes serve as a flexible template for analysis.

⁴⁹ Which are more flexible than template approaches, less reliant upon codes and more dependent upon the researcher's interpretation.

data collection – but these codes were deliberately flexible, and did in fact change as the ethnographic research continued. The major change was referred to earlier in this chapter. This was the unexpected rarity of bail support referrals by the Baytown courts, which led to coding based upon a wider view of the bail process in Baytown, rather than simply a study of attitudes towards bail support in itself. Such a wider approach required an accompanying change in coding strategy. Codes therefore evolved and developed as the fieldwork period continued, and as transcription of data built up. Given the volume and richness of ethnographic data collected, codes were reviewed monthly, on the basis of their suitability for emerging data. This resembles the grounded theory approach to exploratory study, which was discussed and evaluated earlier. Gradually, generalisations were built up, which were then measured against proposed mechanisms for explaining the outcomes of the quantitative analysis in Chapters Four and Five. These were checked with YOT staff by way of validation.

It was recognised that this process was inherently flexible, and therefore open to criticism on the grounds of lacking methodological rigour. However, such a flexible approach was felt to be the most suitable for exploratory research such as this study. In attempting to understand the mechanisms which generated the outcomes of the youth justice bail process in Baytown, the aim was to produce what Brewer (2000: 138) has called a *'realist text ... characterised by thick description'*. This, in turn, raised issues of validity and reflexivity, the potential lack of which challenge the appropriateness of such an approach (e.g. Hammersley and Atkinson 1995: Chapter Eight). In defence of the 'realist' approach to analysis in this context, it is argued that the researcher's role in constructing the 'reality' presented in ethnographic data (which, in turn, was used to examine the mechanisms generating bail outcomes in the given context) was fully recognised and acknowledged during data collection and

analysis. Even so, the need for an accurate description and representation of staff attitudes towards bail policy and practice was essential in this exploratory, critical realist research.

Mention should also be made of how the YOT staff were identified in the writing-up of the research results. The decision was taken not to refer to staff by their real first names, or imaginary ones, to protect anonymity. However, as coding developed and the divergence between different staff members' attitudes and opinions became clear, the decision was taken to refer to whether staff belonged to the 'old' YOT bail team, i.e. those who were part of the team before the fieldwork began, or to the 'new' team, i.e. those who joined the bail team at the same time as or after the fieldwork began. This was done to aid the clarity of results and analysis, and to compare and contrast data from the 'old' and 'new' staff members.

The next subsection considers the approach taken to ascertaining the meanings attached to bail structures by magistrates in the Baytown youth court.

Researching the Baytown youth court magistrates

The issues which formed the focus of work done with the Baytown magistrates were similar to those which formed the focus of work done with the YOT staff, as outlined above. As with the staff, the research aimed to reveal how the magistrates themselves saw the bail process locally: how well they thought it was working, what they thought the major problems with the process were, and how they thought the process could be improved, from the point of view both of themselves and others. Again, as with the participant observatory and ethnographic work carried out with the Baytown YOT staff, the overall aim here was to investigate and analyse attitudes

towards and meanings attached to previously established bail process outcomes for young people.

Such an aim seemed to be leading the methodology towards qualitative research. However, the research population in this part of the study was considerably bigger than it had been in the evaluation of the YOT staff's responses. The number of magistrates sitting in the Baytown youth court fluctuated over the fieldwork period, but was never less than 40 at any time during that period. This meant that quantitative research methods, especially in the shape of structured interviews or questionnaires, were still a viable option for this part of the study, as well as the qualitative methods used with the YOT staff.

As ever, though, the practical context of researching youth court magistrates played a crucial part in the methodology used here. White (2002: 12) notes that there are currently around 31,000 lay (i.e. unpaid and part-time) magistrates in England and Wales, compared to around 100 professional magistrates (DJMCs) and around 160 lawyers who sit as part-time deputies (Darbyshire 2002: 287). Therefore the vast majority of cases, in both adult magistrates' and youth courts, are heard by lay magistrates. This was certainly found to be the case in the present study, restricting the sample for this part of the research to magistrates who sat in Baytown Youth Court, no DJMCs were found to be sitting at any point during the research.

Interviewing lay magistrates posed its own problems. The first of these is that lay magistrates may live some distance from the court in which they sit, making contact with them outside the court difficult. In any case, permission to interview magistrates in their homes was not given here, for confidentiality reasons. Secondly, lay magistrates are by definition part-time. They sit in court, on average, around 41 times a year (Morgan and Russell 2000, cited in Darbyshire 2002: 288) so their attendance is generally irregular, and due to their other commitments (in the Baytown

area at least) they generally come into court only as and when required by the court rota.

These two factors in combination limited the ways in which this part of the research could be carried out. If the research was to be done using face-to-face contact of some kind, it would have to be done at the court, around the time at which individual magistrates were sitting. The original research plan aimed to avoid this problem by using questionnaires, to be distributed at the court each working day over a period of two months, completed by magistrates and returned to the researcher (who would collect them in person from the court on a regular basis). This would, therefore, be a self-completion questionnaire, administered by hand rather by post.

In accordance with research evidence on the effectiveness of this type of questionnaire, the questions were mainly closed, to make answering easier (Bryman 2001: 129), and in the form of Likert scales as a test of attitude to youth justice bail issues locally. The questionnaire also included some more open-ended questions, regarding how the magistrates felt that bail services could improve, for example – these were included towards the end of the questionnaire, in order to ‘ease’ the magistrates into the process by asking more straightforward questions first.

In developing the Likert scale, the intention was, having gathered a pool of items relevant to the issues raised by the research and decided on a response categorisation system, to test the scale on a group of respondents (magistrates in this case), obtain their scores on the scale, and select items for a final version of the scale according to the items’ discriminative power (Robson 1993: 257)⁵⁰. However,

⁵⁰ Likert scales were also considered for use with YOT staff during the ethnographic study, to enable statistical comparisons of key issues and further examination of power relations relating to bail processes. However, it was decided not to use Likert scales with the staff, because of the small number of interviewees involved. Statistically analysing the scale results of only four interviewees would have run an unacceptably high risk of statistical fallacy. In any case, it was felt that the richness of the ethnographic data collected and analysed (see above and Chapter Six) more than compensated for the lack of quantitative data.

due to the extremely slow initial response rate from the magistrates (see below), it was not possible to test the scale before including it in the questionnaire. This obviously had a potentially negative impact on the scale's effectiveness. However, it was possible to avoid extreme positive and extreme negative statements within the scale, as Robson (*ibid.*) suggests.

In fact, the practical circumstances of the research eventually had a fundamental impact on the methods used to carry out this part of the research. Access to the magistrates was obtained via the senior legal advisor to the Baytown youth court. Self-completion questionnaires were sent out to magistrates during the fieldwork period, after access had been sought and obtained. However, of the 50 questionnaires sent out, only one was returned over the allotted two month period. Later attempts to re-negotiate access failed, and ultimately it was decided that, since the self-completion questionnaire had produced such a low response rate⁵¹, interviews should be conducted face-to-face.

Even so, it was very difficult to gain access to the lay magistrates, and the fieldwork period had to be extended to enable interviews with magistrates to be completed. This was done through the clerk to the justices at Baytown magistrates' court initially, and then through the deputy clerk to the youth court. However, due to other work commitments on the part of the researcher and the magistrates, the interviews could only be conducted over a particular two-week period, and only in the period of an hour before the court began to sit each weekday morning⁵². This limited the time in which information could be sought.

The problem was addressed by amending the original interview schedule. The Likert scale element was retained, but mixed with more open-ended questions

⁵¹ And also because of the particular difficulties of interviewing lay magistrates, as discussed above.

⁵² There were even problems, on a few occasions during the interview period, in gaining access to the Youth Court building.

which sought to elicit a more individualised response to issues surrounding bail services available to young people in the Baytown area. In designing this new schedule, a priority was the reflection of the fact that, while the ultimate decision on whether to grant or deny bail rests with the courts, the lay magistrates used information given to them by the other key individuals and agencies in the youth court process in reaching this decision. Therefore, the questions sought to reveal opinions on YOT policy and practice, and the factors which affected it locally. A balance between quantifiable information on magistrates' attitudes generally, and more detailed qualitative information on specific issues was sought (see Appendix D for full interview schedule). As a final issue, magistrates (and their gatekeepers) were reluctant to have their interviews taped, so the responses to the open-ended questions were written down on each magistrate's copy of the interview schedule, along with the responses to the Likert scale questions. Although this did not give as complete an account of the interview as tape recording and transcription, it was a necessary sacrifice to make in order to obtain the required data from the magistrates. A total of 25 magistrates were interviewed face-to-face. They were selected as part of a convenience sample, based on their availability and presence in court during a two-week interview period. At the time of the interviews, there were 56 magistrates sitting in the Baytown youth court. Therefore the interviewed magistrates represented 44.6% of the Baytown bench.

The combination of quantitative, Likert scale questions and qualitative, semi-structured interview questions demanded a hybrid approach to analysis of data. Answers to the Likert scale questions (see Appendix D for a full list) were ranked on a scale of 1 to 5. This enabled what Robson (2002: 394) terms 'single transfer coding'. This approach allowed data to be entered into a computer-based analytical software package in its original form. The software package used for this task was

SPSS Version 11, which was also used for quantitative data analysis in this study. For this part of the analysis, however, SPSS was used simply to calculate the frequencies of different responses to the Likert scale questions.

The results of this exercise were then triangulated with the magistrates' responses to the open-ended questions also included in the interview. The schedule allowed magistrates to expand, clarify or modify their Likert scale answers in a more open-ended way. For this part of the analysis, the same inductive coding approach as was used for analysing YOT staff data (see earlier) was used. As with the staff data, the aim was to provide a detailed, realistic account of magistrates' attitudes towards bail processes and outcomes. The advantages and disadvantages of this kind of approach have already been discussed above. The template approach to analysis was used, prior to triangulation with the Likert scale data. More will be said about the role of triangulation in the research methodology below. When writing up the results, magistrates were referred to by the number of their interview⁵³, to ensure anonymity.

The next subsection discusses the approaches taken to obtaining data from young people in the Baytown bail process.

Researching young people in the Baytown bail process

The third group of people chosen for specific scrutiny in the research were the young people involved in the youth justice process themselves. It could be argued that youth justice research is sometimes guilty of speaking for young people, without giving them the opportunity to express their own views about what happens to them in the youth justice process (Wilson 2004). The study sought to remedy this –

⁵³ The interviews were numbered in the order in which they were carried out.

particularly taking into account the lack of research evidence on young people in the bail process, who have not yet been convicted.

Several strategies were available for interviewing young people in the Baytown youth justice bail process. One would have been to interview all of those going through the bail process during the study period. However, given the large number of young people included in the quantitative part of the research (as mentioned above), conducting interviews with them all would not have been possible in the limited time available. A second option was to select a random sample from this group for the purposes of interviewing. However, it was recognised that a key area of scrutiny for the research was to ascertain how the policy and practice of the Baytown YOT was implemented, and perceived by others. Those young people who were given unconditional bail, or conditional bail, were not *directly* affected by YOT intervention. This is not to say that they were unaffected by YOT policy *indirectly*⁵⁴.

However, it was young people with experience of bail support or the denial of bail who were most directly affected by the Baytown YOT's bail policy and practice. Those on bail support had to complete a programme of intervention prepared and managed by the YOT; and those who were denied bail experienced YOT policy on frequency of visits to young people in custody, interventions aiming to reduce the rate of remand to custody, and so on. It was therefore decided to focus the interviewing strategy on this smaller group of young people.

This strategy meant that interviewing could potentially occur in either the community or custody, depending on the young person's circumstances and the timing of the interview⁵⁵. In either case, care had to be taken not to overload the young person with lengthy and complicated questions (see Appendix F for the full

⁵⁴ For example, in terms of the risk assessment routinely done on each young person when deciding whether or not to recommend bail to the youth court.

⁵⁵ Due to the limited time available, and the extra time needed to arrange access to young people for interview, interviews sometimes took place after the young person had been sentenced.

interview schedule used). This was an especially important factor for young people in custody, as visiting times were obviously limited, and interviews had to be fitted around YOT staff's work with the young people⁵⁶.

Even for young people in the community, though, a vital consideration was that every young person interviewed understood fully what the aims and objectives of the research were. Clearance from the Baytown YOT was sought before interviews commenced, and YOT bail staff acted as facilitators for interviews, since the young people interviewed already knew the staff. In addition, clearance was sought from young offenders' institutions where the young person was being interviewed in custody. This was in fact necessary as well as ethically desirable, since young offender's institutions had to be notified in advance that the researcher would be attending for the purposes of the interview. Discussions about the aims and objectives of research, what would happen to the data young people provided, and whether young people gave their informed consent to be interviewed formed a compulsory introduction to each interview.

For interviews done in prison, the young people had to remain in the presence of the YOT worker throughout the YOT prison visits during which interviews had to take place. The possibility of reactivity to YOT workers' presence affecting young persons' responses, therefore, cannot be ruled out. It should be noted, however, that the YOT officers' presence did much to facilitate the interview, since the interviewees were already familiar with the YOT workers, and often stated that they felt more comfortable doing the interview in the presence of the YOT worker who had come to visit them in custody. It was therefore felt that the YOT officers' presence during

⁵⁶ I.e. welfare checks, visits to comply with National Standards on frequency of visits, and so on.

interviews was a necessary compromise to secure data from each interview. The potential methodological limitations of this approach were recognised, however⁵⁷.

The possibility of tape-recording the interviews was considered before the fieldwork began. However, the first four young people to be interviewed did not wish the interview to be tape-recorded. Therefore, to maintain a consistent approach, none of the interviews were tape-recorded. Instead, detailed notes were taken during the interview, and reviewed and added to after the interview where necessary. In addition, some of the young people interviewed had numeracy and literacy problems, and had difficulty understanding the structure and content of interview schedules⁵⁸. Therefore young people were given the option, at the start of the interview, of filling in the interview schedule themselves, or having it read out (and explained where necessary) to them by the researcher. In the event, all but two of the young people interviewed opted to have the schedule read out and explained to them.

For analysis of the data, the same triangulated approach was taken for the young persons' interviews as was described in the context of magistrates' interviews above. SPSS was again used for analysis of quantitative questions, and advantages and disadvantages of this approach can be found in the subsection dealing with the magistrates' interviews. Finally, young people were referred to by their interview number in the written results, again as magistrates were. In addition, though, excerpts from interviews included in the results also recorded whether the young person was in custody or in the community at the time of the interview. This was included because it was recognised that prison interviews were all carried out in the presence of YOT workers (and sometimes also YOI staff), whereas community

⁵⁷ See also below for a discussion of how this was acknowledged in the writing-up of results.
⁵⁸ Especially Likert scale questions, which, like the magistrates' schedules, formed part of the interview schedule, alongside more open-ended, semi-structured questions.

interviews were not⁵⁹. Whether the young person was in custody or the community was therefore recorded in the written results to enable readers to take into account the possibility of reactivity in the data where applicable.

The next section of this chapter considers the issues involved in combining the different research methods in this study.

Triangulation of research methods in the study

Triangulation in social research methodology has been defined as the use of more than one method or source of data in the study of social phenomena (Bryman 2004: 275). However Bryman goes on to point out that:

'The term has been employed somewhat more broadly by Denzin (1970: 310) to refer to an approach that uses "multiple observers, theoretical perspectives, sources of data, and methodologies", but the emphasis has tended to be on methods of investigation and sources of data.' (Bryman 2004: ibid.)

This shows that triangulation does not have one definitive meaning in social research. Jick (1979: 602-3) goes further by identifying three different kinds of triangulation. The first is the 'between (or across) methods type', where different methods of research are used to study the same research problem. The second is the 'within-method type', in which the same research method is used in different ways to study the same research problem.

However, as Jick (ibid.) points out, the 'between methods' type of triangulation risks insufficient integration of the different methods, while the 'within method' type risks intensifying the weaknesses of the research method being used in different ways to address the same issues. Instead, Jick proposes a third type of triangulation, providing a holistic and contextual account of the topic under study. This type of

⁵⁹ See above for discussion of the implications of this for quality of data.

triangulation, argues Jick (1979: 603-5) has the potential to uncover facets of the topic which the combined research methods could not have revealed if used separately from one another.

The particular attraction of this type of triangulation in the current study is the facility for qualitative methods to produce detailed, contextual data on the topic being researched. Sieber (1973), for example, used this approach in his work, by employing ethnography to validate quantitative results, interpret significant statistical relationships between variables, and clarify unexpected and confusing findings. Although Jick and Sieber do not discuss triangulation in terms of a realist approach to research, it is submitted that 'holistic' triangulation is well suited to the critical realist approach to study employed here. Having investigated structural outcomes through the method of quantitative research, this study aims to uncover the social mechanisms which could explain these outcomes, in the particular context of the research. These are tasks for which qualitative research⁶⁰ was clearly appropriate. Further, as Jick (1979: 605) shows, such integrated triangulation can uncover previously hidden aspects of the topic being studied, even where the different research methods used produce divergent results. As Robson (2002) also argues, further investigation in the latter event can also produce clear explanations for research results.

However, triangulation brings its own difficulties. Bryman (2004: 464-5) notes that the weaknesses of individual research methods still remain when they are combined in one study⁶¹; that triangulation does not obviate the need for strong research design and practice; that triangulation must be appropriate to the research question(s) being addressed; and that the methods used must all play a significant

⁶⁰ In the form of ethnographic work with the YOT staff, and semi-structured interviews including Likert scale questions for magistrates and young people, as discussed above in this chapter.

⁶¹ Although combination can reduce the potency of these weaknesses.

part in the research (i.e. one should not be allowed to dominate the others in research practice). It is submitted that all of these obstacles were recognised and guarded against in the design and methodology for this study, as outlined in this chapter. Jick (1979: 609) adds that replicability of triangulated research is difficult. However, this problem was considered at the research design stage here, when the case study approach (which also lends itself to triangulation) was favoured. While still important, replicability is not a priority in exploratory work such as this research, and therefore this problem should not preclude the use of triangulation here.

Therefore, Jick's 'holistic triangulation' was implemented here, following the example of Sieber in using qualitative data to contextualise and clarify previous quantitative findings. This sophisticated approach to triangulation also, it is argued, fits in well with critical realism's 'context + mechanism = outcome' epistemological approach to research (Pawson and Tilley 1997), and the case study approach to research design, as well as the use of qualitative methods to explain and clarify quantitative data.

Examining the research hypotheses

The central hypotheses to be tested in this study were based on the research previously carried out into issues regarding bail in the youth justice process in England and Wales (see Chapter Two above). The hypotheses build on the perceived limitations of this previous research. In particular they take as a starting point the fact that there has been very little work specifically done in this topic area uncovering the reality of youth justice policy and practice regarding bail. It also notes that what work has been done reveals little in the way of a systematic approach to

issues and problems in this area of criminal justice. The hypotheses at the outset of research are therefore as follows:

- a. The youth justice bail process in England and Wales, and the services provided within it, operate unsystematically.
- b. Despite recent Government attempts to centralise control over these bail services, rhetoric or policy at the macro-level of the youth justice process does not reflect bail services policy and practice at a local level.

These are fairly complex hypotheses, but ones which, it is submitted, allowed a more sophisticated understanding of the key issues underpinning this subject area by simultaneous testing of both, as opposed to focusing merely on one of the two to the exclusion of the other. It is submitted that the use of these flexible hypotheses, as 'guidelines' for key issues emerging in the research, was not incompatible with the inductive character of the methodology as a whole, despite the traditional association of hypotheses with deductive research. In line with Bottoms' (2000) 'check list' above, these hypotheses were not concrete. They were tested throughout the empirical section of the study, and provision was made for their amendment or outright rejection, as data emerged. The hypotheses were used in this way with the aim of avoiding the trap of only selecting data which supported them, while still giving structure to data collection and analysis. It is notable that Bottoms (*ibid.*), in his use of Layder's (1998) adaptive theory, advocates this 'looser' use of hypotheses in inductive research.

Conclusions

This chapter has described and explained the methodology used in this study. It has set out the hypotheses arising from the literature review in Chapter Two. In

addressing these hypotheses, it has applied a critical realist epistemology as a means of steering a middle course between purely objectivist positivism and purely subjectivist relativism. At the research design stage, it has considered the various research design models available before selecting and justifying the case study approach. Finally, it has proposed a mixture of quantitative and qualitative methods to apply to the research problems under study, with the latter being used to contextualise and clarify the former, as well as providing a framework for the methods' use in combination with one another.

The following chapters report and analyse the results of the research. Following the critical realist approach, the next two chapters (Chapters Four and Five) provide the structural outcomes for the research, by reporting and discussing the outcomes of the youth justice bail process in Baytown during the study period. Later chapters will investigate the context and mechanisms by which these outcomes were generated.

Chapter Four

Defining the 'structure': the outcomes of youth justice bail processes for young people in Baytown

Introduction

This chapter investigates and traces through the bail process, from initial arrest to final sentencing outcome, the cases of all those from the Baytown YOT area aged between 15 and 17 years old inclusive who were arrested between 1st September 1999 and 31st August 2002. The purpose of this analysis is to illustrate the operation of the bail process for young people in the Baytown area during the study period, both before and during the court process. In this way, in line with the critical realist approach to methodology outlined in Chapter Three, the structure of the Baytown youth justice bail 'world', which shaped the meanings and actions of those involved with it, will be described and analysed.

This analysis will be done not just in terms of which bail options were used by local bail decision-makers, and how often, but also in what circumstances the options were used. The circumstances of each case are assessed by using four key variables. These are the age of the young person at the time of his or her initial arrest; whether the young person was male or female; the type of offence triggering arrest on each occasion; and the gravity of each offence providing the trigger for an arrest. More will be said about the latter two variables, and how they were operationalised, later in the chapter.

Throughout the analysis which follows, the variables in contingency tables were tested for statistically significant relationships between them. One example of

this was the testing of the relationship between seriousness of offence and bail outcome at the young person's first appearance in court. Another example was the testing of the relationship between the age of the young person and frequency of re-offending while on bail. Testing for statistical relationships was done using the Pearson's chi-square test, which is designed to test strength of relationship between two nominal variables (Bryman 2004: 238-9).

It should be noted, however, that the chi-square test was not carried out in respect of some of the tables discussed and reported on in this chapter. This decision was taken because of the small size of some tables, the similarities between percentages for males and females in many of the categories, and therefore the risk of statistical fallacy (the spurious inference of statistical significance from raw data). Chi-square tests were not carried out for specific sub-categories (e.g. males and unconditional bail) in these tables, to maintain consistency with other tables in this chapter, and also to conserve space. Chi-square values are included, in the following discussion, for all of the tables in respect of which the test for significance was carried out.

It should also be noted that the tables containing the data reported on and discussed in this chapter (and analysed in Chapter Five below) can be found in Appendix C below. All references to individual tables in this and the following chapter correspond with the tables listed in Appendix C.

Frequency of arrest by age & gender

The trigger point for inclusion in the study sample, as shown above, was the arrest of a young person aged between 15 and 17 inclusive in the Baytown YOT area

during the study period (1st September 1999 to 31st August 2002). As an introduction to more detailed analysis below, this first subsection gives an overview of the size of the bail population included in the study sample.

Table 4.1 shows that, taking all recorded arrests into account, far more males (84.2% of the total) were arrested during the fieldwork period than females. This was true of all age groups covered by the research, but the proportion of arrests involving males increased with age. Within the parameters of the study, the peak 'arrest age' for males was 16, whereas for females it was 15⁶². Having defined the size of the study sample in age and gender terms, the next section moves on to consider how many young people were on bail, or in the process of completing court orders, at the time of their arrest.

Bail and community order status at point of arrest

This subsection deals with the status of young people at the time of their arrest. Specifically, it shows the frequency of arrests taking place while young persons were already on bail for another offence, or whether young people were in the process of completing a community sentence⁶³ when arrested. This analysis will show the extent of offending in breach of previous obligations not to offend, as imposed by the criminal justice process. The analysis is included at this point because it deals with status at the start of the bail process (i.e. at the point of arrest, which forms the trigger for inclusion in the study sample).

The data obtained on the relationship between status at point of arrest and age is presented in Table 4.2, which shows that the proportion of young people who

⁶² Although there was little difference, in real terms, between the number of arrests involving 15-year-old girls and the number involving 16-year-old girls.

⁶³ Including, for these purposes, the community element of a detention and training order.

were arrested while on bail increased with age, to the point where the majority of 17-year-olds arrested during the study period (51.8%) were already on bail at the time of arrest. A similar pattern can be seen when analysing the proportion of young people who were not on bail at the time of arrest, but were still in the process of completing a previous community sentence (27.9% of 17-year-olds). The latter group, however, formed a smaller proportion of those arrested than those who were on bail, regardless of age. The data obtained on the relationship between the young person's bail or community sentence status at the time of initial arrest, and his or her gender, are presented below.

Overall, as described previously in this chapter, far more males were arrested within the study period than females. However, a greater proportion of young women (39.4%) were not under any 'obligation' at the time of arrest than young men (29.5%), and a slightly greater proportion of young women were arrested while completing a community sentence (25.2%) than young men (23.2%). The greatest gender-based difference in this part of the analysis was found in the numbers arrested while on bail: 47.3% of all males who were arrested during the study period were on bail at the time of arrest, compared with 35.4% of females. This suggests that gender may be a relevant factor in the likelihood of re-offending while on bail. The next section examines the types of offences committed in more detail.

Types of offences committed

The classification of offences was constructed using a framework similar (but

not exactly identical)⁶⁴ to that used by the Home Office in the *Annual Crime Statistics for England and Wales*. For each arrest, only the most serious suspected offence was counted here. There were two, related reasons for this approach. Firstly, police crime statistics now reflect the number of victims of each alleged offender, rather than the number of criminal acts committed (Maguire 2002: 338). Secondly, as a result of this macro-level change in police offence counting rules, the Baytown police did not consistently record all of the alleged offences committed in cases where multiple allegations were made.

As above, the results in this section were considered in the context of age and gender. Table 4.4 presents data comparing age and offence type.

Table 4.4 shows that theft-related offences were the most common cause of arrest for all three age groups included in the study. Non-vehicular theft was the most common offence category for all of the age groups (28.5% of all offences), and vehicular theft was the second most common category, again across all three age groups (18.5% of all offences). Drugs offences were the least common category across all three groups. Seriousness is a relevant issue in relation to the offences listed in the 'other' category in Table 4.4. These included breaches of bail, but also other offences which were not included in any of the defined categories, to reflect their categorisation as such in official criminal statistics⁶⁵. Again, the seriousness of these offences will be discussed and analysed below.

The relationship between age and most serious offence type was statistically tested. The chi-square value for Table 4.4 was 73.074 (df = 14). This was a statistically significant result at the $p < 0.001$ level of statistical significance.

⁶⁴ Home Office statistics refer to 'peak offending age' rather than 'peak arrest age', which is the preferred term here. As the Home Office figures are derived from arrest rates rather than conviction rates, it is submitted that 'peak arrest age' is a less confusing term, particularly as the Home Office terminology appears to assume that all those arrested are guilty of offending, or are convicted as offenders. This is clearly not the case – see e.g. Maguire (2002).

⁶⁵ Such as, for example, possession of an offensive weapon.

However, no clear relationship could be found in the data itself between age and offence seriousness. It is likely that the statistically significant relationship arose due to the 9% decrease in 17-year-olds arrested for non-vehicular theft compared to the other two age groups, given there were at least twice as many offences in this category as in any of the others.

Table 4.5 displays the relationship between gender and type of recorded offence. From Table 4.5 it can be seen that non-vehicular theft was the most common cause of arrest for both males (27.9% of the total) and females (31.8% of the total). In other respects, however, the relationship between gender and offence type varied widely for different offences. With regard to public order offences, for example, the proportion of females arrested for this kind of offence (26.6%) was around twice the size of the proportion of males (13.8%). Vehicle theft, on the other hand, was the ground for just over one fifth of all arrests involving males, but only 8.1% of arrests involving females. Arrests for violent offences were also more common among females than males. Drugs offences were among the least common for both genders. Indeed drug-related offences were the least common arrest offence for males (1.8%), and only motoring offences were less common among females.

Overall, the differences in offence type along gender lines were more prominent than those along the lines of age (as shown above). The next section considers the seriousness of offending within the study sample.

Most serious offences committed, by gravity

Having established what kind of offences were committed, it is now necessary to include some measure of seriousness for the offences included in the study. For

this part of the analysis, an 'offence seriousness score', which was used by both the Baytown YOT and local police divisions, was utilised to measure the seriousness of offences committed within the scope of the study. Each offence was categorised into one of eight groups – the higher the group number, the more serious the offence was considered to be. In using this scale, it is recognised that opinions differ as to the relative seriousness of some (particularly middle-range) offences in England and Wales (e.g. Hough 1996), and that there is no public consensus on this issue (e.g. Roberts and Hough 2002). However, this scale was still used, partly out of convenience (as a score was automatically calculated on the YOT's own database, and so was readily available), and partly because it does provide some indication (albeit not a definitive one) of offence seriousness. The full gravity score table is set out in Appendix B.

Table 4.6 illustrates the relationship between the gravity of recorded offences and young persons' age. Table 4.6 shows that just over half of the total number of recorded offences were rated either 3 or 4 on the offence gravity score, 6.6% of offences were rated 2, and a further eighth were rated 1, the lowest category of seriousness. This indicates that a large proportion of offending, across all three age groups, was of low to medium seriousness. In practice, a score of 3 equated to offences such as common assault, theft and criminal damage, while a score of 4 equated to such crimes as non-domestic burglary and offences against the Public Order Act 1986 (insulting or threatening behaviour)⁶⁶.

Arrests for the most serious offences, rated 7 and 8, accounted for 8.4% of all offences, although 11% of arrests involving 17-year-olds fell into categories 7 and 8, a higher proportion than was the case for the other age-groups. For the relationship between age and offence seriousness shown in Table 4.6 above, the chi-square

⁶⁶ See Appendix B for a full list of all offences recorded during the study period, and the gravity score allocated to each type of offence.

value was 55.194 (df = 14), a larger than expected value for a table of this size. This value was significant at the $p < 0.001$ level. However, patterns of offence seriousness were in reality very similar across all three age groups – there was little evidence of offence seriousness increasing or decreasing with age. It seems likely that the significance of the relationship arose due to the disproportionately large percentage of offences, across all three age groups, in gravity categories 3 and 4, compared with percentages in other categories.

Table 4.7 shows the relationship between seriousness of offence and young persons' gender, and supports the trends in offence seriousness found in Table 4.6. As in Table 4.6, over half of the arrests for both males and females were for offences rated either 3 or 4. However, in other respects, there were differences in offence seriousness along gender lines. A greater proportion of offences committed by females were rated 3 or 4 compared with males. For females, there was a greater gap between proportions of offences rated 3 and 4 and proportions in the other offence categories than there was for males. This meant that, in offence categories 1, 5, 6, 7 and 8, there was a greater proportion of male offenders than females. In offence category 5, for example, the proportion of male offenders was 6.1% greater than the proportion of female offenders, and in offence category 7, the proportion of male offenders was 4.8% greater. The next section examines bail decision-making by the police in detail.

Police charge and bail decisions

It has been argued elsewhere (e.g. Hucklesby 2002) that those denied bail by the police are more likely to be denied bail in court. The police charge decision

stage⁶⁷ is therefore an important part of analysing the efficiency of the Baytown youth justice bail process⁶⁸. The police-controlled charge stage is analysed in Tables 4.8-4.11.

Analysing the data by age, it can be seen that the proportion of young people charged immediately by police increased with age (to a maximum of 74.9% of cases involving 17-year-olds), and correspondingly the proportion given police bail decreased with age. Similarly, the proportion of young people given a reprimand or final warning (either immediately or following time spent on police bail) also decreased with age. Also, although similar proportions of young people in each age group had their cases dropped by the police (as shown by the 'NFA' or 'no further action' column in Table 4.8), 17-year-olds were less likely to have their cases dropped by police following a period on police bail. There was a statistically significant relationship between age and police decision: the chi-square value for Table 4.8 is 116.879 (df = 16), showing a significant relationship at the $p < 0.001$ level. This result shows that the percentage of cases charged immediately increased with age. Conversely, the percentage of cases dealt with using a reprimand or final warning, or bailed by police, decreased with increasing age.

Table 4.9 illustrates gender differences at the police charge decision stage. From Table 4.9, it is evident that females were less likely to be charged immediately than males, but also less likely to be given police bail. Females were instead more likely to be 'NFAed' (9.4% compared to 8.8% of males), and more likely to be given a reprimand or final warning than males (14.8% compared to 7.8% of males).

⁶⁷ Of course, the police's discretion to divert young people from the court process has been restricted by the legislative limitations on cautioning (see e.g. Newburn 2002) – but it is argued that this has not fundamentally altered the police's discretion over whether or not to charge *in itself*, or the processes by which they make this decision. Both of these are, it has been argued, inherently geared towards case construction, prosecution and production of guilty pleas – see e.g. McConville, Sanders and Leng (1991).

⁶⁸ The nature of YOT bail interventions will be examined in detail in Chapter Six. Here, it is sufficient to state that no bail support services were offered by YOT staff at the police station, except in their capacity as appropriate adults.

Table 4.10 examines the relationship between police charge decisions and the type of offence allegedly committed by young people. Table 4.10 shows that for most of the offence categories, the proportion of young people charged immediately was close to the overall average. Drugs offences were more likely to be dealt with using a reprimand or an immediate final warning. The 'other' category had a very high rate of immediate charge (91.7%), and a low rate of police bail or no further action (4.6%). The chi square value for this table was 346.771 (df = 56), showing a statistically significant relationship between offence type and police decisions at the $p < 0.001$ level.

Table 4.11 analyses the relationship between seriousness of offence and police decisions. There was no linear increase in immediate charge rates as offence gravity increased. In fact, the highest rate of immediate charge was to be found in the lowest offence seriousness category (1 – 95.3%). Nonetheless, a majority of offences in each category except category 2 (46.0%) were dealt with using immediate charge. In category 2, although they did not form a majority, the proportion of cases where the defendant was charged immediately was still larger than the proportions of cases dealt with otherwise. Offences rated 2 were also more likely to be 'NFAed'⁶⁹ and dealt with using a reprimand or final warning than offences in any of the other categories. More serious offences were less likely to be dealt with using a reprimand or final warning. However, more serious offences were also more likely to be 'NFAed' following time spent on police bail than minor offences. The greatest proportion of cases dealt with in this way was to be found in the most serious offence category, 8 (11.1%). The chi-square value for Table 4.11 was 348.962 (df = 56), a significant value at the $p < 0.001$ level.

⁶⁹ I.e. cases in which the police decided to take no further action against the young person involved.

Overall, 39.0% of those not on bail at the time of their arrest were charged immediately, compared with 78.0% of those who were already on bail, and 77.0% of those who were completing a court order. For the relationship between bail status at this point and charge, the chi-square value was 654.038 (df = 16), a much larger value than expected, and significant at the $p < 0.001$ level.

The first appearance in court

In this part of the analysis, the outcome of each initial court hearing (in terms of a bail decision, move to sentencing or withdrawal of charge) was examined according to age and gender. Outcomes were also cross-tabulated with the most serious offence charge and the current bail status of the young person at the time of his or her arrest. These factors are analysed here to test the theory that they are relevant factors in making bail decisions in practice. A strong relationship between one or more of these factors and the bail outcome at first appearance could be used as evidence that bail decisions were made in a systematic and efficient way in the Baytown youth courts.

Table 4.12 begins the analysis by examining the relationship between bail decisions at the young persons' initial appearance in court and defendants' ages. Overall, a majority of young people (64.4%) in the study sample were granted bail at first court appearance. This figure comprises young people who were granted unconditional bail, conditional bail, or bail support. Of the remainder, 17.5% of young people were denied bail at first court appearance. This group comprises those who were remanded to custody, remanded to local authority accommodation, or were made the subject of an arrest warrant for failure to attend court.

The largest cohort of young people in each age group were those who received conditional bail (41.5% of 15-year-olds, 40.0% of 16-year-olds, and 30.3% of 17-year-olds), and the second largest cohort in each age group were those who received unconditional bail. Bail support, in contrast, was used far less often by judges and magistrates at the first court appearance than unconditional and conditional bail, with a rate of less than 1% in each age group. In addition to the cases which were granted bail at this stage, there was a consistent rate of cases being moved onto the sentencing stage at the first appearance, following conviction. 18.7% of cases involving 15-year-olds, 14.9% of cases involving 16-year-olds, and 16.4% of cases involving 17-year-olds were dealt with in this way. In these cases, there was no need for any bail decision, as the cases were able to be processed immediately. Finally, there was a small minority of cases in each age group in which charges were withdrawn or dismissed at the first court appearance.

Turning to the cases where bail was denied, the rate of young people remanded to custody increased with age. In particular, the rate for 17-year-olds was noticeably greater than for the younger age groups. Lower rates of unconditional and conditional bail were found for 17-year-olds (23.7% and 30.3% of cases respectively) than for the other age groups⁷⁰. 17-year-olds also had a higher rate of arrest warrants for failure to appear in court (11.2% of cases) than the other age groups⁷¹.

The chi-square value for Table 4.12 was 135.556 (df = 18), where $p < 0.001$. There was therefore a significant relationship at this level of probability, indicating statistical links between age and decisions at the first court appearance. Table 4.13 presents the relationship between gender and initial court decisions.

⁷⁰ For 15-year-olds' cases, 28.0% of cases were unconditionally bailed, and 41.5% were conditionally bailed. For 16-year-olds' cases, 30.1% were unconditionally bailed, and 40.0% were conditionally bailed.

⁷¹ 6.6% of cases involving 15-year-olds, and 8.0% of cases involving 16-year-olds.

Table 4.13 shows that while those being granted conditional bail at the first court appearance formed the largest cohort among males (37.8%), those who received unconditional bail at this stage formed the largest cohort among females. For females, the rate of unconditional bail (31.0%) and conditional bail (30.7%) was very similar, however. The table also shows that more females (22.0%) had their cases moved immediately onto the sentencing stage than males (15.4%), while a similarly sized small minority in both groups had their cases withdrawn or dismissed at this stage (1.9% of males, 1.0% of females). All of the small number of cases being granted bail support at this stage were male (0.4% of the total).

The rate of remands to custody was higher for males (9.0%) than for females (2.4%) – and no females were remanded to local authority accommodation at this stage. By contrast, females had a higher rate of arrest warrants for failure to attend court at first appearance than males (12.8% compared with 8.1%).

Table 4.14 compares type of offence in each case with the outcome of initial court decisions. It shows that the highest rate of unconditional bail was to be found for criminal damage-related offences (39.3%), while the lowest rate was for 'other' offences (15.8%). The overall unconditional bail rate of 27.3% masked a percentage rate spread of 23.5% across different categories of offence. For conditional bail, the highest percentage rate was for 'other' offences (52.5%), while the lowest rate was for public order offences (22.3%). As with rates of unconditional bail, the overall percentage rate for conditional bail masked a percentage rate spread of 30.2% across different offence categories. In terms of cases being moved directly to sentence, the percentage of drugs offences dealt with in this way (45.5%) was higher than the percentage of other offences. Cases involving violence against the person had the lowest rate of cases moved directly to the sentencing stage (7.9%). Motoring offences, meanwhile, had the highest percentage rate of cases being withdrawn or

dismissed (5.3%), although overall rates were low (1.7% of the total number of cases), and several offence types had no cases in this category at all (violence, drugs and 'other' offences). The only cases granted bail support at this stage were those involving theft of some kind (either vehicular or non-vehicular).

For cases which were denied bail, rates of remand to custody were greater for violence (14.2%) and vehicle theft cases (13.9%) than for other offence types. Vehicle theft cases also had the highest rate of remand to local authority accommodation (2.2%), while no motoring, violence, drugs or public order cases were dealt with in this way at all. For cases where an arrest warrant was issued at this stage, there was a 12.8% difference between the offence category with the highest rate (motoring offences), and the offence category with the lowest rate (violence).

For Table 4.14, the chi-square value was 292.830 (df = 63), where $p < 0.001$. This was therefore a significant value at the above level of statistical significance. Table 4.15 builds upon this analysis by analysing the relationship between offence seriousness and bail decisions at the first court appearance. It shows that the offences ranked as being the least serious (i.e. those in category 1) had the lowest percentage rate of unconditional bail (10.6%), but the highest percentage rate of conditional bail (55.3%). The next lowest rate of unconditional bail was for offences rated 7 (16.6%), followed by offences rated 8 (17.5%). Similarly, the next highest rate of conditional bail was for offences rated 8 (50.0%), followed by offences rated 7 (49.0%). Rates of unconditional and conditional bail were similar for offences rated 2 to 6 inclusive, but not for offences rated 1, 7 and 8. The small number of cases being granted bail support were divided between the categories of 3, 5 and 6. No offences rated 6 or above were withdrawn or dismissed at the first court appearance, and offences rated 5 or above had lower rates of move to immediate sentence than

offences rated 4 or below (with offences rated 2 having the highest rate – 38.2% of the total – of move to sentence).

Generally the proportion of remands to custody at first appearance increased with offence severity. The exception to this was that offences rated 1 resulted in remands to custody more often than offences rated 2, 3 or 4. The rate of arrest warrants rose to a peak for offences rated 4 (13.7% of the cases in that category), before declining with increasing seriousness, until a slight increase for offences rated 8. Finally, the rate of remands to local authority accommodation was evenly spread across the different offence gravity categories, with a 1.6% spread between the highest and lowest percentage rates.

The chi-square value for Table 4.15 was 366.536 (df = 63), a result significant at the $p < 0.001$ level. Therefore, as with the relationship between offence type and initial court decision, there was a statistically significant link between offence seriousness and initial court decision.

The link between bail status on arrest and bail decision at first appearance in court was also investigated. Results are shown in Table 4.16. Table 4.16 shows that the greatest proportion of cases where the young person was neither on bail nor on a court order at the time of arrest received unconditional bail (38.4%) at their first appearance in court. This group of cases also had the greatest proportion of cases moved directly onto the sentencing stage (21.7%). Those young people who were on bail at the time of their arrest, meanwhile, had the greatest rate of conditional bail at initial court appearance (45.8%), as well as the greatest rate of remands to custody at this stage (10.6%). Those who were completing a community sentence but were not on bail at the time of arrest, meanwhile, had a greater rate of unconditional bail (the largest proportion within this group – 34.7%), conditional bail, remands to custody, remands to local authority accommodation, and move onto

sentencing than those on bail, but a smaller rate for each of these outcomes than those who were neither on bail nor on a court order. The chi-square value for Table 4.16 was 165.131 (df = 16), showing a statistically significant relationship between bail status on arrest and bail outcome at first appearance in court at the $p < 0.001$ level.

The next section discusses bail outcomes at subsequent court appearances.

Subsequent appearances in court

This section deals with bail decisions made at subsequent appearances in court. To set the parameters, the first set of tables below explain how many changes in bail status actually took place during the court process for the different age and gender subgroups. This is analysed on the basis that normally two applications for bail are allowed in each case⁷². Table 4.17 begins this section of the analysis by measuring the number of changes in bail status undergone by each case that reached the youth courts.

Table 4.17 shows that the majority of cases (68.8%) saw no change in bail status as they progressed through the court process. Within this basic finding, a number of points can be made. Considering different age groups, 15-year-olds' cases were more likely than other age groups' to complete the court process without any change in bail status, although there was little difference between 16-year-olds (65.4%) and 17-year-olds (65.9%) in this respect. The rates of cases undergoing one bail status change and two bail status changes were also very similar for 16-year-olds and 17-year-olds, with a slightly greater rate of 16-year-olds undergoing two status changes (17.9% compared with 16.7% of 17-year-olds), and a slightly

⁷² More applications for bail are allowed where there has been a 'change of circumstances' during the young person's time on bail.

greater rate of 17-year-olds undergoing one status change (17.7% compared with 16.4% of 17-year-olds).

Table 4.18 considers the relationship between number of bail status changes and the gender of the defendant. In terms of gender, females (70.8%) were slightly more likely than males (68.5%) to maintain the same bail status throughout their case's progression through the courts. Males and females were almost equally as likely to have one change in status, with males being more likely to change status twice (15.8% compared with 13.4% of females). This suggests that males were more susceptible to such changes than females, although the differences along gender lines were slight overall.

Table 4.19 compares the number of changes in bail status with different types of offence. In Table 4.19, it can be seen that offences in the 'other' category (which included breaches of bail) were most likely not to result in any changes in bail status (79.2%): Although vehicular thefts were least likely to have no status changes (60.0%), they were most likely to have at least one change in status (40.0%). Similarly, non-vehicular thefts were most likely to have two changes in status (19.4%), suggesting that medium-range offences were most susceptible to changes in bail status. This argument is supported by the fact that criminal damage offences was the second most likely category to undergo two changes in status (19.3%).

Table 4.20 considers the number of status changes in the context of seriousness of offence. When offence gravity scores are compared with the number of bail status changes, the general trend was that likelihood of status change increased with the seriousness of offence. However, no clear pattern emerged with comparing percentage rates for one and two changes in status. For categories 1, 2, 4, 5 and 7, the rate of one status change was greater than the rate of two changes, while for categories 3 and 6, the rate of two changes was the greater. For category

8, the rates for one and two changes were the same. The data revealed no overall trends in this respect.

This subsection gives a general overview of how many changes in bail status occurred, and to whom these changes occurred. They can only make sense of the bail process in reality, however, when the results of these changes are examined. The next subsection looks at the results of bail status changes in detail.

Examining bail status changes at the first application point

By this stage in the process the size of the sample is obviously reduced, because of the cases which were withdrawn, dismissed or moved straight to sentencing at the first appearance in court. This subsection refers to those cases which reached the stage where a first opportunity to change bail status arose. Table 4.21 compares the results of the first change in bail status with defendants' ages.

Table 4.21 shows that the majority of cases did not undergo any change in bail status at this stage (as mentioned previously). The number of 16 and 17-year-olds who underwent a change in bail status was almost exactly the same in percentage terms, and was greater than the number of 15-year-olds whose bail status changed. The highest rate of change to conditional bail was found among 16-year-olds (12.0%), while rates of change to unconditional bail were lower than rates of change to conditional bail across all three age groups. The highest rate of change to bail support status was found among 17-year-olds (1.0%), but the rate of change was very low across all age groups (and no 15-year-olds received bail support at this stage at all).

More 17-year-olds were remanded in custody (5.1%) than 15 or 16-year-olds (1.4% and 2.7% respectively). The increase in 17-year-olds who were remanded to

custody was counterbalanced by a corresponding decrease in numbers of those receiving unconditional and conditional bail in this age group. 16-year-olds had the highest rate of arrest warrants (13.4%), although their rate was only marginally greater than that for 17-year-olds (13.3%). Finally, the rate of remand to local authority accommodation remained low, as it was at the first appearance in court. 17-year-olds cannot be dealt with in this way under the law⁷³, and less than 1% of cases involving 15 and 16-year-olds were dealt with in this way at their first change in bail status.

The chi-square value for Table 4.21 was 47.564 (df = 12), where $p < 0.001$. There was therefore a significant statistical relationship between age and first change in bail status at this level of probability: the numbers of cases remanded to custody at this point increased with age. Table 4.22 compares the results of the first change in bail status with the gender of the young person.

Table 4.22 shows that there were several differences in bail outcome along gender lines at this stage. The rate of females receiving unconditional bail (5.8%) was slightly higher than that of males (4.8%), while the rate of males receiving conditional bail (11.2%) was higher than that of females (6.5%). All of the small number of cases involving a change to bail support at this stage involved male defendants.

Turning to cases which were denied bail at this stage, females had a higher rate of arrest warrants for failure to attend court (14.4% compared with 11.2% of males), as was the case for the initial appearance in court. Males had a slightly

⁷³ This is not to say, however, that these criteria are justified by the nature, extent and seriousness of 17-year-olds' offending in practice. It has already been argued in this chapter that, within the boundaries of this study, these offending characteristics are not sufficiently different, when this age group's offending is compared with others', to warrant the treatment of 17-year-olds as adults while they are in the bail process. Further, it is argued that such a policy (developed at macro-level) is illogical when, since 1991, 17-year-olds are treated as children elsewhere in the criminal justice process. This is the epitome of a non-systematic approach, which also potentially prejudices 17-year-olds' rights later in the court process (see e.g. Hucklesby (2002) on the effects of denial of bail on sentencing, and also this chapter below).

higher rate of remand to custody at this stage (3.4% compared with 2.4% of females), although rates for both gender groups were low, and rates of remand to local authority accommodation were even lower (with no females being so remanded at all at this stage).

Table 4.23 compares the results of the first change in bail status with type of offence committed. Table 4.23 shows that there was little variation in rates of status change to unconditional bail and conditional bail across different offence categories. There was a 3% spread between the highest and lowest rates of change to unconditional bail, and a 5.3% spread between the highest and lowest rates of change to conditional bail. The small number of bail support cases were spread across most of the offence categories available, with the highest rate (for motoring offences) being 2.4%, and no drugs or criminal damage offences being granted bail support at this stage.

There was also little variation in terms of rate of remand to custody across different offences, with a 2.5% spread between the highest and lowest rates, and a low rate overall. The small number of cases remanded to local authority accommodation were all theft-related. Rates of arrest warrant varied more between the different offence types than rates of other bail options. The highest rate here was for vehicle theft, which was 3.4% ahead of the second highest rate (for motoring offences). The lowest rate here was for 'other' offences (8.3%).

There was no evidence of a statistically significant relationship between offence type and bail status changes at this stage. The chi-square value for Table 4.23 was 54.976 (df = 42), where $p = 0.086$. This was a lower chi-square value than expected for a table of this kind, and with this level of probability (which is also a lower level of probability than that for all of the previous tables in this chapter, apart from Table 4.22, where the chi-square test was not done).

Table 4.24 compares results of the first change in bail status with offence seriousness. It shows that most of the offence seriousness categories had a similar rate of change to unconditional bail, although the rate of changes for offences rated 7 was 2% greater than the next highest rate (for offences rated 6). There was a more noticeable spread of rates of change to conditional bail, with a difference of 12.3% between the highest rate of change (for offences rated 8) and the lowest (for offences rated 2). The cases receiving bail support at this stage mostly involved offences rated 6 or above.

For the cases denied bail, offences ranked 5 and 6 had the highest rate of change to remand to custody, with no offences ranked 8 remanded in this way. The highest rate of change to a remand to local authority was only 1.4% (for offences ranked 7), and although the lowest and highest rates of change to arrest warrant status were found in the lowest and highest seriousness categories, there was no linear increase in rates of failure to appear with increasing levels of offence seriousness. The chi-square value for Table 4.24 was 95.821 (df = 42), a statistically significant value at the given level of probability (here, $p < 0.001$). This result shows that the likelihood of a change in bail status at this point significantly decreased with age. However, there were no such patterns in the relationships between different bail status change options and age. It is therefore possible that the high percentage of cases in which there was no bail status change may have produced the statistically significant value here.

Examining the second change in bail status

This subsection reports on bail outcomes at the point of the second change in bail status. Table 4.25 clearly shows that a large majority of the cases reaching court

(84.4%) did not undergo more than one change in bail status during the court process. Of those cases in which the bail status did change twice, the largest proportion in all three age groups were granted conditional bail at the second change point (6.4% of 15-year-olds, 8.2% of 16-year-olds, and 6.1% of 17-year-olds). For 17-year-olds, the next largest proportion of cases were remanded to custody (4.9%), and the rate of remand to custody at this point was larger for 17-year-olds than for the younger age groups. 16-year-olds had the highest rate of arrest warrants at this stage (3.7%), while 17-year-olds had the highest rate (0.4%) within the small group of bail support referrals (as at previous stages, no 15-year-olds received bail support at this point).

The chi-square value for Table 4.25 was 29.758 ($df = 12$), where $p = 0.003$. Therefore there was no evidence of a statistically significant relationship in the above table.

Table 4.26 compares bail outcomes at the second change point with gender. Females had a higher rate of no further changes in bail status at this point (86.6% compared with 84.1% of males). Males, by contrast, had higher rates of change to conditional bail, arrest warrants, remands to custody, remands to local authority accommodation and bail support than females. Females did, however, have a slightly higher rate of 'moves' to unconditional bail than males (2.1% compared with 2.0% of males).

Table 4.27 analyses the results of the second change in bail status by offence type. It shows that the rate of changes to conditional bail at this point was not only the highest rate among the different bail options overall (10.5%), but was also the highest rate in most offence categories. The exception to this was the criminal damage category, where remands to custody had the highest rate (6.4%). The rate of remands to custody in this category was also greater than the rate of remands to

custody in any of the other offence categories, the next highest rate being found for vehicle thefts (5.6%). Non-vehicular theft and drugs offences had the highest rates of change to conditional bail (9.1% each), while motoring offences had the highest rate of change to arrest warrant status (4.8%). The chi-square value for Table 4.27 was 70.877 (df = 42), a slightly lower value than that expected at the relevant level of significance ($p < 0.005$).

Table 4.28 concludes this subsection by comparing bail outcomes at this stage with offence seriousness. Table 4.28 shows that the highest rate of change to unconditional bail at the second status change point (5.3%) was found for offences in the highest category of seriousness (8), while offences ranked 6 had the highest rate of change to conditional bail (9.6%), as well as the highest rate of change to bail support (1.2%). Offences ranked 8 also had the highest rate of remands to custody at this point (7.9%), followed by offences ranked 7 (7.1%). However, it was offences ranked 3 which had the highest rate of change to arrest warrant status (4.0%). The above data suggest no overall pattern in the relationship between offence gravity and bail outcome at this stage: however, the chi-square value for Table 4.28 was 73.179 (df = 42), a value slightly less than that expected at the $p = 0.002$ level of probability.

The next section looks at the impact of re-offending (i.e. offending while on bail) in the Baytown youth justice bail process.

The impact of re-offending on bail outcomes

As a measure of persistency of offending, each period of time spent in the bail process was monitored for recorded re-arrest during that period. The aim was to

investigate any link between recorded re-offending and restriction or denial of bail⁷⁴.

The following tables measure the nature and gravity of recorded re-offending during the study period, as well as measuring the effects of re-offending on bail status for young people in Baytown. As the group of young people who were re-arrested while on bail was considerably smaller than the whole group, the group was analysed as a whole, rather than being broken down along age and gender lines as in previous sections of this chapter.

Table 4.29 compares recorded re-offending rates with changes in bail status during the court process. This table shows that the majority of young people were not re-arrested during the bail process. Of those whose cases reached the courts, 765 (38.9%) were re-arrested, leaving 1204 (61.1%) who were not. There was a higher rate of change for each possible bail option among those who had been re-arrested than among those who had not. Those who were not re-arrested had a greater proportion of cases in which no change in bail status occurred (85.4% compared with 43.3%).

The nature and gravity of recorded re-offending on bail will now be considered, in order to examine further the role played by fresh offences in the courts' bail decisions at defendants' subsequent court appearances.

Table 4.30 examines recorded re-offending during the study period in more detail. It compares changes in status with the nature of recorded re-offending, for all of those who were re-arrested while on bail. It shows that 43.4% of cases in which a young person was re-arrested did not change bail status following the re-arrest. Within this figure, 68.6% of criminal damage offences committed on bail did not result in any change in bail status. This was the highest rate of offences not resulting in a

⁷⁴ A young person only needed to be arrested while on bail to be considered as having re-offended, regardless of the outcome of the later offence. This is why the term 're-offending' is used here, rather than 'reconviction'.

change in status, in any offence category (the lowest rate occurred among 'other' offences – 32.4%).

After no status change, the next most frequent bail outcome following re-offending was an arrest warrant for failure to attend court (21.4%). This outcome was most frequent in cases of vehicle theft (28.1%), and least frequent in motoring offences (6.3%). Remands to custody following re-offending were less frequent overall than arrest warrants or changes to conditional bail, but slightly more frequent than changes to unconditional bail. The highest rate of remands to custody at this stage were found among vehicle thefts (12.9%), with the lowest rate occurring in criminal damage cases (2.9%). The chi-square value for Table 4.30 was 52.299 (df = 42), close to the expected value where $p = 0.133$. However, the level of probability was low here, as the p value demonstrates.

Table 4.31 relates the seriousness of re-offending on bail to changes in bail status. Table 4.31 shows that a majority of re-offending ranked 2, 5 or 8 did not result in any change in bail status, and an outcome of no status change formed the largest proportion of cases in every offence seriousness category. The highest proportions of changes to conditional bail followed re-offending at opposite ends of the seriousness scale (in categories 1 and 8). For those denied bail following re-offending, the highest rates of remands to custody were to be found for offending ranked 5, 6 and 7, but the highest rates of arrest warrant were to be found for offending ranked 1, 3 and 5. The chi-square value for Table 4.31 was 71.039 (df = 42), a similar value to that expected where $p = 0.003$.

As was shown earlier in this chapter, a small proportion of cases in the study period underwent a second change in bail status. The relationship between re-offending and the second change in status is shown in Table 4.32. Table 4.32 shows that those who were recorded as having re-offended while on bail were more likely to

undergo a second change in bail status than those who did not. In particular, re-offenders were more likely to have been remanded to custody at this stage, as well as more likely to have had their bail status changed to unconditional bail, conditional bail, or bail support. A greater proportion of re-offenders were also issued with an arrest warrant for failure to attend court. However, the majority of re-offenders did not undergo a second change in bail status.

Table 4.33 compares the nature of recorded re-offending with the second change in bail status, for all of those cases in which the young person was re-arrested while on bail. A majority of cases involving re-offending on bail in each offence category did not undergo a second change in bail status. The lowest rate of this occurrence was found in the 'other' offence category (63.5%), and the highest rate was for drugs offences (90.9%). The most likely change in bail status at this point was a change to conditional bail (13.3%). This occurred most frequently for vehicle theft (19.0%) and 'other' offences (16.8%), and least frequently in cases of criminal damage (5.7%). The greatest rates of change to remand to custody status were to be found for criminal damage (8.6%) and violence (8.2%). The greatest rates of change to arrest warrant status, on the other hand, were to be found among fresh occurrences of 'other' offences (13.1%) and motoring offences (10.0%). Changes to bail support and remand to local authority status following re-offending were very rare. The chi-square value was lower than expected (chi-square = 46.441; $df = 42$), while the level of probability was also low for this table ($p = 0.294$).

Table 4.34 compares the seriousness of recorded re-offending with second changes in bail status for re-offenders. Table 4.34 shows that the majority of re-offending in each seriousness category resulted in no change in bail status. The highest rate of 'no change' cases was found for re-offending given a gravity score of 2, with the second and third highest rates in categories 4 and 7 respectively.

Elsewhere, the highest rate of change to conditional bail was for re-offending ranked 5 for seriousness, with the second highest rate for re-offending ranked 1. For cases denied bail at this point, the highest rate of remand to custody was for re-offending considered to be in the most serious category, followed by the rates for re-offending ranked 5 and 6. Re-offending ranked 1, meanwhile, had the highest rate of arrest warrants at this stage, with re-offending ranked 4 and 8 the only other seriousness categories to have a rate greater than the overall average of 6.4%. The chi-square value for Table 4.34 was 72.889 (df = 42), a slightly lower value than expected at the given level of probability ($p = 0.002$).

Having now considered the different stages in the court process at which bail status could change, as well as the impact of recorded re-offending upon these status changes, the next section examines the impact of cases' bail history on their final outcomes.

Comparing final case outcomes with bail history

This section focuses on how cases completed the bail process, and compares final case outcomes in each case with how that case had previously been dealt with during the bail process. It will therefore attempt to 'connect' final case outcomes with preceding bail process factors, which could have an influence on the final outcome.

As an introduction to this section, Table 4.35 compares initial offence type and seriousness with final sentencing outcome, for all cases within the study period which reached the court process. It should be noted that, throughout this section, outcomes are measured only for cases that reached the court stage.

Table 4.35 shows that the highest rate of custodial sentences was found in cases of vehicle theft. The second highest rate of custodial sentence was for

offences in the 'other' category. There was a 17.2% difference between the rate of custody for vehicle theft and the rate for drugs offences, which had the lowest proportion of custodial sentences. The highest rate of community sentences was for theft offences, with only 'other' offences and motoring offences having a rate of less than 60% in terms of community sentence outcome.

Usage of fines and withdrawal of charges have not been discussed so far in the chapter, but there were some interesting variations in their use here. For example, 18.2% of drugs offences were dealt with using a fine, but only 0.8% of vehicle theft and violence cases were dealt with in this way. Similarly, 18.2% of criminal damage-related cases were withdrawn or dismissed during the court process, as were 17.5% of cases involving violence, but no drugs cases were dealt with in this way. The chi-square value for this table (chi-square = 171.638; df = 28) indicated a significant relationship between initial offence and final case outcome ($p < 0.001$).

Table 4.36 compares the seriousness of offences with final case outcomes. Table 4.36 shows that the highest proportion of custodial sentences were for the most serious category of offences, 8. However, the second highest proportion were for offences rated 1. Altogether, 177 of the 330 cases which resulted in a custodial sentence being imposed (53.6%) were for offences given a gravity score of 4 or less. There was a sharp increase in the custody rate – offences rated 1 left aside – between offences rated 4 and offences rated 5.

Rates of community sentencing increased with seriousness until reaching a peak for offences rated 3. Thereafter, they declined with increasing offence seriousness, until a slight increase for offences rated 7, before declining again for offences rated 8. Other outcomes produced more varied results. For example, the highest rate of dismissal or withdrawal was for offences rated 8 (16.7%), but the

lowest rate was for offences rated 7 (7.1%). The highest rate of fines, meanwhile, was for offences rated 2 (13.5%), but no cases rated 6 or 8 were dealt by means of a fine. The chi-square value for Table 4.36 was 158.701 (df = 28), indicating a statistically significant relationship between the variables at the $p < 0.001$ level. The rate of community sentences reached a peak for offences rated 3, before declining with increasing seriousness. The rate of custodial sentences increased significantly for offences rated between 5 and 8, although this trend was skewed by a high percentage of offences rated 1 which received a custodial sentence. The latter may be explicable by the seriousness with which breaches of court orders were taken (see above), since such breaches were rated 1 on the offence gravity scale.

Table 4.37 moves on from this analysis to investigate the impact of denial of bail on final sentence outcomes in the Baytown youth courts. Table 4.37 shows the impact of denial of bail at any point in the bail process (whether at initial court appearance or subsequently) on sentencing. Overall, it shows that 1589 of the 1851 cases reaching court (85.8%) were not denied bail during the court process. It can also be seen in Table 4.37 that those who were denied bail at some point in the process were less likely to receive a community sentence, and much more likely to receive a custodial sentence, than those who were not. This suggests that being remanded to custody was a significant factor in sentencing, in that it made a custodial sentence at the end of the court process more likely.

However, it should also be noted that those denied bail at some point were in fact more likely to receive a community sentence than a custodial sentence, although the difference in the two proportions was only 3.8%. There was a significant relationship between the seriousness of the initial offence and the final sentence outcome (chi-square = 158.701 (df = 28); $p < 0.001$).

Table 4.38 examines the relationship between the bail decision made at young persons' first appearances in court and the final sentence outcome, to measure the impact of these initial decisions on sentencing. Table 4.38 suggests that the initial bail decision made by the courts in Baytown did have an impact on sentencing. For example, only 7.6% of cases granted unconditional bail at first appearance were eventually sentenced to custody. Similarly, for cases granted conditional bail at initial court appearance, just over a fifth (21.9%) were given a custodial sentence, while almost two thirds eventually received a community sentence (65.6%). A more ambiguous result was found when investigating what happened to young people who were initially remanded to custody. A large minority of these cases (43.0%) were eventually given a community sentence, compared with 53.0% which received a custodial sentence. One side-issue raised again in Table 4.38 is how rarely bail support was used at initial court appearance, in just 6 (0.3%) of the 1851 cases reaching the initial court appearance stage. Of these six cases, three received a community sentence, two received a custodial sentence, and one was eventually dismissed. The chi-square value for Table 4.38 was 572.199 (df = 32), significant at the $p < 0.001$ level.

For ease of analysis and its presentation, the whole of the sample group was analysed together in Table 4.38, and Tables 4.39 and 4.40, which deal with subsequent changes in bail status and their relationship with final case outcome. However, the relationship between the initial bail decision, final sentence outcome, age and gender was also considered. When the relationships between these variables were considered together, it was found that the largest chi-square values – for both males and females – were to be found for 17-year-olds, when degrees of freedom were taken into account. Whereas for 15-year-old males, the relationship had a chi-square value of 126.987 (df = 28), where $p < 0.001$, and for 16-year-old

males the chi-square value was 163.676 (df = 32), where $p < 0.001$, for 17-year-old males the chi-square value was 301.278 (df = 28) where $p < 0.001$, indicating a stronger relationship between initial bail decision and final sentence for this subgroup. Similarly, for 15-year-old females, the chi-square value was 23.602 (df = 16; $p = 0.099$), and for 16-year-old females the chi-square value was 17.399 (df = 12; $p = 0.135$), while for 17-year-old females the chi-square value was 61.947 (df = 20; $p < 0.001$).

Table 4.39 compares bail decisions at the first point of change in bail status with final sentences. Comparing Table 4.39 with Table 4.38, it can be seen that a greater proportion of young people whose bail status changed to unconditional bail at the first status change point eventually received a custodial sentence, compared with the proportion who received unconditional bail at their first court appearance. The same shift in the balance between community and custodial sentences can be seen when comparing those who were granted conditional bail at the first change in status, and those who received it initially. It can also be seen with those who were remanded to custody at their first change in status. Here, though, the shift was such that a majority (61%) of those who were remanded at this point actually received a community sentence eventually, compared with 30.2% who received a custodial sentence. The chi-square value for Table 4.39 was 82.546 (df = 24; $p < 0.001$), a significant value at this level of probability.

As above, the relationship between first change in bail status and final sentence was also broken down by age and gender. Whereas the strongest statistical links in Table 4.38 above were found for 17-year-olds (male and female), here the only chi-square value which was larger than expected was that for 16-year-old boys (chi-square value = 67.513; df = 24; $p < 0.001$).

Table 4.40 shows links between final case outcomes and the second change in bail status. Table 4.40 shows more similarity to Table 4.38 than to Table 4.39 overall. The percentage of cases remanded to custody at this stage, but eventually receiving a community sentence, decreased compared with the first point of change in status. In fact, the proportion of cases in this category was exactly the same as the proportion which received a remand to custody at this stage, and went on to receive a custodial sentence (46.6% in each case). The proportion of cases receiving unconditional bail and going on to receive a custodial sentence increased, compared with the previous two tables, to over a fifth (22.5%). The percentage of cases receiving conditional bail at this stage and going on to receive a community sentence (65.4%) rose slightly compared with Table 4.39 (where it was 62.7%), returning almost exactly to the level in Table 4.38 (where it was 65.6%) – although the proportion receiving conditional bail and later being sentenced to custody rose compared with the proportions in the previous two tables. The chi-square value for Table 4.40 was 87.827 (df = 24; $p < 0.001$), a significant value, and one which was slightly higher than that for the relationship between the first change in bail status and final sentence, but considerably smaller than that for the relationship between initial bail outcome and final sentence.

As before, these data were further broken down by age and gender subgroups for statistical testing. However, for the relationship between the second change in bail status and final case outcome, there were no statistically significant relationships in any of the age or gender subgroups. The highest chi-square values were those for 16-year-old boys (chi-square = 38.627; df = 18; $p = 0.003$) and 17-year-old boys (chi-square = 27.996; df = 20; $p = 0.109$).

The final section of this chapter examines the amount of time cases took to complete the bail process in Baytown.

Comparing amounts of time spent in the bail process

This section examines the amount of time for cases to reach their final outcome at the end of the bail process. In analysing the data, it is recognised that the high number of cases in which no period of time was spent on bail (usually because the case in question did not reach court) will distort statistical analysis in this area. Therefore, three measures will be used here: data for all cases within a particular subgroup (i.e. all those cases for which data were available), data for all cases within a particular subgroup which reached court, and data for all cases within a subgroup where at least one day was spent on bail.

Table 4.41 begins the analysis by comparing times taken to complete the bail process for all cases within the sample, breaking results down by age of defendant. In Table 4.41, the mean for all cases involving 16-year-olds (39.22 days) was greater than that for other age-groups. 16-year-olds' cases also had the greatest standard deviation (50.603), although it was 15-year-olds' cases which had the greatest range of the three age groups in the study (330 days), and the median value was greatest for 17-year-olds (23.00 days).

Table 4.42 shows that females' cases spent considerably less time in the process than males' on average (26.16 days compared with 38.09 days). Similarly, the median time spent in the process and the standard deviation were both smaller for females than males.

Tables 4.43 and 4.44 consider times taken to pass through the bail process for all cases reaching the court stage. Table 4.43 discusses results for different age groups. It shows that, for cases which reached the court stage, 16-year-olds took longer to progress through the bail process on average (50.98 days). The median (28.00 days) and standard deviation (53.726) values were also greater for this age

group than for others – and the gap between this age group’s mean, median and standard deviation values and those for other age groups was greater than it was when all cases in the study were considered (see the results from Tables 4.41 and 4.42 above).

Table 4.44 breaks down the same data by gender. As in Table 4.42 above, males whose cases reached the courts had greater mean, median and standard deviation values than females. It is noticeable that the differences in these values between males and females were smaller than they were for all cases.

Tables 4.45 and 4.46 limit the analysis to cases which involved an identifiable bail period (i.e. only those cases in which a young person spent at least one day in the bail process are counted). Table 4.45 shows that 16-year-olds had the greatest mean and median times taken for cases to complete the bail process, as well as the greatest standard deviation value. Removing cases which were dealt with immediately at court increased mean values for all three age groups by between three and five days, when compared with values for all cases reaching court. Similarly, median values increased for all three age groups, as did standard deviation values – although the increases in standard deviation for 16-year-olds and 17-year-olds were minimal compared with the values for all cases reaching court.

Table 4.46 breaks down the same data by gender. As with age groups, previous patterns for gender groups continued in Table 4.46. Male mean, median and standard deviation values continued to be greater than those for females, and greater than the values for all cases reaching the court stage. Compared with the latter measure, however, increases for males were greater than increases for females. As with all five previous tables in this section, however, there was a wide range in case values.

There was evidence that young people in Baytown were more likely to re-offend the longer they spent on bail. Taking the overall median value for length of time spent on bail during the study period (21 days) as a benchmark, of those who spent less than 21 days on bail, 11.6% re-offended during the bail period, whereas for those who spent 21 days or more on bail, 54.3% re-offended during the bail period.

Conclusions

This chapter aimed to define the shape and operation of the Baytown youth justice bail process, with regard to children aged 15, 16 and 17. It addressed the question of the explicability of the decisions made in the process, with reference to key criteria relating to offences and offenders. While it is difficult to summarise the amount of data presented above, an overall conclusion is that decisions were mostly explicable on the grounds of the key criteria in the early stages of the process. Similarly, relationships were found between initial bail outcomes and sentencing. However, subsequent bail decisions were less explicable on the grounds of the key criteria, and no relationships were found between these subsequent decisions and sentencing outcomes.

The issues raised in the course of the analysis will be further discussed and analysed in the following chapter, which aims to explain and highlight the findings reported above. In this way, following the critical realist methodology adopted in Chapter Three, the outcomes of the Baytown youth justice bail 'world' can be established, and hypotheses for explaining these outcomes can be put forward, to be tested in later chapters of this study.

Chapter Five

Loose cannon or well-oiled machinery? Discussion and analysis of the outcomes of Baytown's youth justice bail process

Introduction

This chapter discusses and analyses the findings reported in Chapter Four. In this way, the outcomes of the youth justice bail process can be highlighted and explained, using the data presented in Chapter Four as the basis for the arguments in this chapter. To aid the accessibility and clarity of analysis here, the chapter will be organised into the same sections as Chapter Four, dealing with the key issues relevant to the Baytown bail process, and the young people and offences with which it dealt. The chapter will conclude by presenting the key outcomes from the quantitative findings, together with hypotheses for explaining these findings. Explanations will then be tested and triangulated by means of the data in Chapters Six, Seven and Eight. As stated above in Chapter Four, the tables containing the data analysed in this chapter (and reported on in Chapter Four above) can be found in Appendix C below. All references to individual tables in this chapter correspond with the tables listed in Appendix C.

Frequency of arrest by age and gender

The findings in this section of Chapter Four showed how frequently males and females of different ages were arrested within the study period, as an introduction to

the analysis later in the chapter. The picture here was that of an offending profile dominated by male offending, with more than three-quarters of arrestees in all three age groups covered by the study being male. It was difficult to contextualise the findings that the peak arrest age in the study was 16 for males and 15 for females. This was so because it was not possible to compare number of arrestees in each age group with general population rates for each age group in the Baytown area at the time of the study. These findings will be compared with the response of the youth justice process to offending by different age groups as the chapter continues.

Bail and community order status at point of arrest

The findings in the third section of the previous chapter related to the numbers of young people who were already on bail, or still in the process of completing a court order, when they were arrested. The aim here was to provide a preliminary picture of the persistency of youth offending in Baytown during the study period.

Findings showed that the rates of being on bail at the time of arrest and being on a previous court order at the time of arrest both increased with age, with a majority of 17-year-old arrestees being already on bail. The differences between different age groups were found to be statistically significant, so that the likelihood of offending on bail or while under a community sentence increased with age, while the likelihood of not being on bail or under a community sentence correspondingly decreased with age. This indicated that the youth justice bail process in Baytown had grounds for adopting a different approach to different age groups' offending – for example, by 'fast tracking' 17-year-olds through the process. Again, this finding will be contextualised later in this chapter, when responses to the different age groups' offending will be analysed in more detail.

The analysis in this section also relates to the issue of whether bail support could (and should) have been offered at the police station stage (in fact it was only offered by the Baytown YOT at court). Given that the number of young people arrested while on bail increased with age, it might be argued that bail support services could have been provided at the police station stage of the youth justice process, particularly for the 17-year-old age group. However, these figures must be considered in the context of police action following arrest and charge, the number of young people who were denied bail at this stage, and the time taken to process remanded cases through to the court stage. These issues will be considered in more detail below.

This section also considered the relationship between gender and bail status on arrest. Although a similar proportion of males and females were on a previously-imposed court order at the time of their arrest, a greater proportion of males than females were on bail at the time of their arrest (and, correspondingly, a greater proportion of females than males were neither on bail nor on a court order). These differences were statistically significant at the $p < 0.001$ level, so that the percentage of those not on bail or a community sentence at the time of arrest was significantly greater for females. This suggests that, if a case for bail intervention at the police station stage was to be made, the suspect's gender would be an important factor in targeting that intervention (with males being more likely to be arrested while on bail). Again, though, this analysis must be contextualised by analysis of the operation and efficiency of police decisions (such as whether to charge or divert suspects). This can be found in the section of this chapter dealing with police charge and bail decisions, and the analysis here should be read in context with the analysis in that section.

Types of offences committed

The fourth section of Chapter Four broke down the offences recorded by type, and compared the different categories of offences with the age and gender of alleged offenders. Table 4.4 (illustrating the relationship between offence type and age) showed that the majority of offences in each age group were theft-related (covering vehicular and non-vehicular theft). This meant that a majority of offences recorded were property-related, and did not involve a direct threat to the public. Violence against the person, by contrast, accounted for between 5% and 10% of offences in each age group. Table 4.4 showed trends in offence type which remained consistent across the different age groups included in the study.

However, these trends did not remain constant when offence type was compared with gender in Table 4.5. This table showed that there were noticeable variances in frequency of different types of offences between males and females, beyond the fact that non-vehicular theft formed the greatest proportion of arrest for both males and females. A greater proportion of males were arrested for vehicle-related offences (either motoring offences or vehicle theft), while a greater proportion of females were arrested for violence against the person and public order offences. Taken together, the two tables showed contrasting patterns in offence type across age and gender divisions. However, the relationships in both tables were statistically significant (with the differences in Table 4.5 – where females were significantly more likely to have committed offences of public order and violence than males – more strongly significant than those in Table 4.4). This shows that age and gender were significant factors to be taken into account when responding to offending behaviour.

The results in this section must be contextualised by examination of which offences were placed in which category for the purposes of this part of the research.

A full list of offences and offence categories can be found in Appendix B, but some indication of the content of the offence categories is included here. Each category covered a range of offences. For example, the theft category here covered 'ordinary' theft, but also different types of burglary. The vehicle theft category covered 'ordinary' and aggravated vehicle theft⁷⁵, as well as the lesser offence of 'interfering or tampering with a vehicle'. Public order offences, which accounted for the third greatest proportion of offences in each age group, included minor breaches of the peace, but also more serious charges such as insulting or threatening behaviour and affray. Again, it was difficult to categorise the more serious public order offences in terms of whether or not they were a direct threat to the public.

This issue was even more prominent in discussing the 'other' offence category. The 'other' category mirrored the classification of offences in official statistics. Here, it included any offences which did not fit into any of the specific offence categories. It therefore included offences as diverse as interfering with a witness, possession of an offensive weapon, and breaches of bail and court orders. It was this masking of individual offences within offence categories which led to the discussion and analysis, in the previous and current chapters, which measured the seriousness of recorded offences, with the aim of clarifying the exact nature of offending.

Most serious offences committed, by gravity

Tables 4.6 and 4.7 used an offence gravity scale (see Appendix B) to compare offence seriousness with the age and gender of suspects. These results supported

⁷⁵ Aggravated vehicle theft can include some element of direct risk to the public caused in the course of the theft (the 'aggravating factor'). This is therefore an example of a 'hybrid' offence, officially against property but also involving at least the risk of harm to the person, and can be difficult to classify as an offence against property or an offence against the person.

the argument that the offending carried out by the young people in this study was mostly low to medium range in nature. A majority of offences across all three age groups, and across both genders, were rated 4 or below on the gravity scale. However, the proportions of minor offending decreased with increasing age, and were greater for females than males. As with previous sections in this chapter, the differences between different age and gender groups according to offence seriousness were statistically significant (also as previously, the differences were more strongly significant for gender than for age). However, as noted above in Chapter Four, although 17-year-olds were more likely than others to have been arrested for offences rated 7 or 8, there were no clear patterns in the data in Table 4.6, and the result may be explicable by the concentration of offences rated 3 and 4. In Table 4.7, the proportion of more serious offending (rated between 5 and 8) was greater for males than for females. The real significance of these findings will lie in the response of the bail process to the arrest patterns shown here – how appropriate the use and denial of bail were in the light of these findings – but the analysis so far in this chapter shows the importance of age and (particularly) gender in patterns of offending captured in the study. This provides a benchmark for outcomes in the later stages of the bail process.

Another relevant issue here is the role of breaches in offending patterns. As the only offences rated 1 were breaches of some kind (either of bail or of court order), the tables showed that breaches accounted for 12.0% of all arrests within the study (320 arrests overall). These arrests represent failure to comply with the conditions of bail or sentences, rather than criminal offences per se. Objectively speaking, they could therefore be seen as less serious than other offences. They are also of interest, however, in that they represent opportunities for intervention, while on bail or court order, to attempt to prevent such breaches as failing to observe

curfews, failing to report to police stations when required to, and failing to attend court hearings at the right time. More light will be shed on this issue later in the chapter, when the exact nature and extent of YOT intervention to protect young persons' rights to bail is discussed and analysed in detail. Breaches relate directly to the conditions of bail, and as such an important issue later in the chapter will be the response of the bail process to these 'offences' in particular.

The next section marks a dividing point in the discussion of findings, as what follows uses the discussion so far in this chapter as a starting point for analysis of the structure of the Baytown youth justice bail process, and its outcomes.

Police charge and bail decisions

The sixth section of Chapter Four examined the operation of the police bail and charge process in Baytown, using the key variables discussed in the sections above. To contextualise and evaluate the results here, it is necessary to refer to the legal rules governing police decisions at this stage. Firstly, the police decision whether or not to charge is governed, at least in theory, by the 'reasonable prospect of conviction' threshold (Sanders 1997: 1072). Although the 'reasonableness' of the police decision to charge could not be evaluated here, the tables in this section showed that an overall majority of cases were charged immediately in this study. An overall majority was also found across all age groups, both gender groups, all offence types except drugs offences, and all offence seriousness categories except category 2⁷⁶.

An immediate charge meant that the young person was either released on bail until his or her first appearance in court, or held in custody pending the next available

⁷⁶ And in the case of both of the latter exceptions to the rule, cases immediately charged formed a larger proportion of the total number of cases than any other police decision outcome.

youth court hearing. However, the database from which the data were derived did not differentiate between cases in which young people were granted bail by the police before their first court appearance, and cases in which young people were denied bail by the police, and detained until their first court appearance⁷⁷. Qualitative information⁷⁸ assisted partially in understanding this issue. Unlike some other YOT areas, Baytown had a youth court which operated six days per week⁷⁹. This meant that those denied bail during the week were systematically presented for the court at the next session. Therefore, the typical detention period was less than 24 hours. The obvious exception to this was the detention of young people arrested and charged after the Saturday morning court session. If they were denied bail, they were detained until the Monday morning court session.

This does not enable a clear distinction to be made between those who were denied bail and those who were not, and as such the data are flawed on this point. The missing data also precluded investigation of links, for example, between denial of bail by police and denial of bail in the court process later, the existence of which have been argued for in other research (e.g. Sanders and Young 2000). What can be said, however, is that the majority of young people (65.7%) in the study were either bailed to appear in court, or denied bail for less than 24 hours. This demonstrates 'time efficiency' in the police bail process, whereby cases were moved onto the court stage quickly. It is also clear from the results in this section that police bail was used comparatively rarely (in 16.4% of cases overall, including those dealt with by means of reprimand or final warning following a period on bail), and where it

⁷⁷ Section 38 of PACE states the criteria for denying police bail, at least one of which must be satisfied before a young person can be remanded. These are as follows: the young person's real name or address cannot be ascertained; the young person, in the police's view, is unlikely to appear in court if bailed; the young person is likely to interfere with witnesses or further police investigations if bailed; or the young person is likely to commit further serious crimes if bailed (Sanders 1997: 1075).

⁷⁸ Gained through participant observation research on the Baytown YOT staff – see Chapter Six for details.

⁷⁹ Morning and afternoon sessions from Monday to Friday, and morning sessions on Saturdays.

was used, a greater proportion of cases led to a charge than to no further action, a reprimand or a warning – this was true overall, and also for all age and gender groups, all offence types, and all categories of offence gravity.

Consideration of the relationships between police decisions and each of the four key variables used in the research – age, gender, offence type and offence seriousness – revealed statistically significant relationships between police decision outcomes and all of the key variables. The proportion of cases charged immediately increased with age, and males were more likely to be charged (either immediately or later) than females, for example. This suggests that police decisions were made in a systematic way, taking such factors as age, gender, offence type and offence seriousness into account. The statistically significant relationships between police decisions and the nature and seriousness of offences indicates that the Baytown police were taking such factors into account when assessing the prospects of conviction. Further evidence of organised thinking can be found in Tables 4.10 and 4.11, which show that ‘other’ offences with a seriousness rating of 1 (i.e. breaches of bail or court order) had a very high rate of immediate charge.

The significant relationships between police decisions and the age and gender of suspects are less easily explained by the ‘reasonable prospect of conviction’ rule. 17-year-olds, for example, had a greater proportion of cases immediately charged than the younger age groups, and these differences were statistically significant. These significant relationships suggest the presence of police ‘working rules’, within the formal legal provisions, which help police make decisions, using legally irrelevant factors (e.g. McConville, Sanders and Leng 1991). However, another explanation is that two or more of the key variables (or other variables which could not be controlled for in this study) were interacting to provide systematic (and legally permissible) grounds for prosecution. For example, although Table 4.8 showed that 17-year-olds

were significantly more likely to have their cases immediately charged, Table 4.6 showed that this age group were also significantly more likely to commit offences with a seriousness score of 5 or more than other age groups.

Therefore, apparently irrelevant factors in police decision-making could be explained by their coincidence with relevant factors, such as the probability of certain age and gender groups committing more serious kinds of offence. The evidence here cannot conclusively prove that the Baytown police did not use 'working rules', such as age and gender, to help them make decisions. But the existence of prima facie 'illegally' significant factors was shown to mask more complex relationships between relevant factors and police decisions. This, combined with the 'time efficiency' of the police process in Baytown, points to systematic decision-making at this stage. The high rate of immediate charge does not indicate a proactive approach to bail by YOT staff at the police station, but such a proactive approach was not justified on the basis of the statistical evidence.

The next section of analysis deals with bail outcomes at the first court appearance.

The first appearance in court

The seventh section in the previous chapter discussed bail outcomes at the initial appearance in court, analysing data by age, gender, offence type and offence seriousness, as previously. The effectiveness of bail decisions in court must be contextualised by reference to the criteria for denial of bail, as contained in the 1976

Bail Act:

*'For offences for which imprisonment is a possible punishment, defendants need not be granted bail if there are **substantial grounds for believing** that they will:*

- *fail to return to court when they should;*
- *commit an offence while on bail;*
- *interfere with witnesses or otherwise obstruct the course of justice, whether in relation to themselves or another person.'*
(Hucklesby 2002: 123, emphasis in original)

The findings must be assessed in the light of these criteria. Of the three requirements listed in the Bail Act, one, the likelihood of interfering with witnesses or police investigations if released on bail, could not be assessed in the study. The nature of the research meant that the reasons given in court for denying or restricting bail could not be systematically collated. Doing this would have been the only way in which the appropriateness of the Baytown courts' denial or restriction of bail on this ground could have been evaluated.

The remaining two criteria mentioned in Hucklesby's quote above, however, could be assessed using the available data. Focusing on the criterion of likelihood of failure to surrender to the courts firstly, this issue is focused upon in Table 4.16. The table showed that there was a significant relationship between bail status at the point of arrest and bail outcome at the first court appearance, and therefore that those on bail when arrested had a significantly greater rate of conditional bail, remands to custody and remands to local authority accommodation than those who were not on bail when arrested. There is therefore evidence to support the argument that the Baytown youth courts made appropriate restrictions and denials of bail on the basis of the above criterion.

Less easy to reconcile with the above criterion was the finding that 5.8% of offences ranked 1 for seriousness were remanded to custody at the first court appearance. These represent breaches of bail and breaches of court orders (i.e. failure to comply with bail conditions) – not criminal offences in themselves, and

therefore not governed by the criteria for denying bail mentioned above⁸⁰. Non-imprisonable offences have stricter criteria for the denial of bail than imprisonable offences, the most important of which is the scenario where, as Jones (2003: 401) notes, *'a defendant has previously "jumped bail" and the court considers that this is likely to happen again.'*

The finding therefore illustrates the operation of a reason (i.e. arrest for breach) for employing one of the grounds (i.e. likelihood of breaching bail) for denying bail which are set out in the Bail Act 1976. As ever in bail decisions, however, the law is defined in vague terms here. The courts are asked to make a prediction as to what might be likely to happen if bail is granted. Therefore discretion played a large part in deciding whether bail was granted or denied, even though denial of bail following previous breach of bail was, in theory, within the legal rules. The reality of the Baytown courts taking breaches of bail very seriously, and denying bail following breach in some cases, could be seen as an indication that more could have been done by the Baytown YOT to intervene in cases where the immediate cause of the denial of bail was not previous criminal offences, but a breach of bail which did not necessarily entail the commission of a crime. An example might be providing assistance in transporting young people to court for scheduled court hearings, where a defendant had previously failed to attend court, and had been denied bail as a result. In fact, bail support was not used at all at first court appearance for breaches of bail.

A second criterion for denial of bail (for imprisonable offences) is the likelihood of re-offending if the defendant is released on bail. The seriousness of the charge facing the defendant is a reason for denying bail on this ground, rather than a ground in itself. Table 4.15 suggested that this was a reason which was relied upon by the

⁸⁰ However, the Criminal Justice and Court Services Act 2000 creates a presumption of custodial remand when an offender re-appears in court for breach of a court order.

courts in bail decisions at the first court appearance. More serious offences had higher rates of remands to custody, and there was a statistically significant relationship between seriousness of offence and bail outcome at this stage, since the rate of remand to custody increased with offence seriousness, as did the rate of conditional bail (with the exception of offences rated 1 in the latter instance – although this may again be explicable by the fact that breaches of bail and court orders were rated 1 for seriousness). It might be argued that the existence of a statistically significant relationship here indicates that the Baytown youth courts elevated seriousness of offence beyond the status of a reason for relying upon a ground for denying bail, so that it was instead used as a ground in itself. Hucklesby (2002: 124) has documented the regular occurrence of this misapplication of the bail law elsewhere. However, while the evidence of the strong relationship between offence seriousness and outcome here suggests this occurred (and therefore that the courts were not making decisions in an appropriate or systematic way), it cannot conclusively prove that the Baytown courts made this error in practice. Other evidence that decisions were appropriately made in line with the law can be found in Table 4.16. As previously shown, this table revealed a significant relationship between bail status on arrest and bail outcome at the first court appearance, and therefore suggests that the courts legitimately took this factor into account when deciding whether to grant or deny bail at the initial court appearance.

A separate issue relates to the very low rate of bail support referral at first court appearance. The tables in this section show that only 0.3% of cases resulted in a young person being placed on bail support at the first court appearance. This raises the key issue of why further applications were not made, especially considering the analysis above on the rate of remands to custody for (prima facie minor) breaches of bail. The discretion inherent in the Bail Act's criteria for denying

bail is important here. Where a young person had offended persistently (re-offending while on bail, for example), but the offending in question was minor or non-violent, the courts could legally find grounds for denying bail, but the denial of bail was not inevitable. There was scope for bail intervention to protect against denial of bail for minor offending. Table 4.14 showed that 14.2% of remands to custody at the first court appearance were for violent offences, while Table 4.15 showed that just over 16% of remands to custody were for offences ranked 4 or less for seriousness. Remands to custody for petty but persistent non-violent offenders were a feature of the Baytown bail process at the initial court appearance, and there was scope for challenging the grounds for denying bail in these cases. The issue of bail support applications will be returned to later in this chapter. A key issue raised by this analysis, though, was whether the low rate of bail support referral was more due to widespread rejection of YOT applications by the Baytown youth courts, or more due to applications not being made by the YOT in the first place, thereby cutting off the supply of bail support cases before the court stage.

The following section analyses bail outcomes for subsequent appearances in court.

Subsequent appearances in court

The first part of the eighth section in the previous chapter introduced the parameters of analysis, by showing how many cases had undergone changes in bail status, and analysing frequencies by age, gender, offence type and offence seriousness. The principle finding revealed here was that an overall majority of cases reaching the courts did not undergo changes in bail status. Table 4.17 showed that 15-year-olds had higher rates of cases which did not change status

during their time spent in the bail process. Triangulating this with previous data, it has already been shown that 15-year-olds were significantly less likely to be on bail or a court order at the time of arrest (Table 4.2), significantly less likely to be arrested for violent offences (Table 4.4) and significantly less likely to be arrested for offences rated 5 or above for seriousness (Table 4.6). The evidence shows that the Baytown courts took these factors into account in deciding whether or not to change bail status at subsequent court appearances. The age group with the least serious and persistent offending patterns was also the age group that was least susceptible to subsequent changes in bail status.

A similar pattern can be found by triangulating the findings of Table 4.18 (females were more likely than males to undergo no changes in bail status) with earlier findings. Although females were statistically more likely to be arrested for violent offences, they were also significantly less likely than males to be on bail or on a court order when arrested, and significantly less likely to be arrested for offences rated 5 or more for seriousness. Table 4.20 confirmed these findings by showing that the proportion of offences not undergoing any change in bail status decreased with increasing offence seriousness. The courts therefore seemed to take offence and offender characteristics into account systematically when deciding whether or not to make changes to bail status, with less serious and less persistent offending being less likely to undergo changes in status. However, the patterns discussed here were absent when comparing rates of cases undergoing one and two changes in bail status. There were no trends in the differences between these groups of cases, using any of the key variables. Once the initial decision to change bail status had been made, subsequent changes in status seemed to occur less systematically.

The second part of Chapter Four's eighth section focused specifically upon outcomes at the first point of change in bail status. Table 4.21 revealed a statistically

significant relationship between age and bail outcome at this stage, so that the rate of remands to custody increased with age. The finding that 17-year-olds had a significantly higher rate of remands to custody at this point is explicable both on the basis of the law on bail and previously analysed data. The bail law shows that the criteria for denying bail are less strict for 17-year-olds than for younger children (e.g. Ball, McCormac and Stone 2001), because their vulnerability is not taken into account for the purposes of bail decisions. Previous analysis in this chapter, meanwhile, shows that 17-year-olds were significantly more likely to be persistent and serious offenders than younger age groups. These two factors explain how 17-year-olds could have had a greater proportion of remands to custody at the first status change point within a process of systematic decision-making.

A statistically significant relationship was also found between offence seriousness and the first change in bail status, indicating that offence seriousness played a significant part in decisions to change bail status at this point. In particular, the more serious offences (ranked 5 and above) were most likely to undergo a change in status, reinforcing the argument that more serious offences were more susceptible to status changes. No significant relationship was found between gender and bail outcome at this point, or between offence type and outcome. These are departures from findings relating to the initial court appearance, and suggests that these variables declined in importance for the courts when making decisions at subsequent appearances.

In the previous section of this chapter, it was noted that bail support referrals at first court appearance were very rare. It was also noted that this could not (on the basis of documentary evidence) be explained by the courts rejecting YOT bail support applications, since this was also a very rare event. Tables 4.21-4.24 showed that this pattern was maintained at the first point of change in bail status. 12 cases

resulted in a switch to bail support at this stage, compared with six cases which were referred onto the bail support scheme initially. This represents an increase from 0.3% of total number of cases at first appearance to 0.6% of the total number of cases at the point of first change in status – a classic case of figures being doubled, but from such a low starting point as to make very little impact. Table 4.24 above shows that 10 of the 12 bail support cases had a gravity score of 6 or more. Therefore it could be said that the majority of offences for which bail support was granted were 'serious', and that there was evidence that bail support was being targeted systematically at more serious offences. The under-use of the bail support scheme, however, was noticeable at the first change in status, just as it was at initial court appearances.

Another issue raised in Tables 4.21-4.24 above was failure to attend court. As shown here, the proportion of young people made the subject of an arrest warrant increased compared with numbers not attending the first appearance in court. This is particularly highlighted in Table 4.24, where a small group of young people were given either conditional bail or custody for offences with a gravity score of 1 (all of which were breaches of either bail or court order in practice). This again shows that the Baytown courts took failure to attend court seriously at each stage in the court process – as they were entitled to do under the Bail Act's provisions regarding likelihood of failure to attend court or re-offend if released on bail. Although this does indicate systematic and appropriate decision-making by the Baytown courts, more could arguably have been done by YOT bail services to tackle this problem, via the bail support scheme, so as to attempt to reduce the risk of restrictions on young persons' liberty in the bail process for what were prima facie minor transgressions.

Table 4.24 showed that offences rated 5 and 6 had the highest rate of change to both conditional bail to custody status at this point. Additional analysis of these

data showed that over half of the cases in which status transferred from conditional bail to remand to custody or local authority accommodation at this point had an offence seriousness score of 4 or less. This presents the image of a fine line between restriction and denial of bail for young people, especially for medium range offences. The risk to the public of re-offending, when used as a criterion for denying bail, is important in this regard. Seriousness of offence, a recognised reason for denying bail on the ground of risk of re-offending, did not play a major role in over half of the cases in which bail was denied⁸¹. The regular use of remands to custody in such situations, together with the rarity of active YOT interventions in the form of bail support packages⁸², is a feature of the Baytown bail structure which merits further investigation and explanation in the chapters which follow.

Tables 4.25-4.28 examined outcomes at the second point of change in bail status. Table 4.25, showing the relationship between age and outcomes at this stage, revealed that 16-year-olds had the highest rate of change overall. However, it was the 17-year-olds who had the highest rate of denial of bail⁸³, and the highest rate of remand to custody in particular. Previously in this chapter, this occurrence was explained by the less strict criteria for denial of bail to 17-year-olds, compared with younger children. At earlier points in the bail process, statistically significant relationships were found between age and bail decisions to support this explanation.

⁸¹ Seriousness of offence is not a ground for refusing bail in itself, but still counts as an important reason for refusing bail, as evidence for the court's substantial grounds for believing that the defendant would re-offend if released on bail: see Bail Act 1976, Schedule 1, Part 1, paragraph 9, as cited in Hucklesby (2002: 124). Also, paragraph 2a of the 1976 Bail Act Schedule 1, as added by section 26 of the Criminal Justice and Public Order Act 1994, states that bail need not be granted if the offence is indictable or triable either way. This would apply to all of the offences in this study rated 5 or above.

⁸² The question of whether the rarity of bail support referrals was due to the rejection of bail support applications by the courts, or down to YOT staff simply not applying for bail support in the first place, will be discussed in more detail in Chapter Six below.

⁸³ Including, as before in this study, remands to custody, remands to local authority accommodation, and arrest warrants.

There was no such statistical relationship in Table 4.25, however. This suggests that age could not explain 17-year-olds' greater rate of remands to custody at this stage.

Among the remaining key variables, no statistically significant relationships could be found between bail outcomes and gender, offence type and offence seriousness characteristics⁸⁴. This is a noticeable departure from earlier stages of the bail process, where significant relationships were consistently found between decision outcomes and the key variables used. The key findings contained in Tables 4.25-4.28 – such as criminal damage and vehicle theft having higher rates of remand to custody than other offences (Table 4.27), 17-year-olds' higher rates of remand to custody (Table 4.25, see above), and a similarly low rate of bail support usage to that found at earlier stages of the process (all of the tables) – did not, therefore, show the signs of being reached in a systematic way, as earlier decisions had done.

It has already been noted in this chapter that discretion is inherent in the bail process, and that the terms of the 1976 Bail Act which govern the restriction and denial of bail are loosely defined. However, this is the first point in the Baytown bail process at which there was limited evidence that bail decisions were made in a well-organised way. This is not to say that there was no evidence at all of guiding decision-making principles at this point. Rates of remands to custody, for example, increased with increasing offence seriousness, and as 17-year-olds were more serious and persistent offenders than younger age groups, their greater rates of remands to custody might be explicable on these grounds. Nevertheless, statistical evidence did not point to systematic decision-making here, as it did for earlier bail decisions.

The detrimental operation of discretion in this part of the bail process may be explicable by reference to macro-level legislation and policy:

⁸⁴ Although the relationships with offence type and offence seriousness produced chi-square values only slightly below the expected level.

'... (S)ection 154 of the Criminal Justice Act 1988 inserted a provision in the Bail Act stating that, following a refusal of bail in one hearing, "the courts need not hear arguments as to fact or law which it has heard previously". In practice, this has generally been interpreted by both lawyers and magistrates to mean that the mere passage of time cannot amount to a "new argument". (Jones 2003: 402)

Such policies may lead courts to make decisions which are not based on freshly-heard arguments which take into account changes in the circumstances of young persons' cases⁸⁵. This, in turn, may lead to court decisions at this stage in the bail process which are not based on well-organised, legitimate principles. The operation of discretion to produce these results is therefore a phenomenon which merits further investigation in this study. This is so particularly as previous stages of the process seem to have produced systematic decisions, at least on the basis of the presence of significant relationships in the data.

Further analysis of the data in Tables 4.25-4.28 suggested that discretion in decision-making was particularly evident in cases on the 'borderline' between restricted and denied bail. Of the group of cases in which bail was denied at the second status change point, a majority of cases had previously been granted conditional bail. Also, 19.1% of the cases had been denied bail at initial court appearance, before being granted bail, and then denied it again at this point. The data reinforced the idea that courts had the most discretion over bail outcomes in medium-range cases – just over half of these cases involved theft of some kind. These data emphasise the presence of discretion in the bail process, which is particularly underlined by the lack of significant relationships between outcomes and key variables at this point. Explanations for the changing role of discretion at different stages in the bail process were therefore points of departure for further investigation later in the study.

⁸⁵ This may discourage defence solicitors from making new applications for bail – certainly there were fewer cases undergoing two changes in bail status than there were cases undergoing one change.

The impact of re-offending on bail outcomes

The ninth section of Chapter Four examined the impact of offending while on bail on decisions made in the bail process in Baytown. As one of the stated grounds for denying bail, in the Bail Act 1976, is the risk that the defendant might re-offend if he or she was released on bail, this is an important measure of the efficiency of bail decision-making by the Baytown youth court.

This section showed that the majority of young people whose cases reached the court stage were not re-arrested while inside the bail process (Table 4.29). However, the impact of re-arrest upon bail decisions was considerable. Not only were those who were re-arrested more likely to undergo changes in bail status, and more likely to be remanded to custody at the first status change point, but there was a very strong relationship between changes in bail status and re-offending. These findings are certainly congruent with the 1976 Bail Act's allowance of restriction or denial of bail on the ground of likelihood of re-offending.

However, the impact of re-offending on bail outcomes required further explanation, in terms of the nature and seriousness of re-offending. It is important to note that, of those who were re-arrested, 43.3% of such cases were evidently not thought worthy of a change in bail status (Tables 4.29-4.34). There are several potential explanations for this finding, which did not seem to fit with the strongly significant relationship between re-offending and bail status changes (see above). One explanation might be that a large proportion of re-offending was actually minor in nature. Other explanations might be inconsistency, in terms of bail decisions, on the part of the Baytown courts, or an unwillingness to cause conflict (with other agencies or simply other magistrates) by overturning previous decisions.

Tables 4.30 and 4.31 examined the nature and seriousness of re-offending in detail. When considering the nature and seriousness of initial offending earlier in the chapter, it was noted that the picture of offending that emerged from the analysis was mostly one of relatively minor property offences, rather than serious, violent offending. These tables showed that the picture of recording re-offending while on bail was broadly similar to this. Whereas 47% of initial offences were theft-related (either vehicular or non-vehicular theft), 44.7% of re-offending fell into this category. There was a slightly smaller rate of drugs, public order and criminal damage-related offending on bail than initially, and a slightly greater proportion of motoring and 'other' offending on bail than initially, but the overall proportions of different types of offending were similar, and ranked in the same order. Just as with initial offending, the proportion of violent offending on bail was small (in fact it was exactly the same proportion in both cases – 6.4%). Generally speaking, therefore, patterns of types of initial offending and types of re-offending while on bail resembled one another closely in terms of the nature of offending.

In terms of offence seriousness, the picture was once again very similar. A total of 245 cases in which there was recorded re-offending involved a new offence which was given a higher gravity score than the original offence for which the young person had been arrested (32.0%). This left 193 cases in which the new offences was equally as serious as the old one (25.2%), and 321 cases in which the new offence was actually less serious than the original one (42.0%)⁸⁶. These figures can be put into context by comparing the seriousness of offending on bail and initial offending. 71% of initial offences were given a gravity score of 4 or less (12.0% rated 1, 6.6% rated 2, 29.4% rated 3, 23.0% rated 4), compared with 70.7% of re-offending (15.5% rated 1, 5.0% rated 2, 25.7% rated 3, 24.5% rated 4). Just 2.0% of both

⁸⁶ In the remaining six cases in which there was recorded re-offending (0.8%), the gravity of the new offence was not known.

initial offending and re-offending was given the highest gravity score of 8. Overall, then, re-offending was characterised mainly by property-related, low or medium seriousness offences – just as initial offending was. Tables 4.30 and 4.31, therefore, suggest that re-offending on bail was predominately non-violent and of low to medium seriousness.

This is not to suggest that the courts in Baytown were not justified in changing bail status more often (and, in particular, using remands to custody more often) for cases involving re-offending on bail. The criteria of the 1976 Bail Act make it clear that the courts can and should take re-offending into account when deciding bail outcomes. However, the role of discretion must again be emphasised here. Re-offending itself was important in court bail decisions at subsequent court appearances, but there was no statistically significant link between either the nature or the seriousness of the new offences and the changes in bail outcome (at either the first or second status change points) in cases where recorded re-offending occurred. The act of re-offending *in itself* had an impact on subsequent bail decisions, but the impact which the re-offending had could not be explained by the nature or gravity of the seriousness itself. Referring back to the language of the Bail Act 1976, the *ground* for restricting or denying bail (the risk to the public of re-offending on bail) was clearly being used, but the *reasons* supporting that ground were unclear.

In recent years, both macro and micro-level youth justice policy and practice has been clearly influenced by issues relating to managerialism, efficiency, and the management of risk in particular (e.g. Audit Commission 1996). In these terms, working within the framework of the 1976 Bail Act, there was scope for more than one outcome in cases where re-offending was recorded, because the re-offending was mostly minor and property-related. Table 4.31, for example, showed that a total of 32 cases with a gravity score of 4 or less were denied bail at the first change in

status. If bail was being denied due to the risk of re-offending while on bail (appropriately, in legal terms), there was still scope, using the discourse of risk management, for the courts to avoid denying bail to young people without posing a major risk to the public. A similar pattern emerged at the second point of change in bail status. Just under half of the cases denied bail at this point involved fresh offences of theft, while only 8.3% involved violence against the person (Table 4.33). 64.6% of the cases denied bail at this point involved re-offending given an offence gravity score of 4 or less (Table 4.34).

A key issue arising from this section, then, is why courts responded to (minor) re-offending in this way, when alternatives were available under the terms of the 1976 Bail Act. A related issue is the very small number of bail support referrals (mentioned previously), and why bail support was not used to divert young people away from custody within the framework of the 1976 Bail Act. These are, in other words, questions of discretion, and how it was used in the Baytown youth justice bail process. These issues will be further investigated later in the study.

Comparing final case outcomes with bail history

The next section of Chapter Four looked at the impact of decisions made in the bail process on sentencing outcomes at the end of that process. The section began by comparing offence type and offence seriousness with final case outcomes. Table 4.35 showed that, overall, the majority of cases reaching court in the study period resulted in community sentences, with just under 18% of cases resulting in custody, a tenth dismissed or withdrawn, and the remainder fined or dealt with using a reprimand or final warning. There was more variation between offences of different levels of seriousness than between offences of different types. In particular, the gap

between the four most serious offence categories and the four least serious offence categories in terms of rate of custodial sentences (with the former having a higher rate than the latter), and the statistically significant relationship between offence seriousness and final outcome, suggest that seriousness of offence played an important part in sentencing decisions, separately from what had happened while the young person was on bail. This might be expected, as the study was done at a time when proportionality was the only permissible sentencing rationale⁸⁷.

Table 4.37 showed a strongly significant relationship between the denial of bail at some point in the court process and the final sentence outcome. However, the fact that more young people who had been denied bail received community sentences than custodial sentences shows that a denial of bail did not inevitably lead to a custodial sentence. This again highlights the discretion given to magistrates and judges deciding cases considered to be on the 'bail or jail', or 'community or custody' borderline.

Therefore, although denial of bail did have a statistically significant impact on sentencing (with a remand to custody at some point increasing the likelihood of a custodial sentence), its social significance on sentencing was less clear. Sentencers seemed to be using remands to custody in ways other than as a 'signpost' showing suitability for a custodial sentence. Indeed, the data suggested the possibility that remands to custody were used instead of a later custodial sentence. This issue required further exploration later in the study, but recent Youth Justice Board guidelines do not rule out the use of custodial remands in this way⁸⁸. Table 4.38,

⁸⁷ Since the end of the study period in August 2002, the Criminal Justice Act 2003 (still in the process of being implemented at the time of writing) has allowed a variety of punishment objectives to be legitimately taken into account by courts when sentencing. See Gibson and Watkins (2004) for more details.

⁸⁸ See, e.g., Home Office (2000), which states that:

'the court must take time spent on remand in custody into account in deciding what overall length of DTO term to impose Time spent on remand in custody is not (later) offset against the term set by the court (section 74(5)).' (ibid., para. 1.10)

comparing initial bail decisions at court with final case outcomes, reinforced the findings of Table 4.37. There was a statistically significant relationship between these two variables (probably explained by the use of unconditional or conditional bail at first court appearance being most likely to lead to a community sentence being imposed), but of those who were remanded to custody at their first appearance, 43% eventually received a community sentence. The flexibility of the bail process, the lack of inevitable outcomes in most cases, and the discretion inherent in the law governing court decisions were all important issues here, which acted as platforms for further investigation in later chapters of this study.

Later tables in this section showed the relationships between changed bail status and sentencing outcomes, as cases travelled through the bail process. Although there were significant relationships between final outcomes and both the first and second changes in bail status, these relationships were weaker than the relationship between initial bail outcome and final outcome. Significant relationships between outcomes at each stage and final outcome for the different age and gender subgroups also became progressively rarer as cases progressed.

At the same time, the boundaries between bail and custody, and subsequently between community and custodial sentencing, became increasingly blurred. More and more young people who were remanded to custody eventually received a community sentence as their cases advanced through the different stages of the bail process, to the point where the percentage of young people who were remanded to custody at the second change in status and went on to receive a community sentence was the same as the percentage who were remanded to custody at this point and went on to be sentenced to custody. Conversely, the proportion of those who were granted conditional bail, but were later sentenced to custody, increased as

cases moved through the bail process. It seemed, therefore, that the significance of bail decisions for the purposes of sentencing declined as cases moved towards the end of the process. This may seem surprising, on the grounds that sentencers should sentence on the basis of the most up-to-date bail information available at the time (e.g. changes in status since the initial court appearance).

A related issue was the continual rarity of referrals onto the Baytown YOT's bail support scheme. As can be seen from all of the tables in this section, a tiny minority of cases were accepted onto the scheme. A total of 12 referrals resulted in a community sentence, with 9 more resulting in custody (a further two referrals were eventually dismissed or withdrawn). These data show the minimal role played by bail support throughout the wider bail process. This, as previously mentioned, was a key issue for further investigation in the study, especially in the context of cases where either bail or custody (and, by extension, community or custodial sentences) were realistic outcomes for young defendants, within the context of the legal framework and local decision-making.

Comparing amounts of time spent in the bail process

The eleventh section of the previous chapter examined the time taken for cases to complete the Baytown youth justice bail process. Moving beyond the results presented in that section requires contextualisation within the wider youth justice process outside Baytown. Increasing emphasis on managerialism within youth justice (e.g. Pitts 2001, Smith 2003), and the consequent collection and collation of increasing amounts of data on how the 'system' operates, enables these figures to be compared with recent data on overall time performance across England

and Wales⁸⁹. While the figures cannot be compared directly with the Youth Justice Board's data for the region including Baytown⁹⁰, national trends can at least give a rough estimate of the 'time efficiency' of the Baytown courts during the study period.

In fact the Baytown courts performed well against national standards in this regard. For the first quarter of 2004, the national average time taken for persistent young offenders⁹¹ cases to pass through the bail process in England and Wales was 66 days⁹² – a decrease of four days compared with January 2003, and a decrease of 78 days compared with January 1997 (Youth Justice Board 2004). Although the figures here do not cover the same ground as those from the Youth Justice Board, they do compare favourably with the national average, even when only cases spending at least one day on in the court bail process are included, and especially when all cases in the youth justice process are included. This points to the emphasis, nationally and locally, with speeding up the bail process for young people.

However, this section also showed that young people were more likely to re-offend the longer they spent on bail – a finding which has been repeated in other research (e.g. Morgan and Henderson 1998). Such contextualisation suggests that the speeding up of the bail process was justified⁹³. As previous analysis makes clear, however, these findings must be critically analysed in the light of the evident discretion present in the local bail process. Further investigation was required in this respect to ascertain whether time reductions had been achieved at the expense of

⁸⁹ It is recognised that this is not a direct comparison, since Youth Justice Board figures relate, firstly, to persistent young offenders, excluding those who do not meet the PYO criteria, and secondly to all young people in the youth justice process (i.e. all of those aged between 10 and 17 years old). Nevertheless, this attempt at comparative analysis still gives context to the 'time efficiency' of the Baytown youth courts during the study period.

⁹⁰ This would jeopardise the anonymity afforded to participants in the study by running the risk of revealing Baytown's location.

⁹¹ The only results used – or at least the only ones published – by the Youth Justice Board on this subject.

⁹² This average, however, conceals a less well-publicised range of average times across police forces in England and Wales, ranging from 36 to 103 days (Youth Justice Board 2004).

⁹³ Justified, that is, on the macro level (nationally). Information was not available on mean case times before the study period – although anecdotal evidence from the Baytown YOT staff suggested that mean times had also been reduced locally.

systematic, appropriate decision-making which took children's rights (to bail and as children) into account⁹⁴.

Conclusions

The title of this chapter asked whether the Baytown youth justice bail process could be characterised as a 'loose cannon' or 'well-oiled machinery'. The analysis and discussion of Chapter Four's findings points more to the latter conclusion than the former. The criteria of the 1976 Bail Act (for court bail) and the 1984 Police and Criminal Evidence Act and the 1994 Criminal Justice and Public Order Act (on police bail) on when bail can be legitimately restricted or denied provide the norms against which Baytown's bail practice must be measured. On these terms, there was evidence that courts took persistency and seriousness of offending into account, legitimately and systematically, in making bail decisions. Similarly, significant relationships between decisions and factors such as defendants' age and gender could be rationally explained by reference to local offending patterns among different age and gender subgroups.

However, such a conclusion does not tell the whole story of the Baytown context. There was also evidence that decisions became less systematic, and less explicable by key criteria, after the initial appearance in court. The more bail status changes occurred, the less explicable bail decisions became on the basis of the evidence. There was also uncertainty about the social significance of remands to custody. A significant relationship existed between remands to custody and custodial

⁹⁴ There is a considerable body of research, dealing with adults on bail, which has found that those involved in the court process spend as little time deciding, discussing and contesting bail issues as possible. See, for example, Doherty and East (1985), who found that 62% of bail decisions in their study were dealt with in less than two minutes by courts; and also Hucklesby (1996). Hucklesby (1992), in the context of adult offending on bail, has argued that delays in processing cases may lead to *more* re-offending while on bail, however.

sentences, suggesting that the former was likely to lead to the latter. However, the later remand to custody occurred in the process, the greater the proportion of cases was that led to a community sentence. This raises the question of why some cases were felt worthy of custodial remand, but not a custodial sentence at the end of the bail process.

Another issue worthy of further investigation was the rarity of bail support referrals throughout the court process. As previously mentioned, the quantitative analysis could not reveal whether this outcome was due to the courts' rejection of YOT applications, or due to a lack of applications from the YOT. This issue and the previous one discussed clearly highlight the role of discretion in the court bail process. In turn, discussion of discretion draws attention to the fluidity of the Bail Act norms mentioned earlier. Cases in which courts had the freedom, within what was allowed by the Bail Act, to opt for 'bail or jail' (Hucklesby 1996), and later community or custodial sentences, were a clear and common feature in the data.

Similarly, courts could (and did) remand minor offences to custody on the grounds of 'likelihood of re-offending on bail', and do so legitimately within the bail law. But, analysing using the discourse of 'risk management' or 'actuarial justice' (Feeley and Simon 1992, 1994) as the current Government frequently has in the context of youth justice (e.g. Smith 2003), there was again scope for avoiding remands to custody on the grounds that minor offending (such as simple breaches of bail) did not pose a major risk to the public, and therefore 'likelihood of re-offending' was in fact low. Perhaps the most interesting issue to arise from this chapter is why bail support was so rarely used to address the reasons for denial of bail.

In line with the critical realist approach to research advocated in Chapter Three, it is now necessary to summarise the key outcomes of the analysis in this chapter, for which explanatory mechanisms (in the context of Baytown youth justice)

must be sought in the following chapters of the study. These have been found to be as follows:

- The mostly systematic nature of decision-making, within the limits of the 1976 Bail Act;
- The decreasingly systematic nature of decisions at later stages of the Baytown bail process;
- The ambiguous social significance of remand to custody in the context of the bail process and sentencing; and
- The rarity of bail support referrals, used to tackle the legal grounds for denying bail, throughout the bail process.

Mechanisms for these outcomes will now be sought through the collection and analysis of qualitative data gathered from key individuals and agencies playing a part in the operation of the Baytown youth justice bail process. Chapter Six begins the exploration of mechanisms and context by presenting the results of participant observatory work done with the Baytown YOT's bail staff during the study period.

Chapter Six

Managing Conflict Out of the Process: An Ethnographic Study of Bail Services in Practice

Introduction

Having examined the quantitative data arising from the operation of the youth justice bail system in Baytown, this chapter looks at the issues relating to youth justice bail services from the perspective of one of the key agencies involved – the staff of the Baytown Youth Offending Team (hereafter ‘YOT’). Based on participant observation methods of data collection, as detailed in the methodology, what follows is a closer examination of the factors which shaped the delivery and management of bail services for young people in Baytown. The aim of this chapter is to illuminate further the results obtained from quantitative analysis on the outcomes of the Baytown youth justice bail process.

The focus will be on not only how ‘systematic’ bail practice was developed at the micro (practitioner) level, but also how this related to policy at the mezzo (managerial) and macro (Government, Youth Justice Board – hereafter ‘YJB’ – and national) levels. Following presentation and analysis of results, possible explanations for the process outcomes shown earlier in Chapter Five will be put forward.

The next section sets the context by introducing the organisation of YOT bail services in Baytown.

The organisation of Baytown's youth justice bail services

The Baytown YOT comprised three micro-level teams, each responsible for dealing with different stages of the youth justice process in Baytown. The court team included two court officers, who represented the YOT at court hearings. This team also included staff responsible for working with the Baytown police on diversion policy for young people locally⁹⁵. There was a total of between five and seven court team staff during the study period. The supervision team dealt with young people who had already been convicted and sentenced. This team worked with young people completing community sentences⁹⁶. The supervision team was the largest of the three teams, with between eight and 12 staff during the study period. The third team was the bail, or 'remand management'⁹⁷ team, responsible for all youth justice services between initial arrest and conviction. All three teams had a designated senior practitioner. In addition, the mezzo level of the YOT consisted of the YOT manager, and also (towards the end of the study period) a deputy YOT manager, who was also the senior practitioner of the supervision team.

When the period of observation began, the Baytown YOT bail team was undergoing a period of transition in terms of staffing. The two members of the 'old' bail team – one of which was the senior practitioner – were already in place, and had been for some three years previously. However, two new members of staff joined the team at around the same time as the commencement of the fieldwork. In line with the requirements of the 1998 Crime and Disorder Act, these new members were a

⁹⁵ And, in particular, responsible for working with young people subject to final warnings.

⁹⁶ The team also worked with (following the implementation of the 1998 Crime and Disorder Act) young people completing the community element of detention and training orders, whereby each young person was allocated to a member of the team at the beginning of his or her order.

⁹⁷ As noted in Chapter Three above, the official title of this team was the 'remand management team'. To aid clarity, however, the team will be referred to as the 'bail team' hereafter in this chapter, except in direct quotes where staff referred to themselves as 'remand management workers' or 'the remand management team'.

probation officer and a police constable. The stated mezzo-level policy here (in line with macro-level policy as mentioned above) was to give a multi-agency input to bail services, since the two existing members of the team were social workers, with considerable social work and youth justice experience between them.

In fact, this multi-agency policy was not destined to operate as planned at the mezzo and macro levels. The two new members of the bail team both left the team long before the end of the fieldwork period. They both remained as members of staff at Baytown YOT – but felt unable to carry on as part of the bail team. The main reason for this was that their roles were not as they expected. One of the new members said:

'I'm just bored really – I want to intervene with the kids, be proactive, but there aren't enough of them. We're supposed to be doing bail support, but bail support isn't happening.'

In line with this statement, a 'team within a team' developed to some extent. The new members of staff felt 'shut out' of team practice at times. This was in part due to the preference of the two 'old' members of the team for making bail decisions⁹⁸ very early in the morning, or informally at other times of the day. A 'new' member remarked that:

'The lads (i.e. the 'old' team) are used to making decisions while they're having a fag.'

This comment matched observations closely. It was significant that the two 'old' members were close friends. They had known one another and worked as colleagues for many years in various social work and youth justice capacities. They were indeed used to relying on each other to make bail decisions prior to the appointment of the new staff. Quite simply, for several years previously, they were the team.

⁹⁸ For example, whether a young person who had been detained overnight by police was in danger of being remanded in custody in court, or whether he or she was suitable for bail support intervention.

After two years of the fieldwork, they were the team once again. The police officer became a YOT worker responsible for liaising with the victims of youth crime. She was the first to leave, after less than a year on the team. The probation officer became part of the YOT's supervision team, first informally to help out with the supervision team's workload, and then officially.

Although there was no noticeable hostility between the 'old' and 'new' members on the direction of practice, how and why the 'new' team were excluded in this way was a key issue in analysing the data (see below). The possible reasons for this are explored in the next subsection, which takes a brief historical view of the development of youth justice bail services in Baytown.

Historical influences on micro level practice

The senior practitioner (who was, as previously mentioned, a member of the 'old' team) started work on the team some three years before the fieldwork commenced. He talked frequently about the nature of bail practice at the time of his arrival, comparing his own practice favourably with that of his predecessors in the role:

'Before I started on remand management, there was a bail support team. They were sitting there, at the back of the court, and when the kid was there (before the magistrates) they'd be standing up and going "Oh of course Your Honour, this kid can go on bail support" every time. Just net-widening, not targeting anything. They were all trying to keep their jobs, justify what they did, 'cos they only did bail support – if they didn't do that they'd have been out of a job wouldn't they?'

He further argued that because of this apparently unfocused approach to bail support services for young people, the rate of remands to custody '*were through the roof by the time I started*'. The written evidence for this claim was quite limited but other members of staff who had been on Baytown's youth justice team (including the

YOT manager at the mezzo level) agreed that this was so. The senior practitioner also regularly claimed that:

'For six months I didn't do anything (in terms of bail services and intervention), just trying to sort the mess out, you know. And while I wasn't doing anything the remand (to custody) rate went down!'

Whether this decline in the number of remands to custody was due to the change in bail strategy, different patterns in the gravity and frequency of youth offending locally, or changes in court attitudes was never made clear – and could not be tested due to the absence of empirical evidence dating from that period. What was clear was that the six-month period of total non-intervention was subsequently very influential indeed on bail practice. When services did re-commence, the aims were limited:

'We (i.e. the senior practitioner and the other member of the 'old' team) were just bobbing apples, trying not to net-widen, trying to save money really.'

The focus of this policy was mainly trying to reduce remands to custody, which seems to have been achieved to some extent following the senior practitioner's appointment. However, this experience engendered a deep mistrust of specialist bail support work, as opposed to what was known as 'remand management':

'Bail support just won't work with most of the scrotes (sic) we get in here. We've known most of them for years. We know who's going to play ball and who isn't. Most of them won't.' ('Old' team member)

This quote illustrates the 'old' team's extreme caution regarding proactive bail support work. Further, it shows an instinctive approach to bail support, relying on previous experiences with potential candidates for bail support, rather than a detailed analysis of the circumstances in each fresh case.

The next subsection will examine elements of the philosophy (shaped by the historical experiences described here) which the staff applied to their day-to-day work.

The philosophy and politics of bail practice

Two key elements to policy and practice, both of which helped to shape the ways in which staff approached their work with young people, were identified during the period of observation. Each of these will now be discussed in turn.

'Bail support' versus 'remand management'

It was noticeable from the start of the observation period (as intimated above in discussion of historical influences) that the 'old' members of the staff always referred to themselves as the 'remand management team', never the 'bail support team':

'This place (i.e. the whole YOT) is like Ford's. It's a process, starting with the court team, then us, then the supervision team after the kid's been sentenced. But we (the team) are the glue which holds it all together. What we do is identify the key points in the system, and try and intervene where it's necessary. It's not just bail support though. That's only one little bit of what we do.' ('Old' team member)

In the context of the historical experience it seems likely that the 'old' team were hostile to the idea of 'bail support' as some kind of separate, discrete form of intervention.

The 'new' team, on the other hand, took a different view. It should be noted here that the majority of the observations of the 'new' team came from one member of it in particular (the probation officer mentioned previously). This was not only because she stayed with the team for some time longer than the other 'new' member, but also because she was keen to discuss issues in the context of research. Building on her probation experience of working with young people, she seemed far more receptive to the idea of 'bail support' as a separate concept:

'Of course it needs to be targeted, and if they won't comply I'll breach them, but I am here to do work with the kids. Try and give them advice, show them how to get help. That's what bail support is. Some of them are chaotic, they really need that.'

On this issue there was, if not a personal conflict, certainly a professional or ideological conflict about the role of bail support – and the remarks made about the suitability of 'chaotic' young people were particularly interesting in this context, since the 'old' team openly used 'a chaotic lifestyle' as a formalised ground, or norm, for *not* offering a bail support package to the courts. The phrase 'chaotic lifestyle' was used as shorthand to denote a young person's unsuitability for proactive bail services, on forms that were filled in when bail support was being considered, and in practice generally:

'We often use that as the main reason for not doing bail support, because if they are chaotic, you know, all over the place and not taking responsibility, there's no chance they'll comply ... The magistrates see that on the reports and they know that's what it means.' ('Old' team member)

Whose side are we on?

The Government-projected image and discourse of the relationship between the new YOTs and the young people they work with is that of 'professional' and 'client', or 'manager' and 'consumer' (Lacey 1994). The Government implies that YOTs work *with* young people to prevent offending. Commentators have argued, in contrast, that the YOT structure, and Government youth justice policy generally, works *against* young people to impose a socially exclusionary discipline (Pitts 2001). Although victims are considered in other areas of New Labour youth justice policy, such as reparation orders (Dignan 1999) and referral orders (Crawford and Newburn 2003), they are less commonly a feature of discourse on bail. The 'old' team

members, however, saw their role in bail work as being primarily linked not to young people or the State, but to potential future victims of crime:

'We're here to protect the public, not just help the kids. That's something we always have as a priority when we're thinking about the right thing to do with kids on bail. If the risk to the public is too high, we won't recommend bail to the court.' ('Old' team member)

This statement, and others like it, were frequently expressed by the 'old' team.

It differed somewhat from the stated legislative aim of YOT practice (the prevention of youth offending), although admittedly the latter is very vague and can be interpreted in a variety of ways. Such statements were usually accompanied by assertions that they were experts on their own area of policy and practice, and did not need assistance from anyone on how to make it more effective. The 'new' team moved away from this risk management rhetoric, to develop a more 'children first' (cf. Haines and Drakeford 1998) approach:

'I do see them as children first and offenders second, yes. They need to be given more social help to change their offending patterns, but I see it as my role to provide that help if I can.' ('New' team member)

As previously, there were differences in individuals' policies and approaches to bail services – differences which were resolved, not by conflict and resolution with help at the mezzo level of the YOT, but by policy inaction, which in turn caused the 'new' members to leave the team. The next section looks at the impact of these philosophies and attitudes on work done by the YOT team in practice.

The importance of the different roles played by the team

Detentions overnight by police

The subsidiary role of bail support was further underlined by the regularity with which other work was done by the team, in comparison with the relative rarity with

which bail support work was actually done with young people. A regular feature of the team's work, for example, was what was known as 'the trawl'. This involved the members of the 'old' team⁹⁹ coming into the YOT offices at about 7.00am each weekday, phoning all of the police stations in the Baytown YOT area, and checking whether any young people had been detained overnight by the police.

While this was undoubtedly a systematic intervention in itself, it was perhaps not as systematic as it appeared to be. If a young person was not detained overnight (if, for example, he or she was arrested during the day) he or she was not always counted in the main written statistical database kept by the team. This practice was discovered later in the fieldwork process, when comparing the team's written statistics to the information held on YOIS (Young Offender Information System), the YOT's database containing information on the young people who had entered the youth justice process in the Baytown area. There were numerous examples of cases not recorded by the team, but which had been entered into the computer database¹⁰⁰.

When asked why detention overnight in a police station was the basis for bail statistics, one of the 'old' team said simply:

'Oh, that's just the way we (i.e. both members of the 'old' team) have always done it.'

This was the 'if it ain't broke, don't fix it' philosophy which characterised much of the 'old' team's practice, and subsequently of course the whole team's approach. The 'old' team had used this process since their appointment; for one reason or another it had not been questioned; so it was still used.

⁹⁹ This function was very rarely performed by the 'new' members, while they were part of the team.

¹⁰⁰ It was not clear why the cases had not been entered: it was suspected that there had been various reasons for this, including the young person not being detained overnight by the police, but also because the young person had been arrested at the weekend – a point returned to later in the chapter.

Appropriate adult work

'The trawl' discussed in the previous subsection was closely linked with another key role played by the team – that of undertaking appropriate adult duties. This was also done on an almost daily basis by all members of the team – even the senior practitioner, despite the observation of another experienced member of YOT staff that:

'I don't know of any other YOT where the senior prac (sic – i.e. practitioner) does AA (i.e. appropriate adult work) themselves. Usually it's volunteers that do it.'

From occasional visits to other YOTs¹⁰¹ it did indeed seem that volunteers from the community, who had received formal YOT training before starting in the role, did most of the AA work. However, this was not the case in the Baytown area. The problem was not a lack of volunteers. There was in fact a team of volunteers overseen by a local charity, a representative of which acted as liaison officer between the YOT and the volunteers, and provided duty rotas showing volunteer availability. The problem here was, in reality, the lack of trust between the 'old' team, the liaison officer, and the volunteers themselves:

'Bloody volunteers are useless. They're never around when you need them. It's easier to do it (i.e. act as appropriate adult) yourself.' ('Old' team member)

There was felt to be a lack of suitable cover for AA work, and during the fieldwork period the volunteer 'system' – if system is the right word – broke down almost completely, so that the bail team was doing the vast majority of appropriate adult work when it was required. Although the charity liaison officer often worked at

¹⁰¹ They were visited in order to observe area YOT meetings informally, although this observation was not a formal part of the research due to the difficulties in comparing one YOT's practice with another's – perhaps in itself a sign of the lack of a systematic national response to youth justice bail issues.

the YOT at least one morning per week, she (and the charity generally) were also seen to be partly to blame for the situation:

'She (the charity worker) is rubbish. She doesn't change the roster often enough, so you're phoning someone up, expecting them to be available 'cos their name's on the roster, and they're not there or they answer the phone but can't make it down to the (police) station ... and then they wonder why we don't use them.' ('Old' team member)

As a result of this situation, especially coupled with the lack of staff power, less time was spent on other bail services, such as bail support itself. It was also, it is suggested, socially significant in this context that one of the 'new' members of the team, who was a police officer, found her ability to play a part in the bail team hindered by the emphasis on AA work. Under current Police and Criminal Evidence Act Codes of Practice, police officers are not allowed to play the role of appropriate adult when a young person is arrested and detained (Home Office 2003: Code C, para. 1.7(a)(iii)). The police officer's inability to take part in what was evidently a fundamental part of the team's day-to-day work played a part in her departure from the bail team soon after arrival at the YOT. At a bail team meeting held shortly after the police officer left, the senior practitioner made this comment:

'X has gone because she can't do the AA work.'

It would be over-simplistic to suggest that this was the only reason why this 'new' member of the team left. However, on the basis of other observations relating to this issue, this factor played a part:

'I get on well with X, it's not her fault she can't do everything we do, it's the Government that makes up these stupid rules, like every YOT has to have a copper, but they should know AA work is a really important part of remand management. They should change the rules so coppers can do the AA work, or give us someone else who can do it, but then you get the usual stuff about not having enough money to take anyone else on.' ('Old' team member)

Such observations also indicate the key role played by AA work, both in day-to-day team practice and in the 'old' team's own perceptions of their own work

priorities. It is argued, however, that although the appropriate adult role was fulfilled thoroughly by the whole team (with the obvious exception of the police officer), its centrality to practice showed a lack of systematic practice in itself. There was a clear opportunity to set up a volunteer system which was capable of doing at least a sizeable proportion of appropriate adult work – but due to difficulties in establishing effective multi-agency practice¹⁰² this opportunity was not taken. This in turn had a knock-on effect on other services which the bail team provided on paper, but which played only a small part in their work in practice.

When bail support was offered (and why it was not offered)

Chapter Two above showed that bail support can be offered at various stages in the youth justice process. In particular, it can be offered either at the police station or in court. The Baytown team refused to offer any bail support at the police station stage, although there was some evidence that other YOTs were doing so¹⁰³ – again the main stated reason for not doing so was fear of ‘widening the net’ (Cohen 1985), and offering bail support when it was not needed, thus running the risk of pushing young people up the sentencing tariff unnecessarily. The main implication of this approach in the Baytown context was the exclusion of bail support work from the key duties undertaken by bail staff – liaison with the police following arrest, and appropriate adult work. A potential second implication was the unnecessary denial of bail to young people at the police stage of the youth justice process. However, as the YOT statistics which were the basis of the quantitative reporting and analysis in this study (see Chapters Four and Five above) did not differentiate between those

¹⁰² Something which New Labour’s macro-level strategy seems to believe is achievable without any practical problems.

¹⁰³ How effective these other projects were is of course outside the scope of this study.

young people who were charged by police and bailed to appear in court, and those young people who were charged and detained by police until their appearance in court, it was not possible to measure the impact of denial of police bail in individual cases.

Even after the policy decision to offer bail support at court had been made, there were choices to be made regarding the point at which bail support, if suitable, might be offered. Once again, 'net-widening' and the experience of the old bail support team (mentioned earlier) meant that bail support was not typically offered at a young person's first appearance in court:

'We need time to assess them, find out if they're going to play ball.'
(*'Old'* team member)

On the rare occasions when bail support packages were put before the court, then, they were mainly offered at subsequent appearances in court¹⁰⁴. However, as Chapter Four showed, many of the cases in which bail support packages were offered *had already been remanded in custody at their first court appearance*:

'Yeah, we almost always visit them in prison and assess them there. I can tell from talking to a kid whether he's (sic) showing any remorse, you know, whether he's (sic) going to comply if we go for bail. Sometimes a bit of time in prison's good for them – gives them a chance to think.' (*'Old'* team member)

An established policy of waiting until a subsequent appearance in court to offer bail support packages was unusual in terms of general bail support practice nationwide. Recent evaluative research has made it clear that the majority of YOTs in England and Wales offer bail support packages at the first court appearance, and that YJB guidelines support such an approach (e.g. Thomas and Hucklesby 2002). Linked to the reactive policy was the 'old' team's belief that, at least in the Baytown area, magistrates and judges often reduced the severity of a sentence where a

¹⁰⁴ See the relevant sections of Chapters Four and Five above for more details.

defendant had been previously remanded in custody, to take the time already spent in custody into account.

The team further believed that this was one reason (and others will be discussed below) why many young people in Baytown would not comply with any bail support package offered to the courts, and were happier to spend time in custody:

'They save with the Woolwich – do the time on remand, so they don't have to do it later.'

The memorable phrase *'saving with the Woolwich'* was used to denote a young person's serving time on remand in custody, with the aim of obtaining a discount on his or her ultimate sentence. It was considered to be a deliberate policy on the part of young people in Baytown, and its existence (and validity) was seemingly accepted by the team. Whether it actually existed as part of youth justice sentencing policy in Baytown was, however, hard to establish without questioning magistrates on their decisions in individual cases¹⁰⁵.

There was also a firm belief in the ability of the Baytown youth court to adhere to the terms of the 1976 Bail Act when making a bail decision on a young person. The 'old' team knew local youth court magistrates well and seemed to trust them completely:

'Some places, the magistrates don't have a clue, they don't know the law. But our magistrates aren't like that. They stick to the Bail Act. If they remand a kid to custody, you know there's going to be a good reason for it.'

When bail support was offered, and accepted by magistrates, the bail team used a set of standard bail conditions which were considered an essential part of any bail support package. These included referral to local drug and alcohol treatment

¹⁰⁵ Something which, for ethical reasons, could not be done in this research. As noted in Chapter Five, however, legislation (Crime and Disorder Act 1998, s.74(5)) and Youth Justice Board guidance on this matter (Youth Justice Board 2000) both require time spent on remand in custody to be taken into account when deciding on the length of a detention and training order. Presumably it could also be taken into account in deciding that custody was, in fact, not appropriate.

agencies where abuse was felt to be a cause of offending behaviour, a requirement that the young person resided at a given address while on bail, and a curfew to be adhered to at specified times of the day¹⁰⁶. Occasionally, other conditions would be added to the basic package, such as a requirement on the defendant to avoid association with co-defendants or witnesses. To monitor compliance with residence and curfew, the bail team normally telephoned the given address shortly after the start of the curfew period, to check that the young person was present:

'We normally just phone, rather than going round there, because it's evening work, and there's only a few of us to do everything. The other thing is, sometimes it's dangerous to go to someone's house on your own, so it'd need two of us to go, and that'd mean no-one would be on duty if the police phoned to say they'd arrested someone.' ('Old' team member)

Enforcement of the other conditions described above was seen by the team to be the responsibility of the police (in the case of association requirements) or external agencies (in the case of assessment and treatment for substance abuse):

'Because we're so short-staffed, we rely on the police or whoever it is to let us know, if a kid's breached bail support. We can't spend a lot of time chasing people around to get the info we need.' ('Old' team member)

The next section of the chapter looks at the links between the YOT bail team and other YOT staff, and the implications of these links for micro-level practice in Baytown.

Bail work and other micro-level YOT staff

It might have been expected that there would be effective division of workloads at the micro level of the Baytown YOT's bail strategy, to ensure that bail

¹⁰⁶ In practice, curfews were always enforced during the evenings and overnight.

services could be delivered as efficiently as possible. In fact this did not appear to be the case during the study period.

Throughout the fieldwork period it was clear that the senior practitioner on the bail team wrote the majority of pre-sentence reports for young people in the Baytown area. He accepted this as a key part of his workload, although the YOT's supervision and throughcare team ostensibly held primary responsibility for this role. This situation also seemed to conflict with staffing arrangements. At no time during the fieldwork period were there less than seven supervision team members (counting full-time and part-time posts), in contrast with the unstable and far smaller team of bail staff.

At times the tension between the bail team and other staff was clearly visible. The best example of this was the relationship between the bail staff and the supervision team. Each team had misconceptions about the nature of the other's work. The following quote gives an example of the 'old' bail team's attitude towards the supervision team's practice:

'It's easier for them than for us. They can plan their work in advance, work out when they're going to see the kids, make appointments. We can't do that. They (i.e. the supervision team) come in (i.e. to the YOT offices) at 9, 9.30, you never see them before that. We're in here at 7 most of the time.' ('Old' team member)

The 'new' members of the bail team were, however, more sympathetic to the other teams. During the study period, as previously mentioned, both left the team for other sectors of the YOT, and were not replaced. One of the 'new' members joined the supervision team later, partly because of her frustration at the lack of responsibility given to her in the bail team. This, in turn, was related to the scarce opportunities for doing any active intervention work with young people on bail, since so few young people were placed upon the bail support scheme. This member of staff had moved to the YOT from the probation service, and frequently expressed her

desire to be 'stretched' in her work far more than she was as part of the bail team. She cited what she saw as the greater structure of supervision team work – and the closer relationship between the micro and mezzo levels of the supervision team – as being the reasons behind her move:

'I've nothing against (the 'old' team) personally, it's just that I've got nothing to do, nothing positive with the kids, just reactive stuff like going to the prison and seeing if the kids in there are OK.'

This was, in fact, a perception of the bail team which was shared by members of the supervision team. The bail team were seen as 'mavericks' whose management and policy were not always clear, and who appeared not to be working hard during the day (or working hard at all), compared with the caseloads of the supervision team.

In fact, this was also a partial misconception. The bail team almost invariably did attend work at 7.00am, and sometimes had to leave home even earlier to make the long journey to the YOI where young people from Baytown were remanded to custody (see below). The 'old' team sometimes did work during the evenings as well, doing appropriate adult work¹⁰⁷. But this work was mostly *reactive* in nature, and was therefore less visible than proactive bail support work would have been. The extensive appropriate adult work done was a good example of this, as was the common practice of not making bail support applications until after a young person had been initially remanded to custody. A related issue, given the discussion above, is whether the balance between reactive and proactive work was correct, since the team did little to work proactively with young people on bail.

The next section looks at the links between the bail team's policy and practice and those of external agencies involved in providing bail services for young people in Baytown.

¹⁰⁷ And the occasional 'spot check' when a young person was accepted onto the bail support scheme. As shown above, though, personal checks (as opposed to checks made by phone) rarely occurred.

The relationship between the micro level and external youth justice agencies

The bail team and the Baytown police

The senior practitioner's insistence that he and his team should be responsible for appropriate adult work at the point of arrest (see above) brought them into contact with the Baytown police every day. Indeed, for the first two years of the fieldwork period, young people were most often taken to the police station which was adjacent to the Baytown YOT offices. The links between the YOT bail team and local police officers were palpably close, and 'old' team members expressed their satisfaction with the police's processing of young people at and following arrest:

'We know most of the coppers, they make the work as quick as they can, and use their common sense when they're deciding what to do with the kids.' ('Old' team member)

'New' team members¹⁰⁸ did not express such unequivocal support, but at the same time did not generally show open dissatisfaction with police practice during the arrest, detention and charge process. The only exceptions to this discourse were complaints about lack of co-ordination between agencies for the interviewing of young suspects, which caused delays in the interrogation process. These, however, mainly centred on the availability of, and lack of YOT trust in, volunteers who could carry out appropriate adult work. This mistrust, as shown above, was driven by lack of communication with the agency responsible for providing volunteers, rather than by dissatisfaction with the police themselves.

The team ('old' and 'new'), however, showed less confidence in the Baytown police in their (i.e. the police's) role as monitors of bail conditions. In this sense, the police were seen as being quite erratic in undertaking this supervisory function:

¹⁰⁸ One of whom, as already stated, was a police officer.

'The cops don't always check up on the bail conditions, especially the curfews. I'm not saying they never do it – I just mean they do sometimes, but not always, and the kids know that. That's why we do the spot checks on bail support.' ('Old' team member)

As noted above, however, the YOT staff mostly checked up on adherence to curfews by phone, rather than in person. They claimed that this was due to pressures of work and staff shortages. When asked whether they would consider officially handing over responsibility for 'spot checking' to the police, the 'old' team played down the need to do this:

'I don't think there'd be any need ... We are busy but that's the way the job is, you know? Anyway I don't think the police could do it any better, they're under a lot of pressure too. And that way we can use our own judgment a bit, you know, assess the situation the kid's in, if we can sort it out without going back to court.' ('Old' team member)

Therefore, on this issue, the YOT staff were unwilling to discuss any changes in policy, despite acknowledging difficulties and disagreements in their work with the police. There was also 'old' team criticism of the police decision, late in the fieldwork period, to transfer all young arrestees to one central police station, further away from the YOT offices. Given the level of staff involvement in appropriate adult work, this entailed more travelling time when a young person was arrested and detained. In turn, in the view of the 'old' team, such a move disrupted local organisation of bail services, because the extra travelling time meant that less time was available for talking to and working with young people:

'I don't see the point – it holds everything up when you have to travel into town to get to the police station, especially in rush hour. It holds the police up too because they can't start interviewing until the AA gets there. It was much better when you could just walk next door and see kids at the police station there.' ('Old' team member)

The bail team and local solicitors

There were numerous firms of solicitors in the Baytown area, all of whom worked with young people. However, the vast majority of cases involving young people who had been arrested in the Baytown area were handled by only two of these firms. The team were clear about how this unusual situation had come about:

'They get the business because they're the Martini firms – they turn up anytime, any place, anywhere. The kids know if they call them someone will be there, and they'll have a Mars bar and a packet of fags for the kid, you know, make the effort for them.' ('Old' team member)

It would be wrong to say, though, that a young person's preference for a particular firm was the only factor in the selection of a particular firm for call-out. Recommendations on which solicitors young people should use were made – by the admission of the YOT staff themselves – by appropriate adults. These were members of the Baytown YOT's bail team more often than not (see above). The YOT staff had a significant say in which firm received the 'business' each time a young person was arrested by the police. This was especially true since, as one of the 'old' team remarked, *'we usually get to the cop shop before the solicitor does'*. It seemed natural for the staff, acting in their capacity as 'independent' advisors, to recommend a solicitor to a young person in trouble. Nor should this be taken to mean that the chosen solicitors' firms were incompetent in representing the young people in the criminal justice process¹⁰⁹.

The point which is being made here is that the selection of solicitors' firms was another area of YOT staff discretion which was exercised in a far from systematic way. The staff were open about the fact that the solicitors' firms which were actually

¹⁰⁹ Their effectiveness (or otherwise) in doing so is outside the scope of this study, since solicitors did not have the power to actually make decisions affecting the youth justice bail process in the Baytown area. Rather, they acted on instructions from their clients (see e.g. Chapter Eight below).

used were chosen because they knew the solicitors in those firms on a personal level:

'It just makes sense to use people you know – we've known these guys (sic) for years, we see them in court all the time, we know they'll do a good job and make the process as quick and easy as possible for everyone.' ('Old' team member)

These firms were part of the status quo in the Baytown youth justice process, and, as with many other aspects of the YOT's bail policy and practice, the YOT staff were very resistant to the idea of change.

The bail team and alcohol and drug treatment agencies

There was one main agency which did drug and alcohol work with young people on bail in the Baytown area. The other main drugs and alcohol treatment agency dealt only with referrals from probation. Therefore, although YOT probation staff did deal with 17-year-olds, their contact with young people in the Baytown area was limited, and the bulk of their work was done with adults instead. The agency which did work with most of the YOT's clients claimed to be working closely with the YOT in terms of policy, and this view was supported at the mezzo level of Baytown youth justice practice (i.e. the YOT manager). However, micro level practice was far more complex than such a policy suggested.

Referrals to the main drug and alcohol agency were regularly made on behalf of young people by YOT bail staff. Such referrals were a regular feature, not just of bail support packages, but also of 'ordinary' bail conditions. However, liaison between YOT staff and the agency's staff was irregular and usually made by telephone rather than in person. The YOT staff were often the ones who initiated

contact rather than waiting for the agency to contact them. The 'old' team were dissatisfied with the links between the YOT and the drugs agency:

'The drugs workers are hard to get hold of a lot of the time – sometimes we don't know what work they're doing with the kids, or whether the kid has turned up for appointments. We need that information when we're deciding if the kid's played ball on bail or not – and so does the court.'
(Old' team member)

Further problems were caused not only by communication problems between YOT and agency, but also what was perceived by staff as a formalistic assessment by agency workers of young persons' progress while on bail. The YOT team ('old' and 'new' members) felt that, where treatment for drug or alcohol abuse was a condition of a young person's bail package (either conditional bail or bail support), the agency should be tackling the abuse itself, rather than simply monitoring attendance at appointments. A particular case serves as a good example of this difference in approach. One young person, who was on the bail support scheme, had to undergo treatment for drug abuse as a condition of his bail support package, since it had allegedly played a part in his current and previous offending behaviour. However, although the young person was attending appointments at the agency as required, and also adhering to the curfew which had been placed upon him, the team strongly believed that he was continuing to abuse drugs at home in the evenings, when the curfew was in operation:

'When we ring up the house to make sure he's there, or go round there and do a spot check, he's always in, but he's always stoned as well! Staggering around, slurring his words. He's definitely still taking the Valium like he was before. Why aren't they (i.e. the agency) sorting that out? They're supposed to be, aren't they?' (Old' team member)

This situation continued for the several months during which the young person in question was on bail support. He was never breached by the team, despite their confidence that he was continuing to abuse drugs:

'Technically he's not in breach, because he's turning up at the agency and sticking to his curfew, but it seems a bit pointless when he's supposed to have stopped taking drugs.' ('Old' team member)

The team ('old' and 'new' members in this respect) were wary of rocking the policy boat at mezzo (managerial) level by criticising an apparent contradiction in policy: *'we're supposed to get on with them (i.e. the drugs agency) now, aren't we?'*

It is argued that problems arising between the YOT team and the drugs agency were aggravated by differences in policy at the mezzo level of the two organisations. These differences were not always clearly articulated, but they centred around different perceptions of what the aims of drug and alcohol work with young people should be. This issue was highlighted when (perhaps in response to the concerns discussed above) a member of staff from the drugs agency was transferred to the YOT offices, presumably to provide the YOT with a ready point of contact when they felt that agency work was appropriate in a particular case. However, this staff member felt that the approach taken by other YOT staff to agency referrals was misguided at times:

'They overload me with referrals. Sometimes they're formal ones through the agency, sometimes it's "can you just have a word with him on the quiet, he's smoking a lot of weed at the moment". But quite a lot of the time the kid doesn't need proper drugs work – the drug use isn't really making him (sic) offend, and it'll probably go away on its own eventually.' (Seconded YOT drugs worker)

The quote above encapsulates the difference in policy between the YOT and the agency. The YOT (and particularly the 'old' team) believed in the value of abstinence in drugs and alcohol work with young people and a 'zero tolerance' approach to abuse while on conditional bail or bail support. The agency, on the other hand, seemed to be taking a 'harm reduction' approach, so that some drug or alcohol abuse might be tolerated provided that the link between abuse and offending was not absolutely clear, drug-related offending was not getting any worse while treatment

was taking place, or there was no clear risk to the young person's health. There was a clear conflict in practice here. While the agency's practice had come from a policy decision at mezzo (and, indirectly, macro) level, the YOT's practice had no real mezzo policy source of its own, and again seemed to derive from the intangible gut instinct of the 'old' team members – something which formed such a key part of micro-level YOT practice.

The divergent approaches of the YOT and the drugs agency to substance misuse seemed to be another policy conflict which led to unsystematic and confused practice when applied to young people in the bail process. Sometimes the bail team breached a young person for drug misuse while on bail anyway, despite the difficulties mentioned above: at other times they did not. At the time when the observation period ended, this conflict was still ongoing, had not been addressed at either mezzo or micro level, and was seemingly made worse by the presence of an agency staff member in the YOT offices. On the most basic level, the drugs worker was the focus for most of the discontent:

'Whenever I'm at the YOT, people from the agency are wanting me and asking where I am. When I'm at the agency people from the YOT are after me. I have to try and play them off against each other sometimes, they want different things from me.' (Secoded YOT drugs worker)

The bail team and education and training agencies working with young people

One of the team's main concerns when undertaking their duties was the education of young people who were involved in the youth justice process. As one of the 'new' team remarked:

'Education is one of the biggest problems for them – or I should say lack of education, because most of the repeat offenders haven't been in mainstream education for years, and the schools won't have them back.'

Phone calls attempting, and failing, to persuade schools to 're-accept' children they had in many cases not seen in the first place were a common feature of day-to-day life at the YOT. The aim of these phone calls was to improve the portrayal of the young person in question when he or she appeared in court, or was made the subject of a pre-sentence report¹¹⁰. Throughout the period of observation, though, these appeals to the mainstream education system in the Baytown area were largely fruitless. There was no system in place for re-integrating young people in mainstream education, apart from these informal *ad hoc* discussions. This situation continued despite the addition of a dedicated education liaison officer to the YOT staff during the observation period. In fact, this addition to the YOT made no noticeable difference to the disorganised situation described above.

The failure to make progress was not due to the education officer or his practice. The issue was rather that work was mainly directed at less serious offenders, or young people still in mainstream education, rather than those who had been outside it for a long period of time. Discretion (to involve certain young people in education initiatives) was used to target services at young people who had a low risk of failure, rather than those with the greatest need for intervention.

What alternatives were available, then, for young people who could not be part of the mainstream education process, or (in the case of the 17-year-olds) had gone past the minimum school leaving age? In a few cases home tuition was available, but the bail team were not optimistic about this initiative:

'Most of the kids we get aren't interested, even with home tuition. They haven't been anywhere near a school for years, they get money nicking things and selling them, selling drugs, all that stuff. They don't want jobs, or education, they don't need them.' ('Old' team member)

¹¹⁰ Which, as mentioned earlier, were mostly written by the bail team, and by its senior practitioner in particular.

Attitudes were similar about more practical and vocational training schemes for older children. These were run by various independent local schemes, funded by Baytown's local authority. They aimed to offer practical skills to young people to strengthen their position in the employment market. Skills offered included, for example, training in mechanics – which involved classes in repairing and maintaining vehicles, building on an interest which might previously have revealed itself in involvement in vehicle theft.

However, these schemes, though proactive in theory, were fragmented in practice. Communication between the bail team and the agencies was poor, with each blaming the other for the resulting problems:

'This kid we had on bail support a while ago, they (i.e. the education agency) told him he'd get a qualification if he finished one of their courses. He finished it but then they said he'd got it wrong and there was no certificate for the course he'd done. Then they phoned us up and blamed us for telling him he'd get the certificate! We never said anything like that! It's not our fault if they can't organise things properly.' ('Old' team member)

Also, misunderstandings about what the schemes' responsibilities and duties actually were merely added to the team's pessimism. No protocols about what would be done in each case were observed, and a situation developed whereby the bail team (and the young people they referred onto the external projects) did not fully understand what happened in terms of training, and what was supposed to happen:

'I don't really know what they do up there (at the schemes) but sometimes it just sounds like they're teaching them how to get better at nicking cars. We used to do more outdoor pursuits with the kids – take them out hiking, that sort of thing. Doesn't happen much now though, but then again the kids are harder to handle now, I suppose.' ('Old' team member)

The 'old' team were also firmly of the belief that once a young person had become entrenched in the 'hardcore' of offenders in his or her (almost always his) age group, no intervention (from the YOT or anyone else) could break the spell of a

life of crime. Conversely, minor offenders would 'drift' out of crime and into a normal life as they got older (the senior practitioner being an open supporter of the ideas of Matza (1964, 1969) on the subject of delinquency and drift), and so any serious intervention with them would only result in net-widening, and would not have any beneficial effect either. These beliefs led to a creeping pessimism about the ability of the bail team (and anyone else in the YOT for that matter) to do anything about the young people entering the youth justice process. This, in turn, led to a withdrawal of any proactive bail services, and a retreat to minimalist reactivity.

Another factor in this approach was a belief, again arising from the 'old' team, that the team's real function was to save the youth justice process money, and that the team would ultimately be judged on its ability or inability to do this in its bail strategy:

'One of the big problems with getting involved with the outside agencies is that you don't know when the money's going to run out with them – you can't commit to it because you don't know how long it's going to last. I've always thought that my job as a remand management worker is to save the system money, not spend more of it. I used to be able to use the stats to prove I was saving the system money, you know, by reducing the number of remands to custody and all that. But I can't do that now, the remand rate has been going up since the Crime and Disorder Act came in, so that puts pressure on us to cut down on the budget with other things, especially when they're not very reliable.' ('Old' team member)

This requirement was not fully articulated by the mezzo (management) level of the YOT, although it was implied on some occasions in a more general context, and certainly fitted in with the post-*Misspent Youth* (Audit Commission 1996) managerialist climate in the New Labour youth justice policy framework. But, again, such speculation was used as evidence for the 'old' team's pessimism regarding bail services. The missed opportunities in the area of education and training for young people in Baytown's youth justice process were a good example of this.

The bail team and accommodation agencies working with young people

Accommodation, or the lack of it, for young people on bail was viewed by the staff as being one of the biggest problems facing the bail team in Baytown. On the basis of (admittedly limited) discussions with and observation of other nearby YOTs, this was not a problem which was limited to Baytown itself. The team struggled to find a suitable place to live for young people on bail outside the family home. It was frequently the case that young people who had been arrested and charged in Baytown no longer lived with their families¹¹¹. In such cases, the risk of remand to custody was increased, since one of the reasons behind the grounds for denying bail is the absence of a suitable place of residence during the bail period. Young people whose accommodation situation was unstable should, it is therefore submitted, have been one of the main targets for bail services offered by Baytown YOT.

In reality, though, this priority was turned on its head by the YOT's policy. Such was the shortage of locally available, suitable accommodation for young people on bail that one of the bail team's criteria for *refusing* to consider a young person for bail support work was that he or she did not have a suitable bail address. Therefore, instead of seeking to tackle the accommodation problem head-on, the team avoided even applying for (or recommending) bail when a young person had no secure place to live. It is unclear how many young people were remanded to the secure estate simply because they had no bail address and could not live at their family home¹¹². Nevertheless, on the basis of the information that was available, lack of accommodation played a part in a young person being remanded to custody in at the very least a sizeable minority of cases.

¹¹¹ See Chapter Eight for young persons' accounts of their own accommodation problems, and the impact of these problems on their offending behaviour.

¹¹² The bail team only began to record the reasons given by the court for denying bail around 18 months after the start of the fieldwork, and even then records kept were irregular and very informal.

The team cited lack of funding as the main reason for not being able to develop alternative accommodation provision. Once again, however, this statement did not tell the whole story. The team did in fact have two accommodation places available for young people on bail. Both were in private houses, owned and run by remand foster carers, who were paid a regular allowance by Baytown's local authority for accommodating young people. However, the 'old' members were resistant – often fiercely resistant – to allowing these places to be used for young people on bail support. The main reason given for this attitude was that the team did not want the places being 'tied up' long-term by young people on bail support. Instead the places were taken by children in the 10-15 age group who were at risk of being remanded to local authority accommodation.

It is submitted that this policy, although well-intentioned, was misguided to some extent. This is so, firstly, because quantitative analysis revealed that younger children were rarely denied bail in the Baytown area. Secondly, younger children would have been given priority by local social services for alternative accommodation, whereas older children found it harder to find specialised accommodation of this kind. Thirdly, and finally, there was no evidence to suggest that younger children necessarily needed such accommodation *for longer periods* than the older age groups – the places were often 'tied up' for extended periods of time in any case. Therefore, older children, who (especially in the case of 17-year-olds) were more at risk of being denied bail, did not enjoy the advantage of these 'ring-fenced' accommodation places.

Accommodation alternatives for young people on bail were very scarce. Several accommodation agencies dealt with young people, but – as with other areas of practice – the bail team had become frustrated and disillusioned with communication problems and the severe shortage of available accommodation:

'Most of the time I don't even bother asking. I know what the reply's going to be. It's Christmas Eve all year round here, there's never any room at the inn.' ('Old' team member)

In this case, however, their pessimism was not entirely unfounded. When local accommodation agencies did deal with young people on bail, the only available places for them were bed-and-breakfasts, which simply did not provide a suitable environment. Young people sometimes found themselves living next door to drug users and dealers, as well as prostitutes (see Chapter Eight). Sometimes the young people were even forcibly removed from their rooms by those wishing to do 'business' there. At best, by the very nature of bed-and-breakfasts, young people were evicted from their rooms during the day, and were effectively homeless at these times. The dangers for young people who often came from unstable family backgrounds, and who were mainly (as discussed above) outside mainstream education, were obvious. Apart from not providing any stability, and little or no activity designed to address problems leading to offending, staying in alternative accommodation sometimes put young people's personal safety at risk. Yet the YOT and external accommodation agencies seemed powerless to address these important issues for young people on bail.

The negativity which this far from ideal situation fuelled at the Baytown YOT meant that the accommodation issue itself was often managed out of the process. Even on the rare occasions when a young person was placed on the YOT's bail support scheme, this led to a lack of systematic procedures for checking the existence and viability of bail accommodation which a young person had nominated. On one occasion, a young person given bail support gave the bail team an address which was located some distance away from Baytown, in a rural area¹¹³. The team were reluctant to do an evening 'spot check' in this particular case, because, it was

¹¹³ This young person was Interviewee 16 in Chapter Eight below, and he discussed this incident in more detail there.

claimed, of the effort involved in driving to the given residence at night. The young person had been on bail for several days before one of the team finally did carry out a physical check.

When he reached the given address, he found that the young person's family did not live there. In fact, subsequent enquiries revealed that they had not lived there for nearly a year. The young person was in fact at large and of no fixed abode, and re-offended during this period. When he was re-arrested, he was remanded in custody, and subsequently received a custodial sentence. It is argued that a successful period spent on bail support, in accommodation which had been checked *before* the young person was released on bail, might have prevented the subsequent denial of bail, and possibly also the custodial sentence in this case.

The bail team and the youth justice secure estate

Given the team's status as a bail team, part of its duties necessarily involved the youth justice secure estate¹¹⁴. This was so because when a bail application was denied – or was not made at all – the young person in question would be remanded to the secure estate. Attitudes towards secure establishments for young people, and indeed the nature of the regimes in those establishments, therefore had a key impact on the operation of the team's bail services.

At the start of the fieldwork period, what will be referred to as the 'old framework' was in effect for the Baytown YOT. This involved young people who were remanded to custody being sent to HMP Baytown. This prison, which was a dispersal prison for adult males, had a specialist youth wing, and young males were

¹¹⁴ Comprising young offenders' institutions – hereafter referred to as YOIs – and secure units.

therefore sent to HMP Baytown where possible. The 'old' team, and also the 'new' team (less openly), were enthusiastic about this arrangement:

'It's a good set-up down there (i.e. at HMP Baytown). It only takes about 10 minutes to drive down there, so we can see the kids the same day they've been remanded, or the day after, and do a welfare check on them quickly. We know the prison officers down there too, we trust them to let us know what's going on, you know, with who gets remanded and when.' ('Old' team member)

The main disadvantage of this arrangement was obviously the placement of young people on remand in an adult prison¹¹⁵. Other disadvantages centred around the placement of young people in an overcrowded prison environment, with a lack of specialist resources dedicated to young people on remand. The advantages, however, were several from the YOT's point of view: ease of access to young people¹¹⁶, more efficient time management (since minimal time was spent travelling in most cases), and a good rapport with prison staff (enabling better communications).

For girls, and younger children sent to secure units, the old framework was less effective on these criteria. There was no secure remand accommodation for girls within 100 miles of Baytown, and the nearest YOI was around 140 miles away. Also, although there was a secure unit in Steeltown, which was only around 10 miles away from Baytown, places at the unit were very limited. As places were also available for young people not accused of crimes, young people placed on secure remand were often placed further away¹¹⁷. Therefore, for these young people, the advantages of the old framework were less apparent.

However, the relationship between the Baytown YOT and the youth justice secure estate changed radically during the fieldwork period. During 2000, the team

¹¹⁵ Albeit on a specialist youth wing.

¹¹⁶ This was also true from the point of view of the young people's families and friends, at least for young people from Baytown and the surrounding area – others from outside the area were also sent to HMP Baytown.

¹¹⁷ In one case, involving a girl, the placement was well over 300 miles away from Baytown.

discovered – via a prison officer at HMP Baytown – that young people from the Baytown area who were remanded to custody would no longer be sent to the local prison. Instead, they would be sent, if possible, to the nearest specialist YOI. This was YOI Stonewall, over 100 miles away from Baytown. The team were angry about this change, not least because they had not been consulted, or informed of it directly by the YJB:

'They're going to start sending the kids to (Stonewall) next month. The YJB are supposed to be in charge and they didn't even remember to tell us! We're the ones to have to put up with this, not them! We had a good system going already and now we have to drive for hours just to get to the kids, instead of going 10 minutes down the road. Is that supposed to make things better?' ('Old' team member)

The above quote illustrates some of the disadvantages of the switch to Stonewall. The team faced a 200 mile round trip to get there, in order to check on young people's welfare in prison, and update case information. Just as HMP Baytown was as easy to access for a young person's family and friends as it was for the team, so the move to Stonewall stretched the social bonds of the community to breaking point for young people sent there¹¹⁸. In addition, Stonewall had a large catchment area, so many different YOTs were competing for visiting time at the YOI. Visits now had to be booked in advance, and the time spent travelling to and from Stonewall impacted greatly on the staff's time management.

These factors should have been apparent before the move to Stonewall was implemented. Other factors¹¹⁹ caused further problems, both for the team and for the young people in prison. It quickly became apparent that conditions at Stonewall were

¹¹⁸ This was made worse by the lack of public transport facilities in the area surrounding Stonewall. It was, for example, hard to reach by bus, and some 20 miles from the nearest railway station, so that a young person's visitors sometimes had to rely upon the ability of the team to transport them in their cars.

¹¹⁹ These may or may not have been foreseeable, given the overcrowded and crisis-ridden nature of the prison network in England and Wales (see e.g. Sim 2004).

very poor. There were severe understaffing and bullying problems, exacerbated by very low staff morale¹²⁰.

The YJB could not have been expected to foresee the nature and extent of these problems. What it could reasonably have foreseen, arguably, was the fact that a YOI with such a large catchment area would become overcrowded very quickly and easily. It arguably could have acted more quickly than it did, moreover, to prevent the problems becoming any worse.

The disadvantages to the team were also made worse in practice. Visits to young people at Stonewall, even though they had to be booked in advance because of the large number of young people being sent there on remand, were sometimes a waste of time. The team were often unable to talk to the young person whom they had made an appointment to see. The first main reason for this were that the young person had been taken to court for a scheduled appearance, and so was not there when the team member arrived at Stonewall. This obviously pointed to a lack of basic communication between Stonewall and the team, something which was entirely avoidable¹²¹. Equally obviously, it disrupted the team's work routines¹²². The second main reason for such wasted journeys was that the young person simply refused to see the YOT member¹²³. Overcrowding and understaffing may have contributed to this. Whatever the reasons, though, the situation was not ideal for either YOT staff or young people, and for a team that was, for various reasons, over-stretched, these journeys took up a great deal of time, sometimes to little or no effect.

¹²⁰ More details on this issue are not given here, to preserve the anonymity of the establishment in this study.

¹²¹ This said, it also pointed to a failure by the team to make the necessary checks on court appearances, since the vast majority of appearances were in Baytown's youth court or Crown Court.

¹²² As well as the research, since several fruitless trips were made to interview young people in prison.

¹²³ Remarks made by prison staff such as *'he's in bed and he doesn't want to see you – there's nothing I can do about it'* were common in this regard.

Towards the end of the fieldwork period, some young people from Baytown were sent to YOI Greenwood on remand. Greenwood had previously taken only sentenced young people, in a YOI unit on the same site as (but not in the same building as) an adult training prison. It was considerably closer to Baytown than Stonewall. This meant that staff had to spend far less time travelling, making use of their time far more efficiently. Any empirical comparison of the effectiveness of the regimes of Stonewall and Greenwood is outside the scope of this study, particularly as, for example, a comparison of re-offending rates would make little sense in a study focusing on remand prisoners. From observations of the two establishments, however, significant differences in the regimes and the way in which YOI staff responded to young people within them were noticed¹²⁴. YOT bail staff felt that young people were encouraged more in Greenwood than in Stonewall:

'Greenwood's a smaller place, so there's fewer kids on remand there. That's because it hasn't got a massive catchment area like (Stonewall)¹²⁵. So the staff can spend more time working with the kids, the kids can spend longer out of the cells, and they talk to us more. The atmosphere's just better there than in (Stonewall) all round, really.'
(*'Old'* team member)

Therefore, the move away from Stonewall had some beneficial effects, in the view of the bail team. It should be re-emphasised, however, that not all young people could be sent to Greenwood, and some were sent even further away than Stonewall because of overcrowding. In such cases, the problems for both staff and young people were magnified still further.

The problematic relationship between Baytown YOT's bail services and the secure estate had not one cause, but several, located at the micro and macro levels

¹²⁴ It is perhaps interesting that both YOIs were privately run, so this in itself would not have accounted for the differences between the two establishments.

¹²⁵ Although the new framework had not been operational for long when the fieldwork ended, so this may no longer be the case.

of the process. The attempts to centralise and improve youth justice practice at the macro level sometimes undermined already existing problems at the micro level.

The following sections examine the relationship between the different levels of the response to young people in the bail process, focusing on the links between the micro level (the team) and higher strata of management: the YOT management and regional organisations (the mezzo level), and national policy-making organisations and agencies (the macro level).

The relationship between the micro and mezzo levels: practitioners, YOT management, and bail policy

Some discussion of the relationship between the micro and mezzo levels of the Baytown YOT has already been made in the context of the links between the bail team and external drugs agencies working with young people. There it was noted that communication between the team members and the YOT manager was often difficult. This feature of bail services will be discussed in more detail here.

It was common for the team ('old' and 'new' members) to remark upon the absence of the YOT manager from day-to-day working life:

'Sometimes trying to fix up a meeting with (the YOT manager) is like trying to get an audience with the Pope.'

This comment was made half-jokingly by an 'old' team member, who knew the YOT manager well and respected him – but it is still illuminating in the sense of showing the 'stretching' of the mezzo level under the new multi-agency youth justice framework. Increasing layers of bureaucracy¹²⁶, at regional and national level, in the youth justice process meant that the YOT manager was rarely able to discuss

¹²⁶ In the form of meetings and conferences keeping managers out of the office, as well as paperwork.

matters of micro-level policy with the team. He was often engaged in mezzo-level meetings with other local youth justice agency managers, or attending conferences and policy meetings regionally or nationally.

As a result of this 'stretching', the YOT manager intervened little in the micro level bail policies described in this chapter. 'Communication' often took place mainly in the form of statistics compiled by the bail team, and organised by the YOT manager before being passed onto the YJB. However, these statistics did not provide a full account of how (and how well) bail services were working locally. The team (and the YOT manager) prided themselves on their long-standing use of statistics and monitoring of practice, yet even fairly basic quantitative analysis of factors affecting the use of bail locally was not employed. Instead, an uncritical count of remands to custody and other bail disposals year-by-year was a key feature. Opportunities for use of rigorous evaluation of micro level practice to challenge local level problems were missed. The manager was taken away from his area of expertise by the New Labour macro level agenda. Communication between mezzo and micro level was productive when it actually occurred, but due to pressures exerted primarily by the macro level, it was necessarily infrequent, as the above comment shows.

The communication problems between micro and mezzo levels were implicitly acknowledged when, during the fieldwork period, managerial duties at the YOT were divided up. A deputy YOT manager¹²⁷ was appointed to deal with day-to-day micro level practice. This managerial re-structuring failed to change the model of a bail team whose practice was paralysed by a combination of resistance to the 'new youth justice' (Goldson 2000) and over-cautious use of discretion over local policy and practice.

¹²⁷ The senior practitioner of the supervision team.

The change in the YOT hierarchy had no observable practical effect on bail team practice. Partly, this was because the deputy YOT manager also had work commitments away from the office environment, just as the YOT manager did. Partly it was also the result of conflict between the YOT sub-teams, as mentioned above. The deputy YOT manager remained a vital part of the supervision team, and was seen as such by the bail team.

Occasionally this conflict took a more tangible form. On one occasion, before the 'new' members of the bail team had left, the senior practitioner of the bail team called a team meeting, to be held later on the same day. However, shortly before the meeting was due to take place, news arrived that a young person had threatened a member of YOT staff during a home visit. The deputy YOT manager then asked the police officer who was a 'new' member of the bail team to accompany another member of staff to the scene of the alleged incident. The bail team's senior practitioner was not informed about this until the meeting was due to start, when he discovered that a member of his team would not be able to attend the meeting. A heated argument then took place between the deputy manager and the senior practitioner. This could have been viewed simply as a misunderstanding, or a minor-level communication breakdown, or even a necessary measure in a potentially dangerous situation, but the meaning attached to the incident by the 'old' team was somewhat different. They saw it as an example of the deputy manager 'pulling rank' on the bail team and deliberately subverting bail team practice (they argued that an 'ordinary' police officer could have been sent out to the incident, rather than the bail team member).

In conclusion to this subsection, the links between the micro and mezzo levels of the Baytown YOT's bail strategy were severely strained during the study period. These difficulties had two main implications. Firstly, the task of transferring macro-

level policy into micro-level practice was made far more difficult. Secondly, when conflicts arose at the micro-level, it was harder for the mezzo-level to take steps to resolve such conflicts, and to take action to prevent them re-occurring.

The next section examines the links between the micro and macro levels of youth justice bail policy and practice.

The relationship between the micro and macro levels of youth justice: imposing the new youth justice orthodoxy in the new millennium

As indicated at the start of this chapter, the 1998 Crime and Disorder Act fundamentally changed the relationship between youth justice practice at ground level and Government policy. Put simply, it brought the two levels much closer together¹²⁸. The 1998 Act greatly accelerated the process of centralising power over the micro level of youth justice at national level. This process could be seen clearly in many of the 1998 Act's provisions – for example, the introduction of the YJB, which is responsible for formulating 'best practice' in youth justice work as well as disseminating it. However, the centralisation of power also occurred in more subtle, insidious ways – one of which directly affected the way in which Baytown's youth justice bail services were run.

Before the Act's introduction, bail support services – as the bail team defined them – only covered 10 to 16-year-olds. However, the 1998 Act stipulated that bail support services must be available for all young people between the ages of 10 and 17 inclusive. The Baytown YOT therefore applied – successfully – for YJB funding to enable the bail support service to be extended in line with the new legislation. In

¹²⁸ Despite the central responsibility of local authority chief executives for YOTs. This could be seen as an example of what Garland (1996) defines as 'responsibilisation', under which governments are seen to be transferring responsibility for crime control policy to the local level, but are in fact covertly centralizing power over policy at the national level.

return for this funding, though, the YJB expected the funded part of the bail support scheme to be evaluated by an independent organisation, in accordance with pre-determined criteria. As a result, bail support services for 17-year-olds in Baytown were under the direct scrutiny of the Home Office¹²⁹.

However, the process of the macro level monitoring the micro level did not stop at centralising legislation, nor even at evaluation in exchange for funding. It extended to regular bulletins on 'best practice', monitoring visits, and numerous sets of guidelines dealing with all youth justice bail services in Baytown (and indeed in every other YOT in England and Wales). The YJB did not disseminate guidelines and evaluate practice directly. Instead it appointed an 'independent' organisation – ACORN¹³⁰ – to carry out these tasks on its behalf. It was with ACORN which the YOT bail team had the most contact. ACORN's official role was simply to undertake a kind of 'meta-analysis' of information gained at regulator intervals from the researcher in the capacity of independent evaluator (as well as the team themselves on service provision generally). However, it became apparent that 'role creep' was occurring on ACORN's part. During the fieldwork period it became an uncritical mouthpiece for YJB policy development, rather than acting impartially as an independent evaluator of the information received from YOTs. In this way the reach of macro-level power penetrated even further into ground level practice.

It was partly because of this 'role creep' that the team's hostility to ACORN and the YJB quickly took hold. Observations generated by research seemed to concur with the team's (notably, as highlighted in previous sections, the 'old' team's)

¹²⁹ The White Paper *No More Excuses* (Home Office 1997) indicates that although the Youth Justice Board is independent, it is 'under the sponsorship' of the Home Secretary – seemingly a euphemism for its being under the direct control of the Government.

¹³⁰ A pseudonym for an agency involved with various aspects of criminal justice, including youth justice.

views on this point. However, the roots of this animosity extended beyond ACORN in particular, to encompass resistance to macro-level policy in general:

'The Government don't know anything about remand work at the sharp end. They don't know anything about bail support either. I've been doing this work for a long time. They should have asked us if they wanted to know what guidelines to put in.' ('Old' team member)

This statement – which accurately represents the 'old' team's views throughout the fieldwork period – links resistance to the macro level's influence over day-to-day practice to other issues shaping the team's attitudes towards youth justice bail services. In particular it harks back to the history of these services in the Baytown area, discussed above. The influence of historical factors on the team's practice during the fieldwork period has already been noted. The above quote also shows how the team's own understanding of what 'bail support work' was shaped their attitudes towards what they saw as interference from 'outside'. It also raises an important issue, linked to the arguments made in Chapter Two earlier. This was the fact that the Government did not appear to consult local youth justice teams (as they were then called) who had previous experience of bail support work before implementing it nationwide¹³¹. Certainly, as the quote implies, the Baytown team had not been consulted, and this again was seen by the team as a sign of the Government's arrogance and ineptness.

This new evaluation regime also had an impact on the team's practice in other ways. Previously, when assessing a young person's suitability for bail support work, the 'old' team had used their own form:

'It was really straightforward – two pages, the basic details about the offence, previous (i.e. offending history), risk to the public – just the important stuff.' ('Old' team member)

¹³¹ The obvious source for the 1998 Act's provisions was the Audit Commission's report *Misspent Youth* (1996). However, the discussion of bail support services in that report was very limited (see Chapter Two above). Also it is significant that the discussion there focused on how much money could be saved using bail support services, rather than any concept of children's rights, to bail or anything else for that matter. See also Jones (2001: 373-4).

After the 1998 Act had been implemented, however, the YJB introduced its own assessment form – ASSET. This was substantially longer than the old form, while covering much the same ground, albeit in far greater detail. In addition to the ordinary ASSET form, to be completed for young people generally, there was also a special bail ASSET for those in the bail process. From the outset, the bail staff saw the resulting paperwork and administration as an unnecessary intrusion into locally established practice:

'That thing (i.e. the ASSET form) is like War and Peace. Who's going to have the time to read all that?'

The introduction of ASSET threatened the foundation of the team's previous practice – the daily early morning 'trawl' in which a team member would telephone all the police stations in the Baytown area which were capable of detaining young people overnight. The team member would then find out which young people had been so detained, assess risk based on knowledge of the young person and his or her pattern of offending (as well as the circumstances of the current offence), and quickly complete the bail assessment form accordingly, in time for the young person's appearance in court later that day. The length of the new ASSET forms made it difficult to pass on information to the YOT's court officers in this way. Despite this, the trawl went on as normal after the introduction of the ASSET. The team knew that ASSETs would not always be read in their entirety by other agencies in the youth justice process, due to time pressures. They therefore regularly filled in the ASSETs only partially, or did so as rapidly as possible, while doing what was necessary to present an adequate picture of compliance to the YJB.

The 'old' team were openly hostile to the local representatives of ACORN, who seemed to them to be the agents of the Government rather than impartial collectors of data. Such was the suspicion of outside interference with their work, however,

that even ordinary data collection and analysis was seen as an unnecessary chore at best, and a malicious threat to their 'good practice' at worst. The 'old' team actively resented any contact with ACORN and the YJB. On one occasion an argument broke out during a telephone call by a member of the 'old' team to the member of ACORN staff responsible for the collection of the data. The ACORN staff member refused to pass on collected information about bail services, locally and nationally, to the team member, in advance of the publication of a report on the subject. The 'old' team member was furious about this:

'That idiot wouldn't let me have the figures. Who does he think he is? I told him I'm a government employee, I've got a right to see those figures. This is the YJB's idea I suppose, they take over everything and they haven't got a clue about what we do.'

Another form of direct contact with the macro level came in the form of regional meetings and conferences. Regional meetings were held at various venues four or five times a year. These were fairly informal gatherings, designed to compare and contrast bail outcomes from different YOTs. National policy was often a key feature of the meetings' agendas, but they were rarely attended by ACORN staff. Conferences happened more rarely, and covered far more YOTs and a much bigger area than the meetings. These were usually organised and run by ACORN staff, and were forums where members of ACORN liaised with bail workers from different YOTs to pass on information from the YJB, and to disseminate results from the analysis of data collected from the YOTs on their bail processes.

Conferences usually produced anger from the 'old' team at what they saw as the ineffective and unnecessary interfering of the macro level in local bail policy and practice. Sometimes they also produced feelings in the team's senior practitioner best described as despair. After attending one conference, some distance away from Baytown, this team member was absent from the YOT for some time due to

illness. He admitted that he had witnessed the more proactive services used by some other YOTs attending the conference (including more extensive use of bail support work) and had become very anxious. Crucially, though, he still saw the bail process for young people in Baytown as something he had little control over, in terms of proactive work with young people to prevent time spent in custody.

The next section discusses and contextualises the findings presented previously in this chapter, relating them to the quantitative data presented and analysed in Chapters Four and Five.

Discussion and analysis of findings

The discussion in this section links back to the outcomes of the Baytown youth justice bail process, which were defined on the basis of the reporting and analysis of quantitative research (see the conclusion to Chapter Five above). The findings in this chapter will be analysed here to reveal whether they can provide mechanisms for explaining these outcomes. Each outcome will now be discussed in turn.

Mostly systematic court decision-making under the terms of the Bail Act

This outcome was not directly addressed by the findings in this chapter. Magistrates' decision-making processes will be discussed in detail in Chapter Seven below.

Decreasing evidence of systematic decision-making at subsequent court appearances

The issue of why bail outcomes at subsequent court appearances were less easily explicable by research evidence can be linked to data in this chapter. There was considerable research evidence that the 'old' team trusted the Baytown magistrates completely, and believed in the magistrates' ability to make decisions in line with the Bail Act criteria. Therefore, when court decisions were not made systematically, the culture of avoiding conflict and managing it out of the bail process made it less likely that the YOT staff would attempt to challenge these decisions (e.g. Hucklesby 1997a).

This occurrence was linked to a wider reactivity and negativity in offering bail services. 'Old' team discourse referred back to a 'golden age' of youth justice, when young people in the youth justice process were not as troublesome or dangerous as they are currently¹³², and when youth justice practice was more effective. But secondly, and simultaneously, it looks forward with increasing pessimism to the inability of the youth justice agencies to do anything about youth crime, and the problems/needs of the young people involved, except 'widen the net' of the youth justice process through an increasingly disorganised, complex and ineffective response to crime¹³³.

There was potential for effective YOT work with young people on bail. Some of this potential was realised by the ISSP scheme, which followed the period of study, and was outside its scope (see Appendix H for an overview). This highlighted what might have been achieved by the bail team, since the resources available to the

¹³² A comparison could be made here with the 'historical amnesia' thesis put forward in the general context of society's attitudes to youth crime by Pearson (1983, 1994).

¹³³ For the dangers of this negative attitude, see Cohen (1985: Chapter Seven), and McMahon (1990).

ISSP team were not significantly different to those available to the bail team. It is submitted that, in the field of education and training for young people on bail for example, the difference between the responses of the teams was a positive and proactive attitude, and less preoccupation with managing conflicts out of the youth justice process by remaining largely inactive.

Negativity provides the link between this explanation and the explanation discussed next – namely that regarding the social significance of remands to custody locally.

Social significance of remands to custody

Evidence was found of a YOT policy of not offering bail support at first appearance in court (although there were exceptions to this norm). The 'old' team in particular used remand to custody at first appearance to gain extra time for risk assessment, and suitability for subsequent bail applications. Their discourse alluded to practical experience and instinct about how young people would respond to being placed on bail. This did not fit in with the image of systematic, case-by-case, detailed analysis projected and promoted by macro-level policy, and is one possible explanation for the ambiguous results of remands to custody. In particular, comparisons could be drawn here between this model of practice and the evidence to suggest that a remand to custody is in itself damaging to a defendant's case (e.g. Sanders and Young 2000). Various writers (e.g. Cavadino and Dignan 2002: 82-9) have pointed out that a remand to custody limits a defendant's access to legal representation, therefore hindering his or her ability to construct a defence case. Some have also argued (e.g. Davies 1971; Ruthven and Seward 1996; Cavadino and Dignan 2002) that sentencers are more inclined, where a defendant has been

remanded in custody, to consider a custodial sentence. Therefore, this policy does not point to efficient decision-making.

Conversely, there was some evidence of the Baytown courts remanding young people in custody, and later giving them a community sentence (see Chapters Four and Five), and the 'old' team believed that the courts operated such a policy in Baytown. In the light of this evidence, another possible mechanism for the above outcome was the attempts to avoid sentencing to custody later¹³⁴, but such calculations seem to overlook the particularly bad conditions often faced by remand prisoners (Morgan and Jones 1992). Both of the mechanisms discussed in this subsection, it is argued, had a part to play in the social significance of remands to custody – but both also point to widespread discretion within the bail process, which was not always used efficiently.

A third, 'knock-on' effect of the YOT's remand to custody policy involved the movement of young people on remand away from HMP Baytown. This seriously impeded the effectiveness of the bail strategy used by the YOT. It could also be argued that this change in the bail process could have triggered a change in practice, however. A move away from the policy of only offering bail support at second court appearance or later (and often following an initial remand to custody) could have been one possible development. However, no such change occurred. The reasons for this caution and pessimism have been discussed above, particularly with regard to education and accommodation facilities for young people on bail in the Baytown area – but the same comments apply equally to staff policy in this respect as well. Therefore the combination of a cautious, reactive service and a belief that magistrates' decisions to remand young people in custody were invariably right anyway meant that bail support was severely hindered at the Baytown YOT.

¹³⁴ And perhaps also the weighing-up of the expense of a shorter period on remand against a longer period as a serving prisoner.

The rarity of bail support referrals

The findings here revealed that the YOT applied for bail support only rarely. This focused analysis on explanations for this attitude among staff. Complaints from the 'new' team highlighted the very small number of young people who were actually referred onto the bail support scheme while the fieldwork was going on. The 'supply' of young people being placed on bail support was – somehow – being 'cut off', so that the new, dedicated staff could not work with them. This conflict about bail strategy at the micro-level was a conflict which was 'managed out of the process' by the 'new' team's subsequent 'sideways' moves into other roles in the YOT. This was possible by means of the wide discretion available to individuals at the micro level of practice – discretion to 'carry on regardless' on the part of the old team, and despite clearly stated, multi-agency, proactive bail policy at mezzo and macro levels. Of course, a contrast could be drawn between this management of conflict and the systematic, smoothly-run multi agency YOT featured prominently in macro-level rhetoric.

Another mechanism involving managing conflict out of the bail process related to the 'old' team's definition of bail support itself. It owed much, rhetorically, to the 'risk management' model of criminal justice (Feeley and Simon 1992, 1994), under which 'high risk' groups of offenders are isolated and excluded. However, it is important to note that compliance with the risk management model does not rule out the use of discretion, or discrimination:

'In practice there is considerable overlap between the old and new penologies. The old assumptions continue to infect the new scientific calculations of probability and the new risk-managers do not abandon their preconceptions. Indeed, by enumerating the characteristics of suspect populations, the new penology lays bare the bases of categorical suspicion and makes starkly evident the stereotypes and prejudices that inform them ... Actuarial calculation thus becomes its

own self-fulfilling prophecy as those targeted are more likely to be drawn into the criminal justice net.' (Zedner 2004: 290)

The 'old' bail team (the only bail team members who used the discourse of risk management) were committed neither to national youth justice policy and practice nor to any concept of rights for young people in the youth justice process. They seemed to be saying that they were interested primarily in preserving their own discretion, and this obviously had negative implications for both development of policy and young people's rights. This discourse, despite its risk management rhetoric, arguably provided a contrast with the image of youth justice as a well-managed 'system'.

Discretion and managing conflict out of the process

The factor which draws together the competing explanations discussed in this section is that of discretion at the micro-level of the Baytown process. Despite the centralising, managerialist tendencies of macro-level policy, those who had the power to exercise discretion at the micro-level were able to employ and maintain their norms of bail practice. These included appropriate adult work which could have been delegated to others; a reactive approach to bail services; mistrust of external agencies; complete trust of magistrates' decisions; and a 'gut instinct' approach to risk assessment of those on bail.

These norms faced challenges from a number of sources during the study period. There were challenges from the micro-level (new members of staff who had a more proactive approach towards young people in the bail process), from the mezzo-level (implemented multi-agency policies and competing demands on staff resources) and from the macro-level (increased bureaucracy and monitoring of

practice). However, the norms were never successfully displaced. The 'old' team had the power to cut off the supply of cases for the 'new' team at the micro level, preserving their beliefs (derived from previous experience in a different context). They were able to take advantage of the absence of mezzo-level 'hands-on' office input (itself partly due to the demands of macro-level managerialism) to preserve their power and discretion. Finally, they were able to retain discretion in the face of attempts at greater control from the macro-level. In reality the ASSET forms were completed very reluctantly or done as a *'last-minute job'*, especially by the 'old' team (and sometimes, especially in the case of the bail ASSET forms, not completed at all). The team (correctly) guessed that, in an overcrowded youth justice process, the chances of the forms being thoroughly read and analysed by other agencies in each case seemed remote.

Key to an understanding of YOT discretion is analysis of how that discretion was used. On the basis of research evidence, discretion was primarily used to manage conflict out of the local bail process. Examples of this include the ability to cut off the supply of cases to 'new' YOT staff who wished to be more proactive; the 'old' team's role in the dominance of several solicitors' firms (all of whom they knew well) locally; and resistance to macro-level bureaucracy by means of compliance which was superficial at best, and practice which was not effectively challenged by other agencies at the micro and mezzo levels. A lack of communication, both with others in the YOT and with external youth justice agencies, was key to the preservation of both the 'old' staff's discretion, and the reactive, ad hoc way in which this discretion was exercised.

An example of this was the attitude of the 'old' team towards curfew monitoring, shown above. They did not see monitoring as their job, at least in terms of regular personal 'spot-checks'. Yet they did not wish to transfer responsibility for

this onto the police, or overtly discuss doing so. Doing either of these things would have reduced the 'old' staff's discretion, and therefore reduced the importance of their expertise in making bail decisions¹³⁵.

Conclusions

The discretion afforded to the courts under the 1976 Bail Act was a key feature in the outcomes of the Baytown bail process detailed in Chapters Four and Five. There, however, discretion mainly led to explicable and legal decision-making. The findings presented in this chapter tell a different story, but one which helps to explain outcomes such as rarity of bail support usage and failure to challenge less explicable decisions at subsequent court appearances. The data portray a different side to discretion in the bail process – the discretion used by staff to maintain existing policy norms, regardless of whether these norms were efficient, in terms of time, finance, legal provisions, or normative concerns (such as the protection of children's rights). However, the data explains less about the courts' role in the outcomes of the process. The next chapter aims to address this limitation by presenting and analysing research on the court decision-makers themselves – the magistrates sitting in the Baytown youth court.

¹³⁵ See Chapter Nine below for a discussion of theoretical approaches to discretion in criminal justice decision-making.

Chapter Seven

Youth Court magistrates' attitudes to youth justice bail services in the Baytown area: system response or communication breakdown?

Introduction

The previous chapter began the process of discovering mechanisms which could explain the outcomes of the Baytown youth justice bail process, by illustrating the meanings and attitudes of Baytown YOT staff towards that process. This chapter continues the process by exploring the attitudes of magistrates sitting in the Baytown youth court towards bail services offered in their area. As shown in the methodology chapter above, the data here are the result of semi-structured interviews, comprising a mixture of Likert scale-measures statements and open-ended questions, and conducted face-to-face with the Baytown youth court magistrates.

The purpose of these interviews was to measure the attitudes of the Baytown youth court magistrates towards the youth justice bail process within which they made decisions. In identifying this overall purpose for the interviews, the findings and analysis of the previous chapters was taken into account. So far, the study has shown that it was the magistrates who made the ultimate decision as to whether or not each young person's right to bail would be granted, restricted, or denied. Measuring their attitudes was therefore crucial in analysing and explaining the quantitative results (i.e. the usage of bail) of the Baytown bail process during the study period. But the study has also illustrated the various influences on magistrates'

bail decisions, by the other individuals and agencies who play a part in the youth justice process. It was therefore important to ascertain, not just magistrates' own levels of confidence in the Baytown bail process and the reasons behind these levels of confidence, but also magistrates' attitudes towards the other individuals and agencies who shaped the local bail process. This exercise also enabled triangulation of magistrates' opinions on bail services with the opinions of YOT staff, as discussed and analysed in Chapter Six above, and in turn a more sophisticated explanation of the quantitative data (see Chapters Four and Five above) which illustrated how the Baytown youth justice bail process operated.

The basic purpose of the interview was broken down into more detailed objectives. The first objective was to evaluate the magistrates' own knowledge of the local bail process: their awareness of trends in the usage of bail, their perception of the location of bail support within the framework of Baytown's bail services for young people, and their knowledge of what bail services were available locally. The second objective was to evaluate magistrates' attitudes towards local bail services: the effectiveness of those services, and the quality of the information presented to magistrates as aids to bail decision-making. The third objective was to assess magistrates' views on obstacles to local bail services, and to measure their opinions on how those services might be improved in the future.

This chapter is broken down into two main sections. The first combines the quantitative results of the Likert scale questions used during the interviews with the results of the semi-structured questions asked during the interviews. In this first section, findings will be presented along the lines of the key themes explored during the interviews: the nature of bail services for young people in Baytown, and the relationship between bail support work and other bail services; the availability and presentation of information relevant to magistrates' decisions regarding bail status;

obstacles to a better and more efficient service being offered to young people from Baytown who were on bail; and possible improvements which could be made to the bail services offered in the Baytown area. The second section of the chapter will discuss and analyse findings, triangulating data here with those in previous chapters to investigate mechanisms capable of generating the outcomes of the Baytown bail process.

The full results of the responses to the quantitative Likert scale questions in the interview can be found in Appendix E below. All quantitative data reported on in this chapter refers to the appropriate figures in Appendix E. The full interview schedule used with the magistrates can be found in Appendix D.

Magistrates' attitudes to local bail services

The nature of bail services and bail support work for young people in Baytown, and the relationship between them

Chapter Six described and explained how the Baytown YOT staff defined and prioritised different bail services within the local youth justice structure, and, in particular, defined and located bail support work as a specialised, narrow area within that range of services. As an introduction, the first part of the interview with the magistrates asked how they saw the relationship between bail support work and what the YOT staff termed 'remand management' work generally. Results are shown in Figure 7.1 (see Appendix E for this figure and all subsequent figures referred to in this chapter).

Magistrates' opinions were divided on the issue of whether bail support was a fully integrated part of local bail services for young people, with 14 of those questioned (46%) either agreeing or strongly agreeing with this statement, and another seven expressing a neutral opinion.

Opinions were more ambivalent on the question of whether most young people in the Baytown area were not suitable for bail support work, however. Results are shown in Figure 7.2. 15 magistrates (60%) expressed a neutral opinion on this question, leaving four who agreed with this statement, and six who strongly agreed with it. No magistrates, however, disagreed or strongly disagreed with this view.

Figure 7.3 showed that just over half of those interviewed (52%) were neutral on the issue of whether the Baytown bail support scheme was effective, in their experience, in targeting the criteria for denying bail in the 1976 Bail Act. This compared with eight who agreed that bail support was effective in this way, and two who strongly agreed that it was. As with the previous two questions, however, responses were generally positive, in the sense that only two magistrates disagreed with the statement, and none strongly disagreed with it.

In the semi-structured questions, magistrates were asked, firstly, what guiding principles they used when making bail decisions. The answers given were unanimous, in that they all took the terms of the 1976 Bail Act as the basis for decision-making:

'On a case-by-case basis ... using the evidence we have from those in court ... and applying the Bail Act criteria.' (Interview 10)

'Each individual is treated in the same way ... in that every case is judged against the Bail Act and its criteria.' (Interview 20)

A common variant on this view (mentioned by 11 of the 25 interviewees) was the combination of the Bail Act with consideration of the public interest:

'When applying the Bail Act ... we think about the protection of the public and whether bail would threaten public safety.' (Interview 6)

'The protection of the public ... must take priority when using the law to make bail decisions.' (Interview 14)

As a preliminary to asking magistrates for their opinions on bail support, they were asked how they would define 'bail support'. This was done to gauge the meanings attached to 'bail support' by magistrates, as opposed to the meanings which they attached to 'bail services' in a more general sense. The replies were varied, but more concerned with control than help:

'Things like curfews, reporting to the police, measures to protect the public from the risk of re-offending.' (Interview 15)

'Anything offered by the YOT to prevent re-offending on bail.' (Interview 10)

'Something to help young people with the problems they have which may cause their offending.' (Interview 18)

'It usually involves quite an intensive package of intervention in the young person's life – perhaps alcohol or drug treatment if it is needed, or training with a local agency.' (Interview 9)

'Sometimes it is hard to tell the difference between bail support and ordinary conditional bail. The boundary between them isn't always made clear, and of course it is common to impose curfews, residence requirements, and things like that as conditions with conditional bail.' (Interview 20)

These interview extracts show that although magistrates liked the idea of bail support, they were unsure about how it was used (and how it should be used) in practice. The magistrates' concept of 'bail support', and indeed of the other bail services offered for young people locally, was governed by the way in which the services were presented by Baytown YOT members in court. Most of those interviewed agreed that bail support – or at least their concept of what 'bail support' was – was well integrated with the other bail services provided by Baytown YOT. When probed further on this issue, a typical comment was that *'the same YOT staff*

are responsible for all the bail services, so the whole package seems to be well-integrated' (Interview 5). A related topic, which was included in the interview with the aim of separating these two issues from one another, was magistrates' attitudes on the targeting of bail support services specifically. When magistrates were asked whether they thought the service was well targeted, many felt unable to give a definite answer, because they had not sat in cases where bail support packages had been offered:

'I'm not sure how well-targeted the bail support service is, because it's never been put before the court in a case I was sitting on.' (Interview 6)

Magistrates displayed a common feeling of not knowing enough about the aftermath of a bail decision – particularly a decision to refer a young person onto the bail support scheme:

'Of course, we know if the young person has breached the conditions when they come back to court. But I personally don't know enough about what happens while the young person is on bail – what sort of work is being done with them, how well they're responding, that sort of thing. We get basic training in what it involves generally, but we never get the chance to see what's happening for ourselves.' (Interview 9)

'We do get training but we don't get the chance to see what goes on once a young person is on bail or remanded. I have sat in on a couple of projects run by different people – that was interesting, I would like to know more, but because we're not in (court) very often, it's difficult to organise.' (Interview 1)

All of the magistrates who were interviewed agreed that they had little direct experience of referring young people onto the bail support scheme, and even less experience of what actually happened to young people on bail support. The above quote suggests some regret about the lack of opportunity for magistrates to find out more about how bail support worked in practice in Baytown. This was supported by several other magistrates' comments:

'Because we're part-time, and we only sit once every two or three weeks normally, we can't become more involved and actually see what the young people do on these schemes.' (Interview 7)

One magistrate who felt unable to answer the majority of the questions asked put the problem in this way:

'I don't feel able to answer because I don't know enough about what happens when a young person is bailed or remanded. We get training, but outside that we don't get the opportunity to see what happens afterwards (i.e. after the bail decision has been made). It's always made clear to us that we're not social workers – we have to be led by the experts. Any answers I gave about how well it all works would just be guessing.' (Interview 14)

Another magistrate, being interviewed at the same time as the one above¹³⁶, agreed:

'These questions should really be addressed at the other agencies in the process – they can give informed answers, whereas we can't, because we don't know enough.' (Interview 15)

These were extreme examples of this effect, in that the magistrates concerned felt unable to offer any opinion because of their lack of knowledge regarding bail issues in Baytown. Such responses were the exception rather than the rule. 15 of the 25 magistrates interviewed mentioned that clerks and other court staff were helpful in providing training on bail *legislation* and what magistrates' bail decision-making options were in court. But, as shown by the quotes above, the nature of young people's experiences on bail, and local services available for young people on bail, remained a mystery to some magistrates.

There was some awareness of the nature of the magistrates' role in the youth justice process. All the magistrates interviewed were lay magistrates, therefore they were part-timers, who to some extent were 'parachuted' into the process, because of the nature of individual involvement. Few of the magistrates interviewed normally sat in the Baytown Youth Court more than once every two weeks, and they emphasised

¹³⁶ As magistrates were interviewed in groups (see Chapter Three for methodological discussion) the influence of one magistrate's answers on another's cannot be discounted, although there were no noticeable instances of 'peer pressure' during the interviews.

their dependence upon other, 'expert' youth justice individuals and agencies when making bail decisions:

'We are led by other agencies when making these decisions ... as well as the law, of course.' (Interview 11)

'We rely on professionals in the court for information and guidance in applying the Bail Act.' (Interview 20)

When asked who in particular should be targeted by bail support work, magistrates were unsure:

'It would have to be reserved for a serious or persistent offender – but of course we are guided primarily by recommendations from the CPS and defence teams, and of course the YOT, because they are the ones who would be working with the young person on bail support.' (Interview 8)

'When considering any application for bail we have to consider the risk to the public's safety. If the young person is considered to be too much of a risk to be granted unconditional bail, or conditional bail, then often he or she will be considered too much of a risk to be given bail at all.' (Interview 1)

Availability and presentation of information relevant to magistrates' decisions

In this section, magistrates were firstly asked whether, when they first sat on the Baytown bench, they had been fully informed about the operation and content of bail services (including the bail support scheme). Figure 7.4 shows that opinion was divided on this question: 11 magistrates (44%) expressed a neutral view, while seven (28%) disagreed (three strongly), and another seven (28%) agreed (again, three strongly).

However, Figure 7.5 shows that when magistrates were asked whether they had been kept up-to-date on bail services since then (again including bail support), 13 (52%) were neutral, 10 (40%) disagreed that they had been kept up-to-date (six strongly), and only two (8%) agreed with the statement (one strongly).

Magistrates were then asked about their views of the quality of bail information from YOT staff in court (Figure 7.6). 12 (48%) were neutral about the quality of information supplied to them, while a further eight agreed that YOT presentation of information in court was helpful, well-prepared and comprehensive (three agreed strongly with this). A majority of magistrates (14, or 56%) also agreed that they trusted bail information and recommendations given to them by YOT staff in court (Figure 7.7), while a further six magistrates strongly agreed with this view – only two magistrates did not agree that they trusted YOT information and recommendations.

The semi-structured questions in this section of the interview aimed to measure the magistrates' level of satisfaction with the YOT bail services, as they were presented to them in court. Observations and attitudes were not specifically limited to experiences in the courtroom by the questions asked, but it was recognised, given the observations made in the previous sub-section, that most (if not all) of the magistrates' experiences of the bail services would be based on the time they had spent on the Youth Court bench.

The magistrates' satisfaction levels regarding quality of bail information in court, as provided by the Baytown YOT bail team, were mostly high:

'Personally I'm very satisfied with the quality of information we get in court when making decisions. The defence teams, the CPS representatives and the YOT workers are all professional and reliable.'
(Interview 4)

Several magistrates, on the other hand, commented that:

'We could see the YOT workers, from the remand management team, a bit more often than we do at the moment.' (Interview 1)

Magistrates pointed out that the YOT was represented in court by one of the two designated court officers, except when neither was available due to holiday time or illness. YOT bail workers rarely attended court, except as cover when the court

officers were unavailable, or where they were making a bail support application¹³⁷. It was interesting that at least a few magistrates noticed this, and were not entirely satisfied with the situation. Mostly, however, the above comment from Interview 4 was representative of other magistrates' attitudes.

Similarly, most of the magistrates interviewed (18 of the 25, or 72%) thought that the agencies involved in bail decisions locally had good working relationships with one another, and with the court itself:

'Personally speaking, I've known most of the YOT staff who appear in court for some time. In particular, talking about bail decisions in court, I know that (the 'old' bail team) are helpful and reliable when they provide information. They only argue for bail when it is safe, in their opinion, to do so, bearing in mind the safety of the public and their protection from offending.' (Interview 12)

Magistrates also mentioned the importance of 'familiarity' with those from whom the court sought information, and the building of 'trust' between the different agencies.

Key issues in bail services for young people in Baytown: the relevance of bail support to youth justice locally, and obstacles to better performance

Magistrates were mostly positive about the role bail support *could* (in theory) play in bail decisions, as shown by Figure 7.8. 21 out of the 25 interviewees either agreed (11, or 44%) or strongly agreed (10, or 40%) that bail support could make the difference between bail and jail. Views on the reality of bail support in Baytown were, however, quite different, as Figure 7.9 shows. Six magistrates agreed that bail support was always put before the court and considered as an option where a young person was at risk of being denied bail. However, eight of the magistrates disagreed

¹³⁷ Which, as Chapters Five and Six indicate, happened only rarely.

with this statement (three disagreed strongly), and eight were neutral. Despite the results in Figure 7.9, nine magistrates agreed, and a further eight strongly agreed, that bail support was an essential part of the bail services offered by the Baytown YOT (Figure 7.10). This compares with two magistrates who disagreed that this was true (one disagreed strongly).

The next part of the Likert scale questionnaire asked magistrates about which factors they felt were the most significant obstacles to the bail services offered to young people in the Baytown area. The factors included in the questionnaire were based around those identified through the participant observatory work done with the Baytown YOT staff (see Chapter Six), although magistrates also had the opportunity to mention other factors which were not included in the questionnaire itself. For each factor included, magistrates were asked to evaluate its importance in hindering bail services overall, and also bail support services specifically.

Figure 7.11a shows that 18 of the magistrates interviewed (72%) either agreed or strongly agreed with the view that financial factors limited the bail services offered in Baytown. 11 magistrates strongly agreed, and another seven agreed. Two magistrates did not express an opinion on this question. 17 of the magistrates (68%) either agreed or strongly agreed that a lack of financial resources limited bail support services in particular (Figure 7.11b). For each of these two questions, one magistrate disagreed, and no magistrates strongly disagreed.

Figure 7.12a shows that 15 magistrates (60%) either agreed or strongly agreed that a lack of YOT staffing resources restricted local bail services for young people. This figure comprised nine magistrates who agreed with this view, and another six who strongly agreed with it. A further seven interviewees expressed a neutral view, leaving two magistrates who did not express any opinion, and one who disagreed that lack of staff power was a significant factor. Figure 7.12b shows that a

slightly smaller number of magistrates (12, or 48%) either agreed or strongly agreed that lack of YOT staff resources was a significant limiting factor for bail support services specifically. Magistrates who were neutral on this question (nine) formed the most popular opinion, and two magistrates disagreed with the statement.

Magistrates were next asked for their opinions on the impact of the transfer of young people remanded in custody away from HMP Baytown (see Chapter Six above for YOT staff's views on this issue). 14 magistrates (56%) either agreed or strongly agreed that this policy development was a significant limiting factor upon local youth justice bail services generally (Figure 7.13a). Nine interviewees strongly agreed with this statement, and a further five agreed, with eight magistrates expressing themselves to be neutral on this issue. One magistrate disagreed with the statement. 13 magistrates (52%) either agreed or strongly agreed that this issue was inhibiting bail support services specifically (Figure 7.13b). On this question, seven magistrates agreed, and six strongly agreed. Nine magistrates were neutral on this issue, with a further two disagreeing with the given statement.

On the issue of overcrowding in the youth justice secure estate in England and Wales, magistrates showed a slightly stronger consensus of opinion than they had with previous questions (Figure 7.14a). No magistrates disagreed that overcrowding had impacted upon the quality of bail services in Baytown, and while 10 (40%) were neutral, 15 (60%) either agreed or strongly agreed that this was the case. Nine of these 15 interviewees strongly agreed with the statement. Opinions were broadly similar with regard to bail support in particular (Figure 7.14b). 14 magistrates (56%) either agreed or strongly agreed that overcrowding had impacted adversely upon Baytown YOT's bail support services, although proportions within this group were slightly different to those for the previous question. Here, eight magistrates agreed with the statement, compared with six who strongly agreed. A further 10 magistrates

(40%) were neutral on this question, and one disagreed that overcrowding had had an impact.

The interviewees were also asked whether the needs of young people on bail played a significant part in YOT bail services, in terms of the extent to which these needs were taken into account in service delivery. Opinions here were more ambivalent than those offered for previous questions in this section. 13 magistrates (52%) were neutral when asked to rate the importance of meeting young people's needs in bail services generally (Figure 7.15a). This compared with seven magistrates who agreed, three who strongly agreed, one who disagreed, and one who expressed no opinion. On bail support specifically (Figure 7.15b), 13 magistrates (52%) were again neutral, but six agreed that young people's needs played a key role, and four strongly agreed. As before, one magistrate disagreed with the statement, and one expressed no opinion.

Magistrates were more certain of their opinions on the role of protecting the public in bail services locally. 22 (88%) either agreed or strongly agreed that protection of the public played a role in bail services offered by the Baytown YOT (11 agreed and 11 strongly agreed). Three magistrates were neutral, and none disagreed (Figure 7.16a). 21 magistrates (84%) said that protection of the public also played a key role in the way in which bail support services were run. 10 magistrates agreed that this was so, 11 strongly agreed, and four were neutral (Figure 7.16b).

Nine magistrates agreed that the needs of victims played an important part in bail services offered by the YOT, and a further eight magistrates strongly agreed with this statement. A further seven magistrates were neutral, while one strongly disagreed that the needs of victims played a role in bail services (Figure 7.17a). 11 magistrates (44%) agreed that the needs of victims played a role in bail support

services, and a further eight strongly agreed. In contrast, four interviewees were neutral on this issue, one disagreed, and one strongly disagreed (Figure 7.17b).

Opinions on the role played by 'time efficiency' in the Baytown youth justice bail process were more divided. Eight magistrates strongly agreed that the issue of improving time efficiency played a part in local bail services (Figure 7.18a), but a further eight were neutral, while another seven agreed with the statement. Two magistrates disagreed that time efficiency was an important factor in practice. Opinions on bail support specifically were very similar to those on bail services in general. Eight magistrates agreed that 'time efficiency' and speeding up the operation of the process played an important role in bail support services (Figure 7.18b), and a further eight strongly agreed that this was true. Seven more interviewees were neutral, and two disagreed with the given statement.

The final issue dealt with by the Likert scale questionnaire was the nature and extent of youth crime in the Baytown area, and the role which these factors played in bail services and bail support services offered by the Baytown YOT. These questions were designed to assess magistrates' views of the responsiveness of local youth justice services to emerging trends in local youth crime. Results are shown in Figures 7.19a and 7.19b.

11 magistrates (44%) agreed that the nature and extent of youth crime locally played an important role in bail services, while nine were neutral on this issue, two strongly agreed, and two disagreed. One additional magistrate felt unable to express an opinion (Figure 7.19a). Magistrates were slightly more cautious about the role of local crime trends in bail support work, however. 12 (48%) were neutral on this issue, while nine agreed, two strongly agreed, and one disagreed that crime trends played a part in bail support services (Figure 7.19b).

When asked in semi-structured interviews about the factors which hindered youth justice bail services locally, the majority of magistrates agreed that lack of financial resources was a key problem:

'If I had to name one obstacle to better performance it would be lack of money. It is a day-to-day situation which magistrates have to face in their decision-making.' (Interview 20)

'The costs of secure accommodation is included in local authority social services budgets, which can lead to differences between courts and local authorities.' (Interview 23)

'Lack of funding is always an issue in the public sector, regardless of the agency – it's not just the justice process.' (Interview 17)

'There aren't enough schemes available locally, and it seems to me that there is insufficient funding to meet the needs of young people.' (Interview 18)

'There is a lack of placements and bail hostels places for young people in the area.' (Interview 15)

'Youth justice has been historically under-funded, especially bail services.' (Interview 5)

Some magistrates within this group not only commented upon a lack of funding for bail services locally, but also linked this lack of resources explicitly to perceived macro-level and micro-level shortcomings:

'The Government needs to invest far more heavily in bail services. It is not a high-publicity issue for them.' (Interview 5)

'I would like to see more structured proposals for conditional bail and bail support packages, like mentoring, sport opportunities, and education if assessments show up poor literacy. I blame the lack of these packages being offered in court on lack of availability, which in turn goes back to a lack of funding.' (Interview 9)

A minority of other magistrates, however, did not share this view:

'A lack of money is not immediately obvious to me.' (Interview 4)

Other magistrates, however, indicated that they felt that they did not know enough about the local financial situation regarding youth justice to comment:

'How do we know what finances are available for youth justice in the area?' (Interview 3)

'I don't know anything about financial circumstances locally.' (Interview 13)

'I find it difficult to answer, because I do not know how resources are allocated.' (Interview 12)

The magistrates were not as consensually emphatic about the lack of staff power as an obstacle to better performance. Nonetheless, a majority of those interviewed identified this issue as a problem locally:

'I am not sure what provision is made for continuity of inter-agency liaison when staff are off sick or on holiday.' (Interview 3)

'In my experience, there are not always staff available to regularly inform magistrates of all new bail proposals and options.' (interview 8)

'There is a lack of staff cover in court at times – especially on Saturday mornings and late in the afternoon.' (Interview 17)

A total of eight interviewees linked under-funding to under-staffing at the YOT:

'Under-funding and under-staffing go hand-in-hand.' (Interview 24)

'Resources are stretched for bail services, in finance and staff terms, and both problems stem from insufficient budgets.' (Interview 6)

As before there were other magistrates who were not aware of any problems in this area – but again as before, they were in the minority:

'I am not aware of any staffing problems.' (Interview 4)

Again as before, a small minority of magistrates did not feel that they knew enough about YOT staffing levels to comment. All of those who did not comment on staffing issues were among the magistrates who did not comment on financial issues (see above).

Magistrates were next questioned about the transfer of young people who had been remanded to custody away from HMP Baytown, and the effects this transfer had on bail services locally.

'This move has put unnecessary strain on resources, when considering access to the youths.' (Interview 1)

'The closer to home they are remanded, the better.' (Interview 24)

'Children should be kept locally, to allow for parental or guardian visits. Maintaining community ties is crucial.' (Interview 3)

'In my view it is very important to have local bail hostels and other local facilities for young people ... this assists visits by their families, but also speeds up court appearances ... it now takes a great deal of time for young people to be brought to court.' (Interview 5)

'Support during remand is now more difficult, for families and the YOT.' (Interview 9)

'It stretches limited staffing resources even further.' (Interview 14)

One magistrate took a different view, stating that young people had to be taken out of their community to be dealt with successfully:

'It is unfortunate if offenders have to be moved away, but it has to be accepted in order that the remand is successful.' (Interview 20)

Others, however, knew very little about the local situation:

'It might have an effect ... but I don't generally know where they are sent ... I know places are very limited here though.' (Interview 12)

A related issue on which magistrates were questioned was overcrowding in the youth justice secure estate generally, and the ways in which this impacted upon Baytown YOT bail services. Proportions of interviewees who agreed that this had had a negative impact upon services in practice were similar to those who commented upon the transfer of young people away from HMP Baytown (see above), and magistrates often linked these two issues together:

'Recently we have had to remand a young girl to secure accommodation hundreds of miles away from here. It is bad enough that there are no remand places available locally, but this is clearly unacceptable from the point of view of the young person, families and the YOT team. It is not right.' (Interview 5)

'This is a problem which is linked to financial and resource problems generally.' (Interview 18)

'It is bound to increase difficulties for the offender, which in turn increases difficulties for the YOT and the youth justice process.' (Interview 20)

'Yes, it is a problem, and it is related to the lack of facilities for remanding in custody locally. The nearest place¹³⁸ is still about 40 miles away.' (Interview 22)

'Overcrowding is a factor, but it should not affect the bail support services when they are available locally.' (Interview 12)

'I find there is a particular problem with secure placements, although there are problems everywhere in the custody process. I wonder whether the people making assessments are using the right criteria, though?' (Interview 15)

Magistrates were next asked in more detail about the extent to which they felt

local services met the needs of young people on bail. One magistrate felt that young persons' needs were subordinate to the youth justice process's needs overall:

'It is the court's needs which are uppermost in many cases ... such as where the time between the date of offence and the date of sentence includes a young person's birthday.' (Interview 2)

The largest group of magistrates, however, believed that needs were not being met by local services, but also related these limitations to other issues:

'It is difficult to address the needs of young people when they are remanded such a long way from their homes.' (Interview 4)

'The needs of young people on remand are complicated by the slowness of the justice process.' (Interview 18)

'Bail can last such a long time that even though services are meeting needs, there is still the risk of re-offending.' (Interview 20)

Others felt that needs were important, but also that they were met by local services:

'Contact with people they know is very important – I think the YOT helps to provide that.' (Interview 3)

The second largest group of interviewees did not feel they had enough information or knowledge to comment on the extent to which young people's needs were met, giving reasons such as lack of training and not being present at case conferences.

¹³⁸ The magistrate here was referring to YOI Greenwood. See Chapter Six for more detailed discussion of this issue.

Magistrates were also asked about the importance of protecting the public in the context of local bail services, practically and normatively. The majority were emphatic about the importance of this factor, but more in the normative sense than in terms of what actually occurred in practice:

'This is a key factor, often overlooked if we concentrate solely on the young offender's "needs".' (Interview 2)

'The public remains anxious as to their safety when young offenders are free to offend again.' (Interview 3)

'Even conditional bail poses a risk to the public, in cases of theft or vehicle theft, so it is important to have a structured and restricted bail.' (Interview 9)

'It is certainly a factor uppermost in our minds, but given how little bail support is used, it is hardly an issue in that context.' (Interview 12)

'When remands to custody are used, there is also the element of the young person themselves being protected from harm.' (Interview 15)

'The needs of the general public outweigh the voluntary actions of defendants.' (Interview 17)

On the issue of the needs and wishes of crime victims, most of the interviewees thought that the issue was important, both in practice and normatively. A small minority mentioned their approval of reparation to victims, without explicitly linking this back to bail service specifically. Others mentioned the importance of keeping victims informed during the bail process:

'The victims of the offences must be considered, and a priority must be to keep them informed about how "their" case is progressing.' (Interview 5)

'If a young person is on bail having been charged with a serious crime, consideration must be given to the victim.' (Interview 12)

One magistrate attempted to weigh up and balance the needs of victims and the public generally:

'Victims' needs are important, but protection of the public is more important.' (Interview 19)

Opinions were more neutral on the importance of efficiency, in terms of saving time and money, in the local youth justice bail process¹³⁹. Just under half of the interviewees (11, or 44%) made comments in addition to their Likert scale answers. Those who did were mostly content that local services rightly prioritised efficiency in policy and practice:

'Fast track justice for persistent offenders is very necessary, and appears to be working.' (Interview 3)

'Efficiency ensures that the youth links the punishment to the offence.' (Interview 4)

As with the other questions asked, however, there was diversity in the opinions given. Where critical comments were made, however, they centred around the failure of services to maintain efficiency in practice, rather than the desirability of this goal in principle:

'All agencies should pull together, to get reports, defendants, witnesses and so on to court on the right day, and in good time.' (Interview 5)

'Quicker reports are needed – which means more staff.' (Interview 9)

'Inter-agency difficulties are more of a problem than the transporting of defendants to and from court.' (Interview 12)

'Outside factors contribute greatly to the speed at which cases are dealt with – such as co-operation between the police and the CPS.' (Interview 15)

There were only two exceptions to this trend, captured in the quotes below:

'The need to preserve the rights of defendants and the public should come before any statistical data which the Lord Chancellor's Department ask for – but they don't.' (Interview 21)

'Efficiency and saving time do not always run hand-in-hand.' (Interview 18)

Magistrates were given the opportunity to make comments about the impact of the nature and seriousness of youth crime in Baytown on bail services. As with the

¹³⁹ As reflected in the quantitative Likert scale data reported above in this chapter.

previous question, not all of the magistrates made additional comments on this issue, aside from their Likert scale responses. Those who did comment felt confident that the Baytown YOT were flexible in this respect, and took developing trends into account in their policy and practice:

'These issues are why the YOTs were put into place ... and they are able to take changing trends into account.' (Interview 10)

'It is important as a strong consideration in YOT thinking, and also as a background factor in court practice.' (Interview 12)

'A relatively small number of persistent young offenders do commit a lot of the crime, and drag in new offenders. YOT policy should reflect that, and I think it does.' (Interview 17)

'ISSP has been useful in targeting persistent young offenders.' (Interview 25)

Suggestions for improvements to youth justice bail services in Baytown

The final part of the semi-structured interviews went beyond the agenda covered in the Likert scale questions. It gave magistrates the opportunity to mention any areas for improvement in the bail services offered by the Baytown YOT. In this section, magistrates were not guided by any particular questions, but were simply asked to comment on any areas for improvement which they could think of.

Magistrates touched upon a variety of issues in this part of the interview. The mostly frequently mentioned was that of efficiency, but suggestions for improvement in this area related to a number of different issues, as these quotes illustrate:

'Major problems arise where the police fail to get information to court for matters to proceed on time.' (Interview 1)

'Young offenders should be delivered to court on time – not when Confidence¹⁴⁰ schedules it.' (Interview 2)

¹⁴⁰ A pseudonym for the private security firm responsible for transporting young people from Baytown to and from custody and the courts.

The most popular view in this area, however, was that efficiency could be improved by more YOT staff, and more resources for them:

'Inefficiencies in the process appear to be due to a lack of sufficient staff, not individual poor performance – this includes the CPS as well as the YOT.' (Interview 8)

'More YOT staff are needed if efficiency is to be improved further ... this would allow court reports to be produced more quickly, for example.' (Interview 9)

'YOT bail staffing is becoming stretched.' (Interview 16)

The next most frequently mentioned area for improvement was the needs of young people remanded to custody. In contrast with the views on efficiency, there was a strong consensus on what should be done:

'Local remand centres would improve the situation for young people greatly.' (Interview 15)

'Young people are sent too far away on remand – there should be more local facilities.' (Interview 7)

'The introduction of (YOI Greenwood) has improved remand processes but it is still quite a long way away from here.' (Interview 2)

The quote from Interview 2 above shows some blurring of consideration of young people's needs with considerations of efficiency. For example, there was praise for the introduction of YOI Greenwood (in the latter stages of the fieldwork period) as a custodial facility for young people from the Baytown area, but only on the grounds that it was far closer than the previous nearest secure remand facility at Stonewall¹⁴¹, rather than the quality of the regime offered at Greenwood. Some also recognised that even Greenwood was some distance away from Baytown, which still posed problems for YOT services and the young person's family and friends. Other magistrates, however, situated their criticisms in the context of young defendants' welfare, as did Interviewees 7 and 15 above. They expressed dissatisfaction, both

¹⁴¹ Around 80 miles from Baytown.

from the point of view of stretching what were often already fragile links between the young person and his or her community, and also from the point of view of the youth justice process's response to custodial remands¹⁴².

Six of the magistrates felt that young people's bail needs would be best met by the availability of local bail accommodation for young people:

'The lack of alternative bail accommodation for young people who cannot live at home is a major issue, and has made the difference between bail to custody in the past.' (Interview 25)

'A specialist bail hostel for young people should be made available – or, failing that, some other accommodation serving the same purpose.' (Interview 10)

Other topics were also mentioned in this part of the interview. One such topic was the issue of victims, and more specifically keeping them informed (mentioned by four interviewees):

'Victims are often forgotten at this stage in the process ... until there is an outcome they should always be kept in touch about their case.' (Interview 3)

'Victims and their needs should be a central part of YOT policy.' (Interview 22)

Another three magistrates discussed potential sources of conflict between the macro and micro levels of youth justice, and how their removal might improve services:

'I feel that more education on how youth justice really works is needed for those who administer the figures ... their criteria are not always well-selected, and there is too much paperwork for all those involved now.' (Interview 1)

'Figures do not always compare regions fairly or equally ... they do not take enough of the local context of crime and justice into account.' (Interview 5)

The final issue to be mentioned was that of improved publicity, both locally and nationally, and the need to both disseminate good local practice and educate the

¹⁴² I.e. the need for a YOT visit to the young person as soon as possible after the remand to custody.

public 'on how the process really works, and what outcomes are like in practice' (Interview 3). This was seen as being the responsibility of government (local and national) rather than youth justice agencies themselves.

This concludes the semi-structured interview data, and the reporting of results obtained. The next section of the chapter analyses and triangulates the quantitative and qualitative data obtained from the magistrates, referring back to the bail process outcomes (see Chapters Four and Five) which required explanation.

Discussion and analysis of quantitative and qualitative findings

The discussion in this section relates back to the Baytown bail process outcomes highlighted in Chapter Five, and discussed, using data obtained from the Baytown YOT staff, in Chapter Six. Therefore, the discussion here is organised along the lines of the outcomes, each of which will be discussed in turn.

Mostly systematic court decision-making under the terms of the Bail Act

Magistrates were emphatic about their adherence to the terms of the Bail Act, and the criteria determining when bail could legitimately be denied. In these terms, as shown in Chapters Four and Five, decisions were primarily systematic. However, as mentioned in previous chapters, the criteria of the 1976 Bail Act are loosely defined in themselves. They require and maximise magistrates' discretion over interpretation in practice (e.g. King 1981: 130-37). The data in this chapter suggest that the magistrates structured this discretion by considering the 'protection of the public'. It was interesting that there was little evidence of magistrates balancing the public's interest against the defendant's in interviews. The quantitative data showed

that protection of the public was seen by magistrates as playing a more important part in the local bail process than the needs of young people, and the qualitative data reinforced this finding by showing that, normatively, magistrates felt that the protection of the public should be more important, and was more important to them in making bail decisions in practice.

The data in this chapter therefore provides an explanation for the systematic nature of decisions, in terms of compliance with the Bail Act, but one which focuses on the discretion inherent within the Act. There was scope for different bail outcomes within the boundaries of compliance with the Act, and the data emphasises that discretion could be used legally, but with consideration of the public's protection taking priority over the rights of un-convicted children. There is also the issue of how protection of the public can be accurately defined. Magistrates related the concept back to the exceptions to bail in the Bail Act. Protection of the public could be considered using any of the three criteria for denying bail on charges of imprisonable offences, and so its use as a criterion does not preclude legal and system decision-making. But neither does it preclude decisions which are not legal or systematic. A comparison might be made between this vague guideline and the use of 'common sense' or intuition when decision-making by magistrates in Parker et al.'s (1989) study.

In legislative terms, the 'protection of the public' argument translates into a *reason* for believing that a defendant would re-offend if released on bail, rather than a *ground* for denying bail in itself. Yet magistrates interviewed here seemed to think that it was a ground for refusing or restricting bail in its own right. Similarly, some magistrates indicated that seriousness of offence was also a ground for refusing bail, rather than a reason informing a ground for refusing it. This confusion (despite magistrates' insistence that the Bail Act 1976 was strictly complied with in practice) is

a finding that has been repeated in other research (e.g. Hucklesby 1994, 1996, 2002).

Decreasing evidence of systematic decision-making at subsequent court appearances

The arguments in the previous subsection also provide a potential explanation to the above outcome. Just as the use of 'protection of the public' as a decision-making guideline can lead to system and legal bail outcomes, so, as mentioned previously, it can lead to decisions less explicable by the legal criteria, because of its ambiguity.

Other explanations for this outcome were also present in the data. Many of the magistrates interviewed trusted the YOT staff almost completely. They praised the standard of YOT information presented to them in court, and largely blamed any shortcomings in service and recommendations either on other agencies' failings (such as the police) or on factors out of the control of micro-level staff (such as a lack of financial resources). However, as shown in Chapter Six, staff recommendations and practice were guided by staff norms, based around the maximisation of discretion and the management of conflict out of the bail process. Norms were in turn shaped by a complex range of factors. These included the history of reactivity and the trust placed by staff in magistrates.

Therefore, the magistrates' trust of the YOT staff and the information provided by YOT staff provide an explanation for decline in systematic decision-making. Such mutual trust provides a firm basis for the creation of distinctive court cultures at the micro-level, based around speed and ease of decision-making (e.g. Hucklesby 1997a, 1997b). The trust placed by magistrates and YOT staff in one another led to

a culture of reactivity and unwillingness to challenge earlier decisions. This, in turn, threatened to erode the organised decision-making seen at most initial court appearances.

Social significance of remands to custody

The arguments advanced above regarding magistrates' use of the 'protection of the public' criterion also apply here. This criterion had the potential to lead to necessary or unnecessary denial of bail. Elsewhere, magistrates were quick to acknowledge the damage which moving young people on remand away from Baytown had done to bail services. It was interesting, though, that although interviewees often related the resulting problems to a lack of staffing, they did not show any awareness of the exclusion of 'new' YOT staff members from the bail decision-making process (see Chapter Six), or any critical understanding of how bail policy might have been changed following the transfer of young people away from HMP Baytown.

Again, the high level of trust placed in the staff's reactive policies could also explain the inconsistent significance of remands to custody in decision-making. One example of this can be found in the excerpt from Interview 12 above. However, this quote also provides a slightly different angle on the issue of the trust between magistrates and YOT staff. The quote is actually stating that magistrates trust the opinions of the YOT staff *whom they know*. In fact the magistrate mentioned the names of the two members of the 'old' YOT team in this part of Interview 12. It has already been noted in Chapter Six that it was the 'old' team who were hostile to the idea of bail support. The 'new' YOT team members were not mentioned by any of the magistrates in the interviews. In fact, as Chapter Six illustrated, this mattered

little in practice, because the 'new' YOT team members were simply not allowed to undertake proactive bail interventions.

The magistrate in this interview echoes the preferences of magistrates in Brown's (1991: 68-71) study. There, the magistrates preferred those individuals and agencies who were realistic¹⁴³ and experienced¹⁴⁴. Trust here was grounded in the knowledge that staff were unlikely to depart from magistrates' own decision-making preferences. Magistrates were playing a part in the isolation of those YOT staff not complying with the 'official', established norms of reactive, formalised bail practice. In this way the 'time and money' effectiveness of the bail process was secured and enhanced, trust between youth justice agencies was built up, and the effectiveness of the Baytown process was jeopardised. Brown (1991: 70) also recognises that youth justice workers and magistrates may share common goals, centred around ease of young people's classification as 'types' of offenders and consensual decision-making.

The rarity of bail support referrals

Magistrates showed a great deal of confusion about what 'bail support' actually involved in practice. Perhaps this is not surprising given the rarity of bail support applications by Baytown YOT workers in court. However, the data also suggests another problem: that bail support in itself was not sufficiently well-defined locally, and could blur into what was thought of as conditional bail. Perhaps this, in turn, implies that YOT staff were not resistant to the elements of bail support work in themselves, but to the ideology of its imposition on their practice by macro-level

¹⁴³ i.e. those who appreciated, and acquiesced in, magistrates' own preferred approach to decision-making.

¹⁴⁴ i.e. those who were known to, and trusted by, magistrates.

youth justice policy¹⁴⁵. This provides support for the argument, put forward in the preceding two chapters, that YOT staff and magistrates alike wished to 'manage conflict out of the process' by diluting the nature and usage of bail support, as a tacit method of showing resistance to macro-level policy.

The data illustrates the magistrates' uncertainty about the exact role which bail support does and should play in the youth justice process. It gives the image of bail support as an ancillary, minor part of this process. It is interesting, in particular, that this opinion closely mirrors those of the YOT staff (see Chapter Six), in evaluating the role of bail support in their work as well as in elevating the importance of risk assessment and protection of the public.

However, the data also illustrate a different problem – and one which was again highlighted by the ethnographic study of YOT bail staff. Young people who were not felt to be suitable even for conditional bail were almost automatically labelled as so 'high risk' that they had to be denied bail altogether. This reflects Parker et al.'s finding that '*magistrates believe there is a hard core of cases for whom nothing but custody will do*' (1989: 59-60), and Brown's (1991) argument that young defendants' cases are stereotyped and compartmentalised by youth justice decisions, into 'soft end', intermediate and 'hardcore' cases. Magistrates and YOT bail staff shared a belief in the existence of such a hardcore in Baytown, for whom only custody would do. These young people were not thought worthy of any bail intervention, but conversely, the majority of more minor offenders were not thought to need such intervention. The bifurcatory classification of cases (Bottoms 1977) reflected a managerialist approach, but also meant that, in this way, bail support had been by-passed in the discourse of both YOT staff and magistrates. It was seen as suitable for use only in exceptional cases, rather than as an essential part of the

¹⁴⁵ An issue that was discussed earlier, in Chapters Four and Five.

process, to be considered for use in every case, just as other bail options were. Given this situation, and magistrates' implicit trust of and agreement with the opinions of YOT bail staff in court, it is not surprising that bail support played such a marginal part in the Baytown youth justice bail process during the study period.

This was in contrast to the observation, from most of the magistrates interviewed, that bail support was an integral part of the package of bail services offered by the Baytown YOT. They were in favour of the scheme in principle, and indeed in practice, but knew little of how (and how well) it was actually working. This finding is congruent with both other qualitative research done as part of this study¹⁴⁶ and quantitative research discussed earlier in the study¹⁴⁷. It should also be remembered that very few cases involved an application for bail support which was subsequently rejected by the court (again discussed in Chapter Six above).

The data also showed that some magistrates wished to know more about bail services available locally, but felt that they were not given the opportunity to find out more in the process of their training. The reasons behind this failing are unclear from the data. It could point to a lack of efficiency on the part of the court staff responsible for training magistrates, as well as the difficulties of organising such training for part-time lay magistrates.

Some magistrates interviewed did not seem to have enough information about Baytown's bail services to make fully informed decisions about how well these services were working in practice. These 'knowledge gaps', leading as they did in some cases to a perceived inability on the part of the magistrates to answer some questions put to them, may not be obviously informative as research material. Nevertheless, they do open up some interesting issues in themselves. One of the

¹⁴⁶ Especially YOT staff's attitudes towards bail support, seeing it as only a small part of the work they did.

¹⁴⁷ In particular, the finding that only a very small number of young people were actually placed on the bail support programme (see Chapters Four and Five).

most obvious of these issues relates to the extent to which the youth justice bail process is 'systematic' – one of the hypotheses generated earlier in the study. Such gaps are in part explicable by the nature of lay magistracy, where magistrates mostly have a 'part-time' role, and sit in courts infrequently. However, it is submitted that this does not tell the whole story regarding the perceived inability to answer questions on bail issues for young people.

There was also a lack of communication between the magistracy, as an agency playing a part in the youth justice remand process, and other agencies who also play a part. Of course magistrates interviewed were regularly briefed by court clerks on the applicable law in each case and the options available when a decision has to be made. Similarly, it is obvious that magistrates heard submissions from the Crown Prosecution Service and defence solicitors regarding the facts of the case. But what they were not made sufficiently well aware of, on the basis of the evidence obtained here, is the gap between the 'law in the books' and the 'law in action'. The former, for the purposes of this study, would be the exceptions to the right to bail as laid out in the 1976 Bail Act as well as the formal nature of different kinds of bail options for young people. The latter would be how (and how well) the different options work *in practice* – what the exact nature of bail support work was in practice, and how well it was working in terms of reconviction rates, for example. It is this information that the Baytown magistrates did not seem to have available to them, regardless of how well submissions to them were made by other agencies in the context of each case.

Conclusions

An understanding of the discretion inherent in the youth justice bail process was central to discussion and analysis of the data in this chapter. Magistrates themselves had wide discretion within the terms of the Bail Act, which they structured using their own norms. But they were, as they themselves argued, also dependent on other agencies, including the YOT, for information not only about the 'law in the books' but also about the 'law in action'. The opinions expressed by members of the YOT regarding bail issues were therefore a heavy influence on magistrates' decision-making. Magistrates were also clear about the fact that they trusted the recommendations made by the YOT regarding bail, because they felt that the YOT were the 'experts' on the appropriate decision to be made in each case.

However, given the diverse influences on YOT bail policy, there was far more to the information given to the magistrates than simply a dispassionate recommendation which took all the relevant law and facts into account. Just as magistrates' decisions did not take place in a social vacuum, so neither did YOT recommendations. The latter were in fact shaped, as Chapter Six shows, by a variety of factors, such as apprehension regarding resources, a historic mistrust of bail support in its own right which extended to a mistrust of it even within a 'remand management' context, and conflict within the framework of the YOT (some of which was 'managed out' as described above).

Therefore the unsystematic nature of bail policy and practice within the Baytown YOT had a crucial impact on attitudes among magistrates in Baytown's youth court. Conflict was again being managed out of the process by leaving magistrates unsure as to how bail services operated in practice – thereby helping to

minimise any conflicting opinions they may have had regarding the way in which the bail process was working for young people locally.

Chapter Eight provides explanations for the outcomes of the Baytown youth justice bail process from the point of view of the third group of people whose decisions had a direct impact upon the operation of the process in practice, alongside YOT staff and magistrates. This group comprised young people whose cases moved through the bail process in Baytown, during the study period.

Chapter Eight

Speaking a different language? The attitudes of young people towards bail services in Baytown

Introduction

This chapter continues the exploration of possible explanations for the outcomes of the youth justice bail process in Baytown (as explained in Chapter Five). The purpose of this part of the research was to seek the opinions of young people on the decisions affecting them in the bail process. Such a purpose recognises that, once a young person has been granted bail, compliance with the requirements of bail depends upon his or her action (desistance from breaching the bail requirements), as well as upon the reaction to any breach (detection of and action against breach by youth justice agencies), and the quality and relevance of the bail support service. A full understanding of how the Baytown bail process operates must therefore include an account of young people's own attitudes towards, and levels of confidence in, local bail services aimed at them.

As with the magistrates' interviews (see Chapter Seven), this basic purpose was then broken down into more specific objectives. The first objective was to evaluate young people's attitudes to bail services before, during and after their time on bail. The second was to understand young people's needs, and to assess the extent to which these needs were met by bail services locally. The third was to understand the general meanings of bail and custody for the young people, relating these meanings to the reasons behind breach of bail conditions. The fourth and final objective was to triangulate the previously presented data, by addressing not only the

actions of the Baytown youth courts, but also the actions of the Baytown YOT which were examined earlier in the study.

18 semi-structured interviews were conducted with 17 young people, all of whom were or had been on the Baytown YOT's bail support scheme. Interviews comprised a mixture of Likert scale questions and open-ended questions, as with the magistrates' interviews (see Chapter Eight). The full interview schedule used for young persons' interviews can be found in Appendix F. In addition, figures illustrating the full responses to the Likert scale questions can be found in Appendix G, and all references to figures in this chapter correspond with and refer to the figures in Appendix G. More details about the rationale behind this approach, and the difficulties faced in implementing it, can be found in Chapter Three. Quotes from the interviews show where each interview was conducted (i.e. in custody or in the community). Following reporting of findings, the final section of the chapter discusses and analyses these findings, placing them within the context of the Baytown youth justice process bail outcomes, and triangulating results with data from previous chapters.

Understanding young people's views of YOT bail interventions prior to and in the courtroom

All of the young people interviewed heard about the scheme from either a YOT worker or their solicitor at the time they were referred to or placed on the scheme. Towards the end of the study period, YOT staff began to distribute leaflets in the reception areas of the Baytown youth courts (as shown in Chapter Five above) – but this practice had little or no direct impact on young people:

'I didn't know there were leaflets until my solicitor told me.' (Interview 7, in custody)

'The YOT worker gave me a leaflet but I never read it.' (Interview 16, in custody)

Only two of the 18 interviewees¹⁴⁸ reported having been referred onto the bail support scheme at their first appearance in court. These two young people (in Interviews 12 and 15 – see later discussion) were both placed upon bail support towards the end of the study period¹⁴⁹. Eight of the 16 who had been initially remanded in custody were ambivalent about being referred onto bail support when they were told about the scheme:

'I didn't really care about getting out on bail, but X ('old' YOT team member) came to the prison and said I could go for it if I tried to sort my head out. So I said OK.' (Interview 5, in custody)

Overall, however, such ambivalence was not universal, as Figure 8.1 shows.

There was a roughly even split between those who agreed that they had either pleaded guilty or showed remorse prior to being referred onto the YOT bail support scheme (10 interviews, or 55.6%) and those who did not agree with this statement (8 interviews, or 44.4%).

'I'd already pleaded guilty and they told me I couldn't stay in the secure unit any more'¹⁵⁰. I was really scared about going to prison, so I was happy about getting out on bail.' (Interview 1a, in the community)

'My solicitor told me I might get remanded 'cos I'd done another crime when I was already on bail ... that really scared me.' (Interview 10, in the community)

Figure 8.2 shows the responses to the Likert scale question about how young people perceived the quality of their bail support application's presentation in court.

¹⁴⁸ Percentages here, and throughout this chapter, are proportions of the number of responses in the total number of *interviews*, rather than the total number of *interviewees*. Therefore percentages are calculated from the maximum possible number of responses, i.e. 18, since one young person was interviewed twice.

¹⁴⁹ The young person in Interview 15 was actually referred as part of the Intensive Supervision and Surveillance Programme (ISSP), about which see Appendix H for more details.

¹⁵⁰ Because this young person's 17th birthday fell during the secure remand period, and so he would have had to be transferred to a young offenders' institution at this point.

All of the interviewees were at least neutral about the way in which their bail support application was presented in court, although only three (16.7%) strongly agreed that the presentation was helpful to them. More interviewees (10, or 55.6%) mentioned that their solicitor was helpful than mentioned that their YOT worker was helpful (5, or 27.8%) at this stage, and all of the latter group praised their solicitor and their YOT worker at the same time:

'Yeah, in the court the YOT worker said I should get bail ... he did help me there. My solicitor was good as well.' (Interview 3, in the community)

It should be noted here that young people were not asked about the YOT court officer's role in presentation – only the role played by the YOT bail team.

The interviewees were ambivalent, in the semi-structured responses, about the role played by the magistrates in bail support referral. There was a feeling among those interviewed that the magistrates themselves did not explain fully enough *why* the young person had been accepted onto bail support, as well as what was involved in each package:

'The judge¹⁵¹ didn't really say why I'd been accepted – he just said that I had.' (Interview 7, in custody)

The next subsection moves on to consider young people's experiences on the bail support programme itself.

**Understanding young people's experiences on the bail support programme:
young people's needs**

All young people interviewed were firstly asked about the social needs which they rated as important, in terms of these problems' relation to bail support services.

¹⁵¹ *Sic* – the interviewees often used the terms 'judge' and 'magistrate' interchangeably.

Figure 8.3 shows the responses. Young people discussed a range of what they saw as being important social problems, which were contributing to their offending in diverse ways. In all, 10 of those interviewed (55.6%) said that drugs or alcohol abuse was a key social problem for them in terms of playing a part in offending. In 12 of the interviews (66.7%), accommodation problems were identified as a factor in their offending. 13 of the young people reported being excluded from mainstream education at some stage in the semi-structured responses, but only four thought that this impacted on their offending behaviour, and was a special need at the time of being placed upon bail support. Other factors mentioned were family problems (four times) and school bullying (twice), although both of the latter factors were only mentioned in combination with other factors. The interviewees were then asked to expand upon their opinions. Each of the above findings will now be illustrated and expanded upon using the resulting qualitative data.

Seven of the 10 interviewees who mentioned drug or alcohol abuse as being an important problem in their lives discussed the abuse in the context of other social problems which they had previously faced. For these young people, such abuse was both a contributory factor in offending, and the result of earlier difficulties:

'I wasn't getting on that well with my mum at home, so I liked being with my nan and granddad. But then they died, that's when I started taking drugs, that's how I used to make myself feel better. I was either breaking into people's houses to get stuff to sell so I could get more drugs, or doing it after I'd taken the drugs, so I was off it (i.e. intoxicated) really.' (Interview 11, in the community)

The remaining three young people did not mention drug and alcohol problems in the context of other problems, but still regarded it as an important factor in their offending:

'I'd done some valium and temazepam, then I wanted more of them, so while I was still on them I did the robbery and the rest of it, to get money to buy more. I didn't plan it or nothing, I just did it without thinking.' (Interview 15, in the community)

All of those who mentioned accommodation problems as a factor in their offending linked such problems in with wider family difficulties which caused instability in their lives. The young person in Interview 7 had been in a long-term foster care placement for eight years, but was then moved into local authority residential accommodation in the Baytown area, prior to the offending which resulting in his referral onto a bail support package:

'I really hated it there (i.e. in the residential accommodation) and I ran away a few times ... other kids there, they tried to run away too, we used to go out, smash windows and that, for a laugh ... I used to try and fight the staff sometimes 'cos they were always telling me what to do, all the time, like.' (Interview 7, in custody)

For other interviewees, however, the issue was not that they were allocated to what they saw as unsuitable accommodation, but that they did not have any available accommodation at all. Interview 16 provided an example of this:

'I didn't want to stay with my mum and dad anymore, I hated school, so I just ran away, lived on the streets. Then I got sick of that, I went to Pathway¹⁵², told them I was homeless. But they couldn't really help me straight away, said they didn't have anywhere for me, so I carried on being homeless.' (Interview 16, in custody)

The third factor emerging from the investigation into the context of offending was that of education and training problems. 10 out of the 18, or 55.6%, mentioned educational needs in the qualitative discussion of problems contributing to offending:

'I got thrown out of school 'cos I smoked pot. But I was getting bullied. I went to another school but I was scared I'd get bullied again so I stopped going. I was still smoking so I was just hanging around all day ... I started stealing stuff to pay for more drugs, couldn't get money any other way. I did go to Learnwise¹⁵³ a couple of times, but I couldn't be bothered turning up after that.' (Interview 10, in community)

Educational needs, as with drug and alcohol misuse and accommodation, were seen by young people as important in the context of offending (as the quote

¹⁵² Pseudonym for a local housing association specialising in finding accommodation for young people in Baytown.

¹⁵³ Pseudonym for a local education and training agency for young people in Baytown.

from Interview 10, above, shows), especially when interacting with other needs. It is interesting, though, that the interviewees did not see education and training needs as being as direct an influence on offending as the other factors mentioned above. It was discussed more in terms of contributing to offending behaviour indirectly.

**Understanding young people’s experiences on the bail support programme:
activities and conditions of bail support**

The interviewees were asked about what they were required to do under the conditions of bail support, as well as what they were required not to do. They were also asked how useful or effective they thought these interventions were, in relation to their needs (as analysed above) and their offending. The results of these questions are shown in Figures 8.4 and 8.5. All of those interviewed reported having been (or being) under a curfew, and/or having to report to the police, as imposed by the bail support package. These were standard conditions included in proposed bail support packages by the Baytown YOT staff, and were generally included together¹⁵⁴. Most of those interviewed (15, or 83.3%) agreed that the curfew condition had been helpful in keeping them out of trouble, but 12 of the 15 (80%) gave qualitative opinions on helpfulness that were ambivalent:

‘I was fine about the curfew. The bail hostel was OK anyway, so I didn’t mind not going out at night.’ (Interview 1a, in the community)

‘I suppose it was useful, I did stop going out drinking at night for a bit. But it was more the work I did with the drugs people (i.e. local drugs and alcohol agency) that helped me stay out of trouble.’ (Interview 12, in the community)

Three interviewees reported having to spend their curfew periods at locations which they felt were unsuitable for them (all local guesthouses) :

¹⁵⁴ As mentioned by them in Chapter Six above.

'I had to stay in this bed and breakfast place – I couldn't stay at home and they (i.e. the YOT bail staff) couldn't find anywhere else.' (Interview 6, in custody)

Three interviewees disagreed that the curfew requirement was useful or effective in keeping them out of trouble. Interviewee 16 was breached twice, in quick succession, on two separate periods spent on bail support:

'I didn't care about the curfew. I was supposed to go back to my mum and dad's house, but I never did. I just stayed with my mates until I got arrested for breaking the curfew. That was about a week later.' (Interview 16, in custody)

After re-arrest for breach of curfew, this young person was then granted bail support for a second time a week later (having been remanded in custody in the meantime), but was later breached for a second time, again for breach of curfew. This was a case where the curfew (and bail support in general) seemed to have little effect on the young person's behaviour – but it was more unusual in that a stable home address was available for the young person, but was rejected by the young person himself.

When discussing the effectiveness of curfews in more detail, young people reported that curfew conditions were typically monitored by means of spot checks by YOT staff, conducted by telephone. Sometimes staff visited bail addresses in person, but this did not happen consistently, as this quote from a young person interviewed in the community suggests:

'I did get someone to cover for me once, when I was out when I should have been in for the curfew. I thought they (i.e. the YOT staff) wouldn't come round, just phone up, so I got my brother to answer the phone for me, and I got away with it.' (Interview 10, in the community)

A second principal condition attached to all of the interviewees' bail support packages was that the young person 'comply with the directions of the Baytown YOT'. The interviewees were ambivalent about the effects of this condition on their

needs and offending. This was mainly because most of them (12 in all, or 66.7%) were unsure about what this condition meant in practice:

'It meant do what they tell you, so I suppose that's the curfew, and I talked to them a bit, but mainly it was other people (i.e. external agencies) I was talking to.' (Interview 6, in custody)

A young person said that this condition had been helpful to them while on bail support in only four of the interviews. Generally, in the interviewees' view, staff took a reactive approach to bail support intervention. They saw the staff more as facilitators (i.e. facilitating contact with external agencies), rather than people who carried out the interventions themselves. There was one exception to this trend, however. The young person in Interviews 1a and 1b was allocated to a 'new' member of the YOT bail team. He was the only interviewee who was allocated to the 'new' team in this way. In contrast to the other respondents, he was positive about intervention from the YOT itself:

'I got on really well with (the 'new' team member). She came to see me while I was in prison and saw me a lot while I was on bail support. We talked about what had happened, any problems I had, what was going to happen later on.' (Interview 1b, in custody)

The third bail support condition discussed in the interviews was that of accommodation, or more specifically, that the young person had to reside at a specified place while on bail (mentioned in 13 of the 18 interviews). Only three interviewees (in four interviews) said that accommodation-related conditions of bail support had been helpful to them. Those interviewees that mentioned accommodation issues in the context of what actually happened to them while on bail support mostly talked about staying with family and friends:

'The court and the Youth Offending Team said I had to stay with my mum while I was on bail support. That was good 'cos my family were helping me get off the drugs.' (Interview 15, in the community)

Only one interviewee had stayed in specialist bail accommodation for young people – and he had not stayed in Baytown:

'Because of what I'd been charged with, my YOT worker said I'd have to go into a proper bail hostel to get out on bail. So I went to a place in Steeltown¹⁵⁵ and stayed there, the YOT worker sorted it for me.' (Interview 1b, in custody)

The picture that emerged from the interviews is that there was very little alternative accommodation for young people on bail in Baytown, if, for whatever reason, they could not stay at the family home:

'The YOT tried the places you go to get your own place for me, when I was on bail support, but there wasn't anywhere for me to stay – I really wanted my own place. I had to stay in a bed and breakfast place in the end.' (Interview 6, in custody)

Some of the interviewees showed the difficulties which could arise when young people were ordered to reside at home while on bail support because there was no accommodation alternative, even when staying with the family had been deemed unsuitable for them in the past:

'I'd been in care before, like, but I stayed with my mum and dad when I was on bail.' (Interview 4, in custody)

This young person had severe learning difficulties. Both of his parents also had learning difficulties, and his father was infirm and seriously ill during the bail support period. Yet the Baytown YOT and local housing agencies could find nowhere else for him to go, and were limited to allocating a worker from Social Services to the case. Interview 11 provided another example of a young person being sent to live with his family despite previous difficulties:

'I had been living in (local authority accommodation) 'cos I couldn't live with my mum – but I had stayed over with her a couple of times while I was in the other place.' (Interview 11, in the community)

¹⁵⁵ A town near Baytown, which had a separate youth justice network to that of Baytown, including its own YOT.

An activity which was frequently mentioned by the young people (in 14 of the 18 interviews, or 77.8%) was education and training undertaken while on bail support. The young people identified several sources of education or training in the Baytown area which had played a part in their bail support packages. All were agencies and organisations specialising in working with young people, inside and outside the youth justice process. As with the accommodation agencies mentioned earlier, therefore, the interviewees (and the YOT) were competing with other young people not evidently involved in criminal activity for these organisations' time and resources. However, on the basis of the data, education and training from these external agencies played a more significant role in bail support packages than external accommodation services, as these excerpts illustrate:

'I'd already left school (i.e. when the period on bail support began) but my YOT worker got me some help with careers, that was useful, or I think it will be anyway.' (Interview 1b, in custody)

'I wanted to get back into school but it was really hard for me, I'd been away from it for a long time. But Learnwise helped me with reading and writing. That helped me more than the other stuff I was doing (on bail support).' (Interview 14, in custody)

In a majority of interviews (11 out of 18, or 61.1%) it was agreed that the education or training which had been received during the time on bail support had been useful in terms of preventing future offending. However, not all of the interviewees saw this type of intervention in such a positive light:

'I went to the mechanics project, they said I'd get a certificate at the end, or something to show I'd done the course, but I never got anything.' (Interview 7, in custody)

Despite the mixed attitudes illustrated by the quotes given in this subsection, the response to education and training was far more positive, on the basis of the evidence, than the response to accommodation services offered as part of bail support packages. It is also interesting that young people who were critical of the

education and training facilities referred more to their own perceived responsibility for the failure to make these facilities work than the interviewees who were critical of accommodation services. They were more likely to recognise their own limitations in terms of education (in terms of failing to turn up for appointments, finding the work too hard, or just not being interested) than those who had faced accommodation difficulties while on bail support.

The fifth bail support activity discussed by the interviewees was treatment for drug and alcohol abuse. 10 interviews (55.6%) reported some element of drug and/or alcohol treatment during the time on bail support. This came from two separate local agencies who worked with children and adults alike¹⁵⁶. Opinions on its usefulness, however, were more mixed. Seven interviews (38.9%) reported that drug and alcohol treatment-related conditions of bail support had been helpful. Some made an effort to engage with treatment, but were not able to avoid further drug or alcohol abuse:

'I started to go to Drugwise¹⁵⁷ 'cos I used to lose my temper and then kick off on people when I'd taken something. I needed to sort my head out ... I went three times but then I was drunk the next time I went, so they wouldn't see me.' (Interview 9, in custody)

'I'd been with Drugwise before, when I was on a DTO¹⁵⁸ ... I wanted to stop taking drugs then, and I was alright while I was on the DTO, like ... but when it finished I started hanging round with my mates again and they were all on drugs so I started again. It was the same when I was on bail support ... OK for a bit but my mates started me off again.' (Interview 13, in custody)

The young person in Interview 3 also admitted to continuing to take drugs while on bail support, despite continuing drug treatment, and regular spot checks by the YOT staff. Not all of the interviewees had these difficulties with drug and alcohol

¹⁵⁶ Although, as noted in Chapter Six above, one of the agencies dealt with most of the young people referred while on bail, and this was the only agency which was mentioned by young people in these interviews.

¹⁵⁷ Pseudonym for a local drug and alcohol agency working with young people in Baytown.

¹⁵⁸ I.e. detention and training order.

treatment on bail support, however. The young person in Interview 12 had a history of heavy alcohol misuse, which contributed to his convictions for drink-driving and vehicle theft. Having been remanded to custody at his initial appearance in court for drink-related offences, he realised that there was a great deal at stake when he was subsequently granted bail support:

'Drugwise made me realise I had a problem ... showed me what can happen when you drink too much, to you and other people ... they did help me, yeah.' (Interview 12, in the community)

He agreed that the treatment he received had been useful, and this was reflected in what happened subsequently in this case. He complied with all of his bail support conditions, and, having been at risk of a custodial sentence when he was remanded to custody, received a community sentence. Interestingly, he did not see the success of his alcohol treatment in isolation from other elements of his bail support package:

'Yeah, that was important because I used to drink and drive and everything ... but I did a training course (run by a charity) and that helped as well ... 'cos I hadn't been in school for ages before that.' (Interview 12, in the community)

Interviewee 12 had not re-offended since his time upon bail support, and linked this explicitly to the fact that he had also refrained from taking any drugs since that time. These factors helped to explain the fact that he received a community sentence¹⁵⁹ for what had been several serious offences.

Interviewee 15 was a young person who identified alcohol and drug abuse as being a key factor in his offending. The robbery charge for which he had been placed upon the bail support scheme had been committed, by his own admission, while under the influence of valium and temazepam. In addition, he was already on

¹⁵⁹ Namely a combination order, comprising a one year community rehabilitation order and a 60 hour community punishment order.

bail at the time of his arrest, for other offences committed while under the influence of drugs:

'The drugs workers showed me how much I could screw up my life and my family's lives if I didn't stop taking drugs ... and my mum helped me as well ... plus I went on a course and I realised I didn't have to rob people to get money.' (Interview 15, in the community)

As with Interview 12 above, this young person saw his drug treatment as being one successful component in an effective bail support package. He perceived the successful treatment as being effective in the context of family support, which he received through being able to live at home while on bail support, and useful training. The young person in Interview 15 was remanded to custody following breach, but did avoid a custodial sentence – he was sentenced to a one year community rehabilitation order, with a curfew requirement.

The sixth and final condition mentioned by interviewees (five times) was that of staying away from specified persons – either co-defendants or witnesses. Only one interviewee reported that this condition was helpful (Interview 7, discussed above and below), citing the reason that he feared being attacked by his co-defendant.

Understanding young people's experiences on the bail support programme: breach of bail support

As was apparent in the previous section, not all breaches of bail support conditions were detected (as revealed in Interview 3). But breach was still an issue for those young people placed upon bail support, as Figures 8.6 and 8.7 show. 11 of the interviewees (61.1%) admitted breaches of bail support conditions. Of these, 10 of the breaches had been detected by the YOT and prosecuted in the youth court¹⁶⁰.

¹⁶⁰ The eleventh, undetected breach was revealed in Interview 3, and has already been discussed.

Five interviews reported committing the fundamental breach of committing another offence while on bail support, which was then detected by police and resulted in their arrest:

'It was stupid really, I stayed out past the curfew and got pissed with my mates, then I got arrested for being drunk.' (Interview 11, in the community)

'I was doing alright on bail, but then my mates talked me into taking valium and I stole a car with them. I was so off it I didn't even remember doing it afterwards ... being sent to prison (on remand) really upset me, being away from my girlfriend and everything.' (Interview 17, in community)

'I broke into someone's house with my mate after I'd taken some pills.' (Interview 4, in custody)

The young person from Interview 11 was allowed to continue on bail support despite the new offence of being drunk and incapable. He was sentenced to an 18 month community rehabilitation order, with curfew and tagging requirements, for the original offence¹⁶¹. As shown above, the young person from Interview 17 was remanded to custody after being breached for the new offences. He was ultimately sentenced to a six month detention and training order, for the original and new offences. The young person in Interview 4 was sentenced to a two year community rehabilitation order, again with curfew and tagging requirements, after being remanded to custody for his new offences.

The three young people interviewed here clearly linked their breaches to alcohol and drug misuse – although only two of them (Interviews 11 and 17) had received treatment for substance misuse while on bail support. Three more young people said that they were breached for failing to keep appointments with one of the drug and alcohol agencies or education and training agencies working with them:

'I didn't want to go to Drugwise because I'd taken some valium and I knew they'd grass me up anyway ... X¹⁶² tried to get me to go but there

¹⁶¹ He received a one year conditional discharge for the drunkenness offence.

¹⁶² A member of the 'old' YOT bail team.

was no point ... it was too much hassle, being sent to prison was easier ... and I knew I'd get sent down anyway for what I'd done.' (Interview 14, in custody)

The young person in Interview 14 was remanded in custody at his own request after breach. He was sentenced to three years' youth custody for robbery. The young person in Interview 9 had been in prison before (on remand and after sentence) and made it clear in his interview that the threat of custody was not a deterrent for him. He was subsequently sentenced, for various offences, to a six month detention and training order, but felt that custody was inevitable in the circumstances.

Two other young people – Interviewees 6 and 7 – were breached because they failed to attend court at the correct time. Interviewee 6 said that the bail support programme which he was expected to complete (an ISSP programme) was too demanding for him, and that he would prefer to be remanded to custody, which he duly was following breach. He was subsequently sentenced to a six month detention and training order. Interview 7's reasons for not attending court were more complex. They centred around frustration that his achievements on bail support had not been better recognised by those working with him (see earlier), and the perceived inevitability of custody in his situation, but also his fear of meeting his violent co-defendant at court. After being remanded, he was later sentenced to five years' youth custody for armed robbery and vehicle theft.

The other factor in breach which was mentioned in interviews was the failure to reside at the prescribed bail address. This was the case in Interview 16, where the young person gave a false address to the YOT when he was first granted bail support, and following breach, he was then granted bail support for a second time. He then went missing from his parents' home for over two weeks (see earlier), was breached again, and was sentenced to a 50 hour community punishment order on

his return to court. Two days after sentence he was re-arrested, pleaded guilty and was sentenced to another community punishment order, this time of 20 hours' duration. Five days after that he was arrested for a new offence, returned to court, and sentenced to a one year detention and training order.

Beyond bail: the impact of bail on sentencing

Figure 8.8 illustrates the responses to a question regarding the impact of bail support on subsequent events in interviewees' lives. A young person agreed that being on bail support had had a positive impact on what had happened to them subsequently in only five interviews. This was true both in terms of the sentence which they had received (14 of the 17 interviewees had been sentenced) and in other ways. One of the three young people who were positive about the impact of bail support on later events was the young person in Interviews 1a and 1b (see above). This was so even though he subsequently received a long-term jail sentence for his offence:

'Yes I think being on bail support made a difference. I know I got sent down but I was expecting that. I think I would have gone down for even longer if I hadn't been on bail support.' (Interview 1b, in custody)

This case involved a more serious offence than the other cases in which young people were placed on bail support¹⁶³. Before this charge he had only been arrested once – this earlier offence resulted in a caution, several years before the charge. Others placed upon bail support were (as Chapter Four showed) mostly low or medium gravity offenders, prosecuted for property offences rather than violence against the person.

¹⁶³ Murder, subsequently reduced to manslaughter following a guilty plea to the latter charge.

Another young person to report that he felt bail support had made a positive difference had subsequently received a community sentence, following an initial remand to custody and a period spent on bail support:

'Yeah, I think it might have helped. I'd been in prison before that. I didn't get into trouble while I was on bail support. X ('old team' YOT member) told the court I'd done alright. I remember the judge saying they'd give me another chance 'cos of that.' (Interview 3, in the community)

However, these comments should be read in the light of the same young person's comments on his experiences of bail support above:

'I did take some drugs while I was on bail, at home, like. But I was always in for the curfew, I wasn't breaking that.' (Interview 3, in the community)

The young person in Interview 2 had over 50 previous convictions when he was placed upon the bail support scheme. He felt that being on bail support made little difference to his sentence:

'I didn't see the point. I was on the curfew but I didn't do anything really. It was better hanging around with my mates, sometimes that was in the evenings, so I broke the curfew and got arrested again. I wasn't that bothered, I didn't mind prison 'cos I knew people (from Baytown) would be there ... they'd already decided to send me back to prison when I got charged probably.' (Interview 2, in custody)

Another young person interviewed spent several months on the bail support scheme prior to being sentenced to long-term imprisonment for robbery. He also felt as if being on bail support was a waste of time:

'I knew I was going to go to jail anyway once I pleaded guilty. I thought bail support would help but I didn't get anything out of it, people didn't seem interested. In the end I was too scared to go to court on my own, in case I saw (his co-defendant), I tried to get different people (from the YOT) to go with me, but no-one would, so I wasn't there at the right time, then the court sent me back to prison. Even though I was on bail support for ages and didn't do anything wrong, one mistake and I was back in jail ... the court would have sent me down anyway, there wasn't any point ... at least if I'd stayed in prison I would have got time off my sentence.' (Interview 7, in custody)

This young person was interviewed after he had been sentenced to five years' youth custody, and this probably contributed to his negativity about being on bail support. Nonetheless he clearly felt that the bail support scheme had done little or nothing to enhance his case in court (see also above). He also raised an important point about time spent on remand in custody, and its relationship to final sentence for young people – namely the 'discount' given on sentences for time spent on remand in custody¹⁶⁴.

The interviews revealed that some young people were also aware of this factor, and the impact it could have on their final sentence:

'My mate told me he hadn't asked his solicitor to go for bail because he'd get time off his sentence if he stayed in custody (on remand). If you're going to be going to prison anyway, you might as well do some of it now and a bit less later, you know what I mean?' (Interview 2, in custody)

This young person was an 'experienced campaigner' in the youth justice process. Perhaps he would therefore be more likely to understand the 'time off' procedure than less persistent offenders – only two other interviewees (Interviews 5 and 9) mentioned this 'mechanism' in interviews. It was also unclear whether the young people were hearing about the rule from other young people in the youth justice process, defence solicitors, Crown Prosecution Service lawyers, or YOT staff.

The next section explores further the meanings attached to custody by the interviewees.

¹⁶⁴ This view was substantively accurate, as shown by Home Office guidelines on use of youth custody: '12. Under section 74(5) the court must take time spent on remand in custody into account in deciding what overall length of DTO term to impose; time spent on remand in custody is not subsequently offset against the term set by the court ... 13. When deciding the term of a DTO, the court is not required to make a precise calculation of remand time in custody and deduct that specific period from the term of the order. The expectation is that the court will reach an overall judgement about the length of the DTO term which it considers appropriate in all the circumstances of the case, taking account of the time spent in custody on remand.' (Home Office 2000)

Cf., however, the findings in Chapter 4 above on the statistical relationships in this study between remands to custody and custodial sentencing.

Understanding the meanings of custody for young people

Interviewees had previously spent time in custody, or were in custody at the time of their interview (either on remand or as a sentenced prisoner), in 13 of the 18 interviews (72.2%). Given the discovery that some of those interviewed actually preferred being in custody to being on bail support, understanding the meanings they gave to prison and being in prison was a key aim of the interviews. Young people in 11 interviews (61.1%) saw prison in a 'positive' light:

'I don't really mind getting sent to prison for a bit, while the case is going through. I've seen other lads get upset by it, like, but I don't think it's that bad.' (Interview 2, in custody)

It is possible, however, that this young person's personal experiences of youth justice single him out as an anomaly. He had had several previous periods in prison (on remand and after sentence), and was in custody when interviewed. It is possible that he had become hardened to prison life, or institutionalised. He had, however, also spent some time on the bail support scheme, and stated that being in prison was better than being on bail support. When asked why this was, he said that:

'Sometimes prison's good for getting away from what else is happening on the outside. You know, you're not getting on with your family or your girlfriend, not sure where you can stay. It's good being out (in the community), but not when you've got all that going on as well.' (Interview 2, in custody)

Another interviewee raised a further issue relevant to the way in which young people saw prison:

'Prison's good when you want to get off the drugs for a bit. Yeah, I know there's drugs in prisons sometimes, if you want them, but it's not the same as on the outside. In prison, I haven't seen as much drugs (sic), and if you don't want them you can stay away from people who've got them, 'cos it's not someone you know most of the time'. (Interview 5, in custody)

Other sentenced interviewees also seemed sanguine about being in prison:

'I've been in prison before this. It's not as bad as people say. I couldn't do what I wanted outside anyway'¹⁶⁵. (Interview 6, in custody)

'I'm OK here. Some of my mates are in here anyway. I'm not on my own.' (Interview 14, in custody)

However, in seven of the interviews, the interviewee saw prison in a very different way to those quoted above – as a frightening and dangerous place, one in which they were not only receiving little or no rehabilitative work, but also ran the risk of physical and psychological abuse:

'I haven't been to school for a long time, like. So they do education in here, but I don't go very often, I can't understand it.' (Interview 4, in custody)

This young person had already been classified as having severe learning difficulties, having been raised by parents who themselves had learning difficulties, and had indeed not participated in mainstream education since primary school level.

He added that:

'I do get bullied sometimes in here. Other lads do things, bad things, and tell the officers I did it, or try and push me into saying I did it to the officer.' (Interview 4, in prison)

Others who had not been to prison were clearly frightened by the prospect of being sent there:

'When I got arrested, I was already on bail for something else. My solicitor and the YOT worker told me I might not get bail. I was really scared I'd have to go there, I was scared I'd get bullied if I did. I was really happy I got onto bail support, I made sure I did what they told me to, so I wouldn't get sent down.' (Interview 10, in the community)
'I didn't want to be away from my mum. I'd never been to prison. No way I'd want to get sent there.' (Interview 15, in the community)

These two interviewees were the only ones who thought of prison as a deterrent, but had not yet experienced custody for themselves. The majority of those expressing negative views on being in custody, therefore, had already spent time in prison on remand.

¹⁶⁵ This is a reference to the antisocial behaviour order and exclusion order he had been on before breaching it.

Understanding the meanings of bail and bail support for young people

The meanings which the young people interviewed attached to custody must be understood in the context of the meanings which they attached to the alternative to custodial remand – bail, and the bail support services offered by the Baytown YOT in particular. Eight interviews (six in prison, and two in the community), or 44.4%, reported having instructed their solicitors not to make an application for bail:

'Yeah, I knew X (YOT member) was OK with offering bail support for me in the court, they told me that. But I got my solicitor not to ask the court for bail, so they had to send me here basically.' (Interview 6, in custody)

This occurrence obviously raises the issue of why these young people did not even try to make an application for bail. The young people who had not made an application for bail were asked why they had decided to do this. Their replies reflected the opinions of prison outlined above – that it was a useful 'safety valve' for escaping from other problems in their lives – but also reflected a negative view of bail support itself:

'What's the point of having to do all that work when I can just hang around in prison? They don't make you do much in here, most of the time.' (Interview 16, in custody)

'Being on bail didn't change anything for me. Once I'd pleaded guilty, for what I'd done, it wouldn't have made any difference. And what I had to do didn't help me.' (Interview 7, in custody)

As shown above, however, there were exceptions to this viewpoint. Interviews 1a and 1b were conducted with a young person who had been charged with a very serious offence, for which he was initially remanded to custody. He had been charged just before his 17th birthday. When he reached the age of 17, he could no longer be remanded in local authority accommodation. Instead he was told that he would have to be sent to a YOI (YOI Stonewall). This increased his anxiety:

'I'd heard prison was even worse than where I'd already been. It was a lot further away from my family and my girlfriend as well. I started thinking about hurting myself, maybe even killing myself, just to get out of it.' (Interview 1a, in the community)

As this young person had been classified by the Baytown YOT staff as 'vulnerable', a second, successful application for bail was made at a later court appearance. When the first interview with this young person was conducted, the young person had been living in a bail hostel for several months. As mentioned earlier, there was no suitable bail accommodation for young people in Baytown itself at that time. He therefore had to be sent to a hostel in a nearby town, close to where his victim's family lived. He was fully aware of the likelihood of custody, given the offence which he had committed:

'I always knew I'd go to prison, but I still got a lot of help on bail support, from my YOT worker. I got to spend more time with my family, I got help with benefits and stuff. I couldn't have handled prison then, but I felt a lot better about it after I'd been on bail support, 'cos I knew I had support behind me.' (Interview 1b, in custody)

This young person strongly agreed that bail support was a positive experience for him (as described above), despite the fact that he was given a three-year custodial sentence. He mentioned both YOT and external agency interventions in positive terms.

Following the approach of the previous two qualitative data chapters, the next section of the chapter analyses the findings presented, and refers back to the key bail process outcomes described and explained in previous chapters.

Discussion and analysis of quantitative and qualitative findings

Discussion and analysis of the findings in this chapter will be organised according to their relevance to the key outcomes in the Baytown bail process.

Mostly systematic court decision-making under the terms of the Bail Act, but decreasing evidence of systematic decision-making at subsequent court appearances

These two key outcomes relate to magistrates' decision-making in the bail process in general. They are discussed together here because the young person's data did little to explain either of these outcomes. The majority of interviewees, however, did state that magistrates did not explain clearly how and why bail support had been granted in court. It was noted in Chapters Six and Seven that YOT staff and magistrates trusted one another's bail decisions implicitly. In addition, in Chapter Seven, magistrates showed that if a YOT worker applied for bail support, there was a presumption that the recommendation was justified and accurate. Magistrates also showed a widespread lack of understanding of what bail support actually entailed for young people in practice, due partly to the rarity of application and referrals in the Baytown youth courts.

It could be, therefore, that magistrates' failure to explain clearly what would happen to young people on bail support was a sign that magistrates preferred to distance themselves from other agencies in the youth justice process. However, there are other possible explanations for this occurrence. One such explanation is a lack of effective communication from the YOT staff about the operation of bail services in practice. Another, related explanation is the distance maintained by YOT staff from the courts, which would make it more difficult for magistrates to obtain bail information. In fact, taking the data from Chapters Six and Seven into account, the latter explanation fits the data most closely. In the context of the trust between YOT bail staff and the Baytown magistrates, and the rarity with which bail staff attended court to apply for bail support, the part-time lay magistrates would have found it

difficult to communicate with staff about bail support and other bail services. In turn, this would also have made it hard for magistrates to relay information to young people in court.

The lack of communication, and resultant maximisation of YOT remand staff discretion over bail information and decisions, is also (as noted in earlier chapters) a convincing explanation for the decline in systematic court decision-making at later stages of the bail process. The recent emergence of bail information schemes in England and Wales was driven by magistrates' inconsistency in decision-making, due to a lack of up-to-date bail information (Morgan and Henderson 1998).

Social significance of remands to custody

The data revealed the meanings which the interviewees attached to prison, and to being remanded to custody. The young people showed a wide range of opinions on this subject. Around half of them, however, stated that the idea of being remanded to custody did not deter or intimidate them. The opinions of those who had been to prison and admitting to finding it an unpleasant experience¹⁶⁶ should not be discounted. Nevertheless, there was evidence that, for some of those interviewed, the prospect of being denied bail and remanded to custody did not act as any kind of deterrent or disincentive, nor did it hold any particular fears for these young people.

These data contrast with those from YOT staff and magistrates in the previous two chapters. Both of these groups, on the basis of the research evidence, believed that custody acted as a deterrent for young people in Baytown. This assumption underpinned local youth justice agency discourse. One example was the YOT staff's

¹⁶⁶ Or who had not been so remanded, but had been deterred by the threat of custody.

policy of not applying for bail support at initial appearances in court, on the ground that a short period spent on remand in custody would encourage young people to show remorse for their offence, as well as demonstrating suitability for an application for bail (or not doing so). Magistrates, similarly, regarded prison as a punishment and a deterrent for young people.

The young people for whom remand to the secure estate was preferable to release on bail support attached a variety of meanings to prison. These meanings ranged from seeing the prison as a detoxification facility, through seeing it as a chance to be reunited with peers, to seeing it as a means of escaping social problems on the 'outside'. These findings were accompanied, in the research evidence, by data showing that interviewees sometimes asked their solicitors not to make an application for bail, so that these young people were effectively remanded at their own request. There was also dissatisfaction with the conditions of bail support, and pessimism about the difference bail support made in sentencing terms, on the part of some of those interviewed.

Taken together, the data provides a possible explanation for the lack of clear relationships between remand to custody and other key variables, such as persistency and seriousness of offending, in the Baytown bail process, as shown in Chapters Four and Five above. Some young people did not instruct their solicitors to make an application for bail. This action removed the discretion of YOT staff to recommend bail, and the discretion of magistrates to grant it. Such failures to apply for bail had the ability to 'disconnect' bail decisions from the criteria for denying bail in the 1976 Bail Act.

The rarity of bail support referrals

The data provided several possible interlinked explanations for this outcome. The explanations emphasised the key role of young people in instructing their legal representatives to make applications for bail, before the YOT workers had the opportunity to consider the value of applying for bail support in court.

One explanation was the perceived lack of credibility for bail support among those interviewed. Few of the young people believed that the conditions imposed as part of their bail support package were effective, in terms of either meeting their social needs or of keeping them out of trouble. This lack of credibility was compounded by the ambivalent position of custody in young persons' discourse. Some interviewees compared the demands of bail support unfavourably with the demands of prison life (see above). Others instructed their solicitors not to make applications for bail, not only because of the perceived advantages of prison, but also because of their belief that they would be sentenced to custody, and therefore wished to do some of their time now rather than doing all of it later. These factors were linked with one another to form a negative bail support discourse. This discourse then gained strength from the diverse meanings attached to custody by the interviewees.

Data not only highlighted the role played by young people in deciding whether or not to make an application for bail, but also provided evidence of the importance of staff attitudes towards bail support in Baytown. In particular, the positive response to bail support, in terms of services provided by YOT staff and external agencies, by Interviewee 1 pointed to the role of individual staff discretion in making bail decisions. This young person was the only interviewee to be allocated to a member of the 'new' YOT team (see Chapter Six) while on bail support. Although data derived from the

two interviews conducted with this young person are not representative, it is still striking that Interviewee 1 was the only interviewee to make entirely positive comments about his experiences on the bail support programme. Others, all of whom were allocated to the 'old' team members, were positive about some aspects of bail support (education and training in particular). However, all of the interviewees agreed that being on the programme had not met their social needs in at least one respect.

It is therefore unfortunate that this argument could not be tested further by gauging the opinions of others who had been allocated to 'new' members of the team. Nonetheless, given the clear differences in attitudes towards proactive bail support between the 'old' and 'new' staff (see Chapter Six), the evidence from Interviewee 1 provides further support, not only for the existence of wide discretion at the micro-level of the bail process, but also for the importance of the way in which discretion was used for the effective operation of that process, especially from young people's points of view.

While the data could not provide conclusive support for the evidence of contrasts in attitudes towards bail services between the 'old' and 'new' staff, they provided evidence for an explanation put forward for the rarity of bail support referrals in Chapter Six. This was that 'old' staff members were reactive and cautious in terms of advocating bail interventions, and were able to overcome the 'new' staff's resistance to these policies through their local contacts and power in Baytown youth justice. The 'old team' senior practitioner allocated bail support cases as they arose, and all except Interviewee 1 had been allocated to one of the 'old' team members. This evidence can be contrasted with the finding, discussed in this chapter, that a majority of those interviewed did not believe that bail support had been helpful to

them, either in the wider context of assisting their social needs, or in the narrower context of helping to prevent re-offending.

It is also interesting, in this regard, to re-emphasise that the case which produced the most positive young persons' feedback on the perceived effectiveness of bail support work was the only bail support case which was allocated to a 'new' team member. This was also a case involving a more serious offence than other bail support cases. The 'old' team members expressed serious doubts over the likely success of an application for bail support for Interviewee 1, and over the likelihood of bail support making any practical difference to the sentencing outcome of the case. Indeed, the sentencing outcome was long-term custody here. Yet the young person was still entirely positive about bail support and its effects. This case points to another possible explanation for the rarity of bail support referrals – a failure on the part of the 'old' YOT staff to understand the wider social significance of bail support (and, for that matter, prison) for young people, and a restriction of staff discourse to short-term issues, such as sentencing outcome. It is not suggested, in making this comment, that these short-term issues should not have been taken seriously by the staff – merely that the whole range of young people's opinions towards bail and jail should have been more fully considered.

Discretion, lack of communication, and the management of conflict out of the process

The use of discretion to manage conflict out of the bail decision-making process in Baytown youth justice was illustrated by the data in Chapter Six above. Examples of its presence have also been given previously in this analytical section. These include the differences in the interviewees' opinions on the usefulness of interventions by 'old' and 'new' staff members.

Further evidence can be found when all of the data in this chapter are analysed. Young people reported breakdowns in communication between YOT staff and external agencies responsible for running services offered as part of bail support packages. Interviewees reported activities with drugs and alcohol, education and accommodation agencies which YOT staff were not made aware of. These breakdowns were both 'positive' (failure to communicate drug use in breach of bail conditions) and 'negative' (failure to communicate a young person's successes in education or training) in the eyes of young people. Both types, however, contributed to the lack of bail support's legitimacy in the eyes of some of those referred onto it.

The importance of communication was intensified by the interviewees' perception of bail support as a package of intervention, rather than as a series of separate measures. This perception is reinforced by the variable levels of young people's satisfaction with different elements of the package, contrasted with the low level of satisfaction with 'bail support' in general, and the lack of confidence that bail support would make a difference to interviewees' lives in the long-term. This suggests that a lack of satisfaction with one element of bail support damaged overall satisfaction with the whole package as well. The YOT staff were seen as facilitators in the comprising of each package, and so the lack of communication between YOT staff and other agencies had wider effects on the legitimacy of bail support in young people's discourse generally. The data in Chapter Six confirmed that YOT staff were aware of communication and co-operation problems¹⁶⁷, but did not wish to draw attention to inter-agency conflict, and thereby risk reducing their own power and discretion. The data in this chapter illustrate the effects of this discretion, and the ways in which it was exercised, on young people's 'bail' and 'jail' discourses.

¹⁶⁷ E.g. vagaries in police practice on 'spot-checking' observation of bail conditions.

Conclusions

This chapter has discussed and analysed the views on bail, and remand to custody, by young people who were referred onto the Baytown YOT's bail support scheme. It has highlighted the variation in meanings attached to both 'bail' and 'jail' by young people on bail support. While some young people shared the YOT staff's and Baytown magistrates' view that remand to custody was an effective deterrent, a greater number showed a preference for being in custody over having to comply with a package of interventions and conditions on bail support.

There was a range of interconnecting reasons behind this finding. The negative discourse on bail support was partially explained by legal processes, such as the belief in deduction of time spent on remand from custodial sentences. But it was also explained by 'old' YOT staff's lack of communication with other agencies involving in bail support packages, especially regarding young persons' continuing rate of progress on bail support. Further explanation lay in the positive image of custody in the minds of many interviewees, in terms of stable accommodation, a means of reuniting with friends, or a way of escaping from social pressures on the 'outside', against which the attractions of bail support struggled to compete – although given the high rate of long-term social needs reported by interviewees, this effect was perhaps to be expected. Staff themselves shared young persons' view of bail support as a short-term 'sticking plaster' over longer-term social damage, whose effects were necessarily limited.

Nonetheless, staff caution and negativity in exercising discretion over the operation of bail services went further than an acknowledgement of the necessarily short-term solutions offered to criminogenic needs. Discretion, and the way in which it was used, was characterised by breakdowns in inter-agency communication, and

an unwillingness on the part of the 'old' staff to become too involved in bail support interventions. While the chapter has highlighted the discretion of young people themselves in bail decision-making – choosing whether or not to make an application for bail, for example – it has also shown that the 'how' and 'why' of youth justice agencies' discretion in the bail process shaped the active role played by young people, and contributed to the rarity of bail support per se, and also, more particularly, of its success in the eyes of young people.

Chapter Nine

Conclusions: towards more effective bail policy and practice for young people

Introduction

In the final chapter of the study, the results and analysis of the research will be summarised. The chapter will also compare these with the hypotheses put forward earlier in the study. In line with the critical realist approach to methodology (see Chapter Three), this will involve outlining the mechanisms found to generate the structural outcomes of the Baytown youth justice bail process, which were discussed and analysed in Chapters Four and Five.

However, as Bhaskar (1989) has pointed out, what separates critical realism from other forms of realist social research is its evaluative and normative dimension. This chapter will therefore move beyond a straightforward summary of findings. In line with the grounded theory approach to exploratory study, as used in conjunction with a critical realist case study model used in this research, the chapter will also consider the wider implications of the research findings for the different levels of the youth justice bail process, locally (in Baytown) and nationally. The aim here is not only to understand bail policy and practice at micro, mezzo and macro levels of that process, but also to suggest ways in which policy and practice might be improved in the future.

Outcomes and explanations

The systematic nature of bail decision-making in Baytown

The analysis of the quantitative data in Chapter Four revealed statistically significant relationships between bail decision-making outcomes and factors relevant to these decisions under the 1976 Bail Act. The available quantitative information could not be used to cover all of the grounds for restricting or denying bail, as contained in the Act (see also Chapter Three for discussion). Of the three key grounds for restricting or denying bail in the Act – likelihood of re-offending if released on bail, likelihood of failing to surrender to bail, and likelihood of interference with the course of justice – only the first two could be examined using the available information. Since court records were not accessible for the purposes of the study, it was also not possible to determine on which ground or grounds bail was restricted or denied.

What was possible to determine, however, was the existence of *reasons* potentially justifying these grounds. These reasons included current bail status (at time of arrest), type of offence, seriousness of offence, age, gender, and persistency of offending (in terms of re-arrest during the bail period). These factors were compared with bail and sentencing outcomes at court. It would have been impossible to analyse every possible reason using the data available. It was possible, however, to include analysis of key decision-making factors, particularly those relating to the offence committed, which have been shown to be key influences on bail decision-making in previous research (e.g. Hucklesby 1996, 1997a).

Using the available data, there was some supporting evidence for the systematic nature of initial court decisions. Males – who were more likely to have

committed serious offences – were also more likely to have their right to bail restricted or denied. Offences which posed a threat to the safety of the public (such as violence) or a potential threat (vehicle theft) were more likely to have bail restricted or denied, and the most serious offences (rated 8) were the most likely to be the subject of a remand to custody (although the relationship between age and bail decision at this point was unclear, despite the apparently significant relationship between them). However, statistical significance was less frequently found for relationships between factors and decisions made at subsequent appearances. Indeed, the number of significant relationships decreased as the number of changes in bail status increased.

There were therefore two linked outcomes from this part of the analysis – systematic decision-making at the start of the court bail process, and the apparent decrease in systematic decision-making as the bail process continued – which both required explanation through the qualitative data in Chapters Six, Seven and Eight. The key explanation for these outcomes was the high level of trust between the different agencies involved in decision-making. In particular, the data revealed a generally mutual trust between the YOT bail staff and the magistrates of the Baytown Youth Court, in terms of their respective abilities to make fair and appropriate bail decisions, using their own discretion within the framework of legislation and guidelines. Both sides tended to blame any shortcomings in bail services locally on macro-level failings, such as insufficient funding, rather than on inadequate services at the micro-level of the bail process.

However, this trust was a double-edged sword. As the bail process continued, and case circumstances changed, both YOT staff and magistrates felt unable to respond proactively to opportunities for review of earlier decision-making. The YOT staff trusted the magistrates' initial decisions to such an extent that they rarely saw

the need to challenge these decisions by offering bail alternatives at later court appearances. This was so despite the scope for making two applications for bail in each case (even where bail had initially been denied).

The magistrates, on the other hand, felt restricted by initial bail decisions in court – whether these decisions had been made by themselves or by other magistrates. They often portrayed themselves in interviews as being bound by the advice given to them, by YOT staff and others. They expressed opinions about youth justice bail policy, but also claimed not to know enough about what went on locally in terms of bail policy and practice to make judgments about the effectiveness of that policy and practice. In particular, as so few of them had had any involvement with the Baytown YOT's bail support scheme, most magistrates interviewed had little idea about what the scheme involved, or how well it worked in practice.

Similarly, magistrates were happy to endorse YOT staff recommendations about restriction and denial of bail in each case. The high level of trust between magistrates and other local youth justice agencies, then, ensured that although decisions were made effectively in the early stages of the bail process in Baytown, the effectiveness of decisions declined as the process continued. This trust, particularly shown by magistrates in the 'old' Baytown bail team (whom they knew well), led to decisions remaining unchallenged and not discussed as the bail process continued. It robbed the Baytown bail process of its flexibility and proactive stance. This 'cosiness' between those who knew one another in the decision-making process also belied the lack of communication about local policy and practice between YOT staff and others, particularly magistrates.

The ambiguous social significance of remand to custody in the context of the bail process and sentencing

This outcome was related to the one discussed in the previous section. There was a statistically significant relationship between remands to custody for initial court appearances and custodial sentences, as a denial of bail at this point was more likely to lead to a custodial sentence being imposed than to a community sentence. This statistical link underlined the importance of bail decision-making to subsequent sentencing. However, the links between remand to custody and likelihood of custodial sentence weakened as cases progressed through the bail process. This showed that discretion in the Baytown bail decision-making process led to more inconsistent results at subsequent appearances in court.

Participation observation data derived from the Baytown YOT staff's 'old' team illustrated their belief that a 'taste of prison' on remand (to borrow King and Morgan's (1976) terminology) acted as an effective deterrent for young people. Indeed, this belief was a cornerstone of their bail policy and practice in general. On the rare occasions when a bail support application was made¹⁶⁸, YOT staff preferred to apply for bail support at a young person's subsequent appearance in court. In this way, the 'old' team believed¹⁶⁹, young people would be encouraged to show remorse for what they had allegedly done.

The 'old' team norm of reactive bail services was reinforced by magistrates' actions. As explained above, despite the lack of inter-agency communication and knowledge about local bail services, magistrates were mostly content with the

¹⁶⁸ And it is important to reiterate at this point that the rarity of referrals onto bail support was not attributable to the Baytown courts rejecting YOT staff applications, but rather to Baytown YOT staff choosing not to make such applications in the first place.

¹⁶⁹ It was the 'old' team who were responsible for all but one of the bail support applications made during the study period – see Chapters Six and Eight for details.

standard of YOT services. On closer examination of the magistrates' data, however, they were really expressing their trust and contentment in the 'old' YOT team – the staff they knew and with whom they felt comfortable. The staff of the 'new' YOT team were not mentioned by magistrates during interviews. Indeed, there was little need for magistrates to mention the 'new' staff, who had been appointed to the Baytown YOT to take responsibility for the expanded, macro-level funded bail support scheme. Due to the rarity of bail support referrals, and the power given to the 'old' staff by their local experience and inter-agency contacts, the 'new' staff eventually left the team, unable to influence policy and practice with their (proactive) views. In this way, the 'familiar faces' of the Baytown YOT bail process were able to maintain their discretion, and the norms of their preferred policy and practice.

Interviews with young people who had been or were on the Baytown YOT's bail support scheme provided further explanations for the ambiguous significance of remands to custody. Although some interviewees thought of prison as a deterrent to breaching bail conditions, an equal number attached other, very different meanings to custody. These alternative meanings included perceptions of prison as a detoxification facility, as a means of meeting up with peers, or simply as a means of escaping social problems on the 'outside'. It was also the young persons interviewed who revealed that they sometimes instructed their legal representatives not to make an application for bail, because prison was seen to be less demanding than community alternatives, such as conditional bail or (particularly) bail support.

Given that some interviews were conducted in prison, allowance must be made for bravado and exaggeration in interviewees' positive attitudes towards custody. Nonetheless, the data revealed a variety of meanings attached to being remanded in custody by the young people who had had experienced bail support, and there was also evidence that bail was sometimes compared unfavourably with

custody by young people. Given that their consent was required for any bail application¹⁷⁰, the contrast between the meanings attached to custody by young people and the meanings attached to it by YOT staff and magistrates aided in explaining the inconsistent significance of remands to custody in the Baytown bail process. This also reiterated the lack of communication within the process. YOT staff and magistrates showed no understanding of the range of meanings attached to prison by young people locally. The failure to acknowledge this range of meanings restricted the effectiveness of local policy and practice, as well as restricting the impact of bail support in particular. The latter issue is discussed in more detail in the following section.

The rarity of bail support referrals

A striking feature of the findings in Chapter Four and their discussion in Chapter Five was how little the Baytown YOT's bail support services were used in practice. No significant relationships could be found in Chapters Four and Five, moreover, between persistence or seriousness of offending and referral onto the Baytown bail support scheme. It also became clear that the small number of bail support referrals was not due to the courts rejecting the majority of applications for bail support by the Baytown YOT staff. Chapters Five and Six showed that it was due to the small number of applications for bail support by the staff themselves.

Some explanations for the rarity (and inconsistency) of bail support referrals have already been given in the preceding sections of this chapter. Magistrates, for example, were not encouraged to use bail support by regular provision of information from YOT staff (see Chapter Seven). They knew very little about bail support locally

¹⁷⁰ And for bail support work in particular.

as a result, and in any case trusted YOT staff decisions – so that the rarity of YOT staff applications for bail support went unchallenged.

Young people, on the other hand, saw bail support as being a demanding (or over-demanding) option, which was not necessarily worth being released from custody. In interviews young people spoke of the wider social problems which they saw as playing a part in their offending, such as exclusion from mainstream education without any viable alternative, alcohol and drug abuse, and accommodation problems. They highlighted the problem of only receiving help with these problems *after* they had entered the criminal justice process – the criminalising of social policy rather than the socialising of criminal policy (Drakeford and Vanstone 2000). It was the struggle to adapt to the intensive intervention of bail support – moving from too little intervention in their lives to (as they saw it) too much – which was a key factor in their preferences of some interviewees for custody over bail.

However, a third key explanation for the rarity of bail support referrals, and the reactive bail strategy employed generally in Baytown, was the use of discretion within the Baytown YOT's bail team. Hucklesby (1996, 1997a, 1997b) has explained the role of 'court culture' in bail decision-making. In this study, there was clear evidence of a comparable 'YOT culture', or rather of competing YOT cultures, in the youth justice bail decision-making process.

The two 'old' team members' practice norms were reactivity, the 'protection of the public', and a belief that their expertise and experience placed them in a better position than 'outsiders' (at every level of the youth justice process) to make appropriate risk assessments and other decisions about young people's bail status. These norms had been shaped by the history of bail service provisions for young people in the Baytown area before the 'old' team members' arrival on the team. Bail support at that time had been badly targeted, contributing to a sharp rise on the

numbers of young people remanded to custody. This, in turn, led to the 'old' team's mistrust of proactive bail services generally. Their mistrust was intensified by what they saw as imposition of bail service standards from the 'macro level' following the 1998 Crime and Disorder Act's introductory of mandatory bail support provision across England and Wales. Interestingly, in the context of the previous discussion in this chapter, the main stated reason for the suspicion towards macro-level intervention¹⁷¹ was the lack of communication between the macro-level and local bail workers, who had had previous experience of bail service provision, before the imposition of the 1998 legislation and later national standards and guidelines.

The two 'new' team members were more proactive in their attitudes towards bail service provision for young people. They saw young people as children first and offenders second, and were willing to work with 'outsiders' (inside and outside the YOT) to provide a range of services aimed at supporting (as well as supervising) young people on bail. They had none of the 'old' team's negative experiences of bail services for young people. Whereas the 'old' team's experience lay almost entirely in the area of social work with young people (inside and outside criminal justice), the new team's backgrounds were in probation and the police. Although both of these organisations had undergone processes of centralisation and increased macro-level control over micro-level practice¹⁷², just as the 'old' team had one in their role as youth justice workers, the 'new' team had not been discouraged from exercising discretion proactively. It was the experience of misapplied bail services in the specific Baytown youth justice context which made the difference between the negative norms of the 'old' team, and the more positive norms of the 'new' team.

¹⁷¹ Apart from the argument that the team members had sufficient expertise and experience to make decisions without assistance.

¹⁷² See e.g. Raynor (2002) on centralisation in probation, and Reiner (2000) on centralisation in the police.

There were therefore clear differences in the norms of the competing YOT cultures. However, during the study period, it was clearly the 'old' culture which prevailed. It was reinforced by the familiarity of the 'old' team to those working alongside them in the youth justice bail process. Examples of this familiarity arising from the data would be defence solicitors (only two of the many firms in Baytown were recommended by the 'old' team to young people in the police station), magistrates (who only mentioned the 'old' team when discussing the operation of the bail process locally), and young people on bail (only one of whom mentioned a 'new' team member in interviews – since only one bail support case was allocated to a 'new' team member during the study period). All of these groups knew the 'old' team, and generally trusted the 'old' team's judgment in the Baytown bail process.

In this way, the 'old' team's values (including mistrust of proactive, intensive bail services) were reproduced. This trust was evident despite the clear lack of communication between the YOT 'old' team and other agencies involved in the process (see earlier). The lack of communication was as evident within the YOT itself as it was outside the team(s). There was no observable conflict between the competing cultures, and related issues were rarely, if ever, discussed at team meetings. Instead, the 'new' team members became increasingly frustrated as their concerns were kept off the micro-level policy and practice agenda. Eventually, both of the 'new' team members left, further strengthening the norms of the 'old' YOT culture, and relegating services targeted at young people on bail to the margins of local practice.

Re-examining the research hypotheses in the light of the research findings

The research hypotheses set out at the end of Chapter Three above were only partially supported. Hypothesis a) claimed that youth justice bail processes in England and Wales operate unsystematically. In fact, in the Baytown context, there was systematic bail practice. Court bail decisions were made systematically (on the basis of the reasons and grounds for denying bail which could be tested) in the early stages of the process – although evidence of the systematic nature of decisions decreased as the bail process continued. There was also a high level of inter-agency trust locally, which over time had coalesced into a set of norms (Hucklesby 1997b). Here, then, there was an ‘anti-system’, based on inter-agency trust without communication, and the preservation of the discretion held by local ‘experts’.

Hypothesis b) claimed that macro-level rhetoric in the youth justice bail arena did not reflect micro-level policy and practice. This hypothesis was mostly supported on the basis of the data, although not entirely. The ‘old’ YOT team displayed consistent and extreme hostility towards the structured guidelines and monitoring processes ‘imposed’ by the macro-level of the youth justice process after 1998. They made any effort to resist the efforts of others (i.e. the ‘new’ team, and the mezzo level of the Baytown YOT) to secure greater compliance with national standards on youth justice bail and bail support. They were also able to use their local contacts, trust and reputation for expertise to exclude challenges to their norms and practice, thereby subduing resistance to their culture.

Nonetheless, as Chapter Six showed, the ‘old’ team did not feel able to resist macro-level guidelines and accompanying bureaucracy completely. They paid lip

service to the guidelines¹⁷³, complying with bureaucracy to what they judged was the minimum extent necessary to 'get away with it'. For example, some forms, such as the Bail ASSET form which had to be completed in every case where a bail decision had to be made, were partially completed at the time of bail investigation by the team, and then returned to (if at all) later when returns or figures had to be supplied to the Youth Justice Board. National standards were dealt with in superficial terms in YOT paperwork and discussions.

However, the 'old' team was able to find justifications, or 'techniques of neutralisation' (Sykes and Matza 1957) for their reactive, cautious policies in the context of the national standards and bureaucracy. They were able to claim, for example, that bail support was considered as an option in every case where the young person involved was at risk of being denied bail. But, in reality, decisions on bail support were made according to the micro-norms of the 'old' team's culture. These norms included the 'history' and knowledge of the 'old' team's claimed decision-making expertise – such as knowledge of which young people would respond to bail support, on the basis of their previous behaviour. Therefore, it would be wrong to claim that macro policies and rhetoric had no effect at all on micro-level policy. Those policies' effects were, however, confined to the surface of local policy and practice, and had little impact on the substance of day-to-day practice in Baytown.

The next section of the chapter attempts to contextualise the study's findings, with the aim of a better theoretical understanding of day-to-day youth justice bail policy and practice.

¹⁷³ E.g. those requiring that bail support be considered as an option in every case where there was a risk of bail being denied.

Making sense of the findings: decision-making, discretion and managing conflict out of the 'system'

Decision-making and the meaning of discretion

The key mechanism for the explanation of the outcomes and hypotheses generated by the research, in the context of youth justice in Baytown, was the existence and usage of discretion at the local micro-level of the youth justice bail process. This section will therefore relate the research findings to other theoretical perspectives on organisational decision-making and the use of discretion. The aim here is to contextualise the findings, before considering how the youth justice process – at all levels – could provide more effective bail decision-making for young people.

Gelsthorpe and Padfield (2003), in their overview of the issues surrounding the operation of discretion in criminal justice, define discretion as:

'The freedom, power, authority, decision or leeway of an official, organisation or individual to decide, discern or determine to make a judgment, choice or decision, about alternative courses of action or inaction.' (Gelsthorpe and Padfield 2003: 3)

Clearly discretion involves the power to use decision-making and judgment in the exercise of duties within the criminal justice process. Debates in the field of political theory about the nature of power aid a better understanding of the nature of 'power through discretion'. They emphasise the divergent conceptualisations of power which have been put forward by different commentators. Bachrach and Baratz (1962, 1970), for example, advocate a multi-tiered approach to researching and understanding the nature of power. They argue not only for investigating the

exercise of power in particular social contexts¹⁷⁴, but also for investigating the

'dynamics of decision-making':

'(T)hat is, (the researcher) would examine the extent to which and the manner in which the status quo oriented persons and groups influence those community values and those political institutions ... which tend to limit the scope of actual decision-making to "safe" issues.' (Bachrach and Baratz 1962: 952)

This approach provides a framework for understanding not only the decision-making process, but also the non-decision-making process. It shows how powerful individuals and agencies can dictate the course of decision-making processes:

'By this process, the dominant party denies that the particular issue raised by the opposition merits serious consideration. The issue is considered, the conflict recognised, but only at a superficial level.' (Brogden 1977: 414)

However, others have criticised Bachrach and Baratz's understanding of power. Lukes (1974), for example, argues that their theory is too individualist, and wrongly associates power only with conflict that can be clearly observed:

'This is to ignore the crucial point that the most effective and insidious use of power is to prevent such conflict arising in the first place.' (Lukes 1974: 23)

Lukes extends the idea of non-decision-making beyond the concept of the powerful as gatekeepers to the decision process, to cover the scenario where conflict is latent and unspecified, but still exists (Brogden 1977):

'To assume that the absence of grievance equals genuine consensus is simply to rule out the possibility of false or manipulated consensus by definitional fiat.' (Lukes 1974: 24)

This view is clearly influenced by Marxism, and is concerned with emphasising the structural factors which shape the nature and effectiveness of power. As such, this view of power as a structural property resource runs the risk of denying individual

¹⁷⁴ I.e. the values and rules by which power is exercised, and who is advantaged and disadvantaged by this 'bias'.

agency in decision-making. Such a structural approach would contradict a key finding of the evidence here – namely that of the amount of discretion enjoyed by individuals in the Baytown youth justice bail process, even at the micro-level.

Both of these approaches have strengths and weaknesses. It is submitted, however, that theories of power can and should strike the balance between individual agency and structural power¹⁷⁵. This involves considering both the macro and micro levels of decision-making processes, the structure of social phenomena and the meanings and attitudes attached to those living and working within them, as this study has done.

A realistic approach to bail services must take into account the fact that a great deal of discretion still exists, and must continue to exist, in the criminal justice process. Taking this view does not preclude accepting that one part of criminal justice necessarily leads into another, such as the way in which the bail process leads onto the sentencing stage. It does, however, involve the argument that there is not, and arguably cannot be, an overall aim shared by every part of the criminal justice process, and therefore that conflict and inconsistency are 'built-in' parts of criminal justice (Bottomley 1973: 225; Hawkins 2003: 204). The trend towards centralisation and managerialism in macro-level youth justice bail policy, and the introduction of one over-arching (but vague) statutory aim (the prevention of youth offending) for the whole youth justice process in the Crime and Disorder Act 1998, should not overlook the continuing presence of wide-ranging discretion at micro-level. This study has indicated the presence of such discretion. The next subsection will explore the type of power and discretion present in the Baytown youth justice bail process, and the way in which discretion was used.

¹⁷⁵ Just as realism has attempted to take both social structures and individual decisions into account in the field of criminology. See e.g. Young (2004).

How was discretion used in Baytown?

Although the existence of micro-level discretion in the Baytown process was clearly proved, the concept of discretion itself must now be problematised. The literature reveals a variety of types of discretion in the legal context. Galligan (1986), for example, identifies three aspects of legal discretion, focusing specifically upon judicial decision-making: discretion when the legal rules appear to be unclear or incomplete; discretion to change existing legal doctrine; and discretion as to the exercise of delegated powers given expressly by statutes or regulation, or by accepted doctrines of the common law. Galligan particularly focuses upon the role of discretion as a degree of autonomy, given to lower levels of the judicial process by higher courts, as to how settled but open-textured standards should be applied in particular cases (Galligan 1986: 45; O'Grady 2004). While Galligan is discussing common-law judicial discretion here, similar analysis could be applied to the youth justice bail context. Chapters Five and Seven illustrated how the flexible 'standards' of the 1976 Bail Act, in terms of exceptions to the right of bail, allows magistrates to take the circumstances of each case – and non-statutory considerations – into account when making decisions in individual cases.

Schneider (1992: 61-6; summarised in Gelsthorpe and Padfield 2003: 16), by contrast, identifies four kinds of discretion in the legal context. These are 'khadi discretion' (an individual making decisions about other individuals on the basis of legal, political and other factors), 'rule-failure discretion' (discretionary authority activated when cases defy existing classification), 'rule-building discretion' (granted with the aim of developing better practice through the use of discretion), and 'rule-compromise discretion' (involving compromise where there is conflict over which rules are appropriate). In making these distinctions, Schneider highlights the role

played by informal (non-legal) as well as formal (legal) factors in exercising discretion in practice (see also Hawkins 1992).

In the context of the current study, Government discourse on youth justice has anticipated that, where discretion at the micro-level is used, it should be of Schneider's 'rule-failure' type (to be used where cases cannot be fitted into prescribed decision-making outcome categories) where necessary, but mainly of the 'rule-building' type (to fit in with the Youth Justice Board's designated role of disseminating good local practice). The great increase in macro-level managerialism, prescription and monitoring in relation to the micro-level indicates that discretion is not part of the Government discourse on youth justice. It does not fit in with ideas of efficiency, economy and 'toughness on crime', the goals of punitive managerialism (Cavadino, Crow and Dignan 1999). This has hidden the continuing key role played by discretion in the youth justice bail process.

The study revealed both 'rule failure' and 'rule-building' varieties of discretion in the Baytown courts, within the flexible boundaries of the law on bail, as contained in the 1976 Bail Act. In the Baytown YOT, these types of discretion were also used. However, 'old' team YOT decisions also resembled 'khadi discretion' at times. A mixture of legal, non-legal and historical factors were applied to each case by the 'old' team in making decisions on whether or not to recommend bail. This mixture was then endorsed by the courts in their own bail decisions, because of the high level of trust between the courts and the 'old' team.

Crucially, however, discretion was used by the YOT (and therefore implicitly by the courts as well), not only in making decisions, but also in *not* making decisions, or in excluding discussion of certain issues from the bail decision-making agenda. The main mechanism explaining these outcomes was a desire to manage inter-agency and inter-individual conflict out of the youth justice process. This reflects the theories

of Bachrach and Baratz (1962, 1970) on the exercise of power in decision-making. The management of conflict out of the process was shown particularly in the results and discussion in Chapters Six and Seven. The participant observation of YOT staff bail practice showed that a key reason for a reactive approach to bail management, aside from micro-level management, was resistance against what was seen as unjustified macro-level interference in micro-level practice, and unnecessary macro-level attempts at restriction of micro-level discretion. Even the aim of 'time and money' efficiency was driven by micro-level needs (lack of time, limited local budgets) more than macro-level policy – it was simply that, on this particular issue, the macro and micro level agendas had a common goal.

In fact, through superficially complying with macro level constructs of 'efficiency', micro-level practice, at the YOT and in the courts, was able to maintain and even enhance its discretion. Again, the lack of principled youth justice aims, beyond 'preventing offending', allowed this to happen, and in particular allowed punitivism, deterrence and 'protection of the public' to be used as valid micro level aims – aims that were in any case in tune with much of the macro-level discourse about 'getting tough' with young people in the criminal justice process.

Management of conflict out of the process also occurred within the YOT bail team itself. Its presence can be seen particularly in the divergent approaches to bail intervention taken by the 'old' and 'new' members of the YOT bail team. The entrenched decision-making techniques of the 'old' team, and their credibility and reputation within the Baytown youth justice process, allowed their reactive, non-interventionist ideology to prevail over the more proactive approach favoured by the 'new' team. This happened to such an extent, and the 'new' team became so disillusioned and demoralised, that they eventually left the team, therefore further reinforcing the 'old' team's power to exercise serial discretion over bail decisions.

Discretion therefore operated to allow the 'old' team to make individualised, *ad hoc* bail decisions, by-passing 'new' members of the bail team who had a genuine desire to do proactive work with young people on bail, and make a difference to their offending patterns and their lives.

The ethnographic work in Chapter Six illustrated the paradox of professionalisation in the context of youth justice. Discretion was justified by the 'old' YOT staff in terms of their own expertise and experience in making bail decisions. They legitimated their case-by-case, *ad hoc* approach by pointing to the independence and reliability of their judgment, as well as the trust placed in them by other youth justice agencies locally. But such an approach justifies a lack of accountability. This, coupled with the stretched mezzo level youth justice structure (itself the result of greater macro-level managerialism and bureaucracy), meant less of a 'hands on' mezzo-level presence at the YOT. Such developments ensured that there was little check on the approach taken by the 'old' team, even though there were problems in the way in which bail services were being targeted, and a lack of proactive intervention in general. The 'old' team jealously protected their autonomy, while simultaneously denying the moves towards managerialism and professionalisation driven by changes in policy at the national, macro level.

Magistrates, as shown in Chapter Seven, were also concerned with the management of conflict out of the bail process. Likert scales showed a high rate of satisfaction with, and trust in, YOT staff decisions. Open-ended interview questions revealed more detail about how the magistrates made bail decisions. They talked about the need to 'protect the public', for example. This aim, although not formally expressed in the language of the 1976 Bail Act, could be justified under the vague

exceptions to bail contained in that Act¹⁷⁶. They were excluded from local bail policy, however, except in the formal court setting. Few of those interviewed had had any experience of local bail services, or knew exactly what services were available for young people in Baytown. This provided mechanisms for the outcome of low bail support usage, generated by Chapters Four and Five. Not only did magistrates not wish to challenge the earlier decision of YOT staff to reject bail support, but also they were not sufficiently involved in the Baytown youth justice bail process to be aware of available ways of preventing remands to custody.

The links between micro and macro-levels of bail process and policy must also be discussed in the context of the management of conflict out of the process. The paradoxical macro-level mixture of greater prescribed control and managerialism and the desire to keep policy options open, so as to enable 'second guessing' of public opinion and continued electoral popularity, led to resentment and resistance through apathy in YOT bail practice. Yet conflict was, again, mostly removed from the process. The superficial and retrospective micro-level compliance with macro-level bureaucracy, guidelines and paperwork has already been discussed in this chapter. Such surface-level compliance allowed ideological conflicts to be removed from the agenda, while preserving discretion for the micro-level agencies. When micro-level conflict was revealed, it normally occurred not with the macro-level itself, but rather with intermediate organisations, such as ACORN¹⁷⁷.

A crucial aspect of this management of conflict out of the bail process was the lack of communication between agencies at the micro-level¹⁷⁸, and between different levels of the process. This lack of communication not only acted to preserve

¹⁷⁶ I.e. either the risk of re-offending if released on bail, the risk of absconding, or the risk of interfering with the course of justice if released on bail – 'protecting the public' could fit into any of these criteria.

¹⁷⁷ See Chapter Six for discussion of ACORN's role in the evaluation of the Baytown bail support scheme, and the 'old' team's attitudes towards ACORN.

¹⁷⁸ E.g. between 'old' and 'new' YOT members, and between the YOT and local magistrates.

inconsistency through the use of discretion (as discussed above), but also acted to ensure that the views of young people in the bail process went unheard. There was a micro-level failure to understand the meanings and attitudes which young people attached to bail and custody. These meanings were not congruent with those of YOT staff and magistrates. Young people who were interviewed also offered further dimensions of the management of conflict, this time between the YOT bail team and the external youth justice agencies who shared responsibility for bail support services. Data highlighted differences in the use of discretion between the YOT and other agencies, but also highlighted that conflicts between them remained largely hidden.

Having identified and explained how discretion was used in Baytown, the next section moves towards a theoretical model for understanding bail policy and practice, in Baytown and elsewhere.

Directions for future research: towards a cultural analysis of bail processes

It would be tempting, given the research findings and analysis generated, to view the discretion within the Baytown youth justice bail process as being an individualised and undesirable aspect of policy and practice. Such a view would be in line with the theoretical standpoint of Davis (1969). Davis, in his analysis of the usage of discretion, sees it in terms of individuals making decisions about other individuals. He also sees discretion, in the legal process, as being a negative aspect of that process – indeed, as a major source of unfairness and inconsistency within it.

However, as Hawkins (2003: 194) argues, such an individualistic approach to research fails to capture the nature of decision-making in criminal justice, which is characterised by *'different officials acting at different times making decisions serially*

in the context of other decisions'. This 'serial' view of discretion reflects the reality of decision-making in criminal justice, in the bail process and beyond.

Applying the model to the context of the current research, the study (particularly in Chapters Four and Five above) has shown how bail decisions were passed on from the police, through the YOT, to the courts. However, seeing such decisions in purely individualistic terms¹⁷⁹ would, as Hawkins argues, be a mistake. As shown in the present study, the influences on criminal justice decision-making are complex, and operate from every level of that process.

As a result of this holistic view of decision-making, Hawkins recommends an analytical approach which takes into account the plurality of influences on discretion (Hawkins 2002). In particular, he argues that in analysing discretion, researchers need to take into account the surround (broad social environment), field (specific context of criminal justice) and frame (particular interpretive, decision-shaping practices) of discretion:

'To understand the nature of criminal justice decision-making better, a connection needs to be forged between forces in the decision-making environment, and the interpretive processes that individuals engage in when deciding a particular case.' (Hawkins 2003: 189)

Hawkins' view of the influences on discretion shift the focus away from individuals and the factors used in their decision-making. Instead, he advocates scrutiny of the various individuals and agencies involved in making decisions. More importantly, such a view requires study not just of the norms by which decisions are made at the individual level, but also of the wider, inter-agency frameworks for organising discretionary powers.

This approach reflects the context of youth justice bail decision-making in Baytown. Several different youth justice agencies were involved in these decisions –

¹⁷⁹ Or, indeed, seeing them as purely structural outcomes of the youth justice process, without any individual input.

the YOT bail team, local police, defence solicitors, the Crown Prosecution Service, and the courts, as well as other agencies involved with local bail services for young people. Despite the conflict within the YOT team about the policy and practice of bail work, it was clear that an established inter-agency 'frame' had been established within the 'field' of youth justice bail work in Baytown. As Hawkins notes:

*'Framing is not only an interpretive act, a way of making sense for decision-making purposes, it is also a classificatory act, prompting particular decision-making outcomes or forms of action ... (framing) reality for the ultimate decision-makers, those who occupy those places where authority to decide is formally allocated. **Frames penetrate records, and given their durability, spread their effects across time and different hands.**'* (Hawkins 2003: 192, emphasis added)

It is therefore argued that a full understanding of youth justice bail decision-making – in Baytown and elsewhere – requires a focus on local youth justice *cultures*. Hucklesby (1997a, 1997b) has revealed the existence and influence of bail decision-making cultures, specifically in the context of the courts, and particular benches of magistrates within courts. She also argues in favour of focusing on bail decision-making as an administrative, bureaucratic process, conducted in private by agencies other than magistrates, according to discretionary and hidden rules:

'The informal norms of work groups permit predictable routines to develop which reduce risk and uncertainty and provide for the efficient disposal of cases' (Hucklesby 1997a: 130-1)

Paterson and Whittaker (1995), analysing bail in the Scottish court process, employ a similar model as a means of understanding how bail decisions are made. They make the comparison of the traditional model of criminal justice decision-making, where differences in outcomes can be explained by differences in cases and the practices of individual decision makers, and what they call the 'cultural' model. The latter takes account of three factors. The first is the *form* of criminal justice relationships, established by the institutional structure of the criminal justice process and its integral relationships of power and authority. The second is the *content* of the

relationships – how the structure is negotiated by those working within it, i.e. recognising the localised context of decisions. The third factor is the *focus* of the relationships: the level and type of local criminal activity and the constituent features of the cases – the incident, the accused, the victim and the evidence – which are being dealt with in the criminal justice process (Paterson and Whittaker 1995: 264-5).

This cultural view emphasises that the courts are just one part (albeit a very important part) of bail decision-making. They benefit from authority relations within the bail process, and their decision-making process (unlike that of other agencies involved in the process) can be heard in public¹⁸⁰. But this 'cultural' analysis also emphasises the importance of understanding other agencies' decision-making processes, although they are less public. Both aspects of research are essential in order to understand how bail decision-making cultures develop, using influences from the macro, mezzo and micro levels of youth justice, in particular local contexts.

Similarly, both aspects are required to understand how such cultures, once established, can be sustained against challenges from different influences in the youth justice bail process. The established Baytown bail culture was able to withstand pressure to change, originating from macro level centralisation and bureaucracy as well as micro-level conflicts over the direction of policy and practice. Future research should examine the influences of different agencies upon one another's decision-making within a particular culture. Such research could examine the sources of established cultures' power to exclude critical discussion of their norms, drawing upon insights into decision-making originating from outside the discipline of criminology¹⁸¹. It would also build upon existing research into the intervention of 'occupational culture' between macro-level youth justice policy and

¹⁸⁰ But this is not always the case: see Hucklesby (1996, 2002: 125).

¹⁸¹ Such as the socio-political and socio-legal work of Bachrach and Baratz, Lukes, and Galligan, discussed above.

micro-level practice (e.g. Eadie and Canton 2002), and the relationship between policy and YOT practice under New Labour (e.g. Cross, Evans and Minkes 2003).

A related issue is the lack of consideration given to young people's attitudes towards bail, custody and other aspects of youth justice – in research as well as youth justice policy and practice¹⁸². This lack of consideration was just one aspect of the wider cultural feature of lack of inter-agency communication. In the Baytown context, the views of young people were mostly either misunderstood or simply ignored. Changing such attitudes in research and policy would add a vital dimension to the understanding of how bail policies transfer into day-to-day practice.

A final advantage of the cultural approach to the specific context of youth justice bail decision-making is its ability to complement other recent critical accounts of youth justice under New Labour (e.g. Goldson 2000, Pitts 2001, Smith 2003). While these accounts have been valuable in their analysis of the limitations of current Government youth justice initiatives, they have been primarily concerned with policy analysis rather than with youth justice practice 'on the ground'. This tendency, it is argued, has allowed Government publications to dominate the practice-based agenda with claims of a smooth, effective and entirely successful transition to multi-agency, joined-up micro-level youth justice in England and Wales (e.g. Youth Justice Board 2000b).

In a youth justice climate which claims to prioritise 'evidence-based practice', there is a need for more in-depth research into how local contexts explain bail decision-making involving young people, rather than research which merely skims the surface of the factors driving policy and practice, assuming an unproblematic transfer of macro-level aims and policies into micro-level practice. While some previous research in the area of youth justice practice has provided cautiously

¹⁸² But see Lyon, Dennison and Wilson (2000) for an example of research which considers young people's views in detail, in the specific context of their attitudes towards custody.

optimistic results, in terms of joined-up, positive micro-level youth justice work (e.g. Burnett and Appleton 2004¹⁸³), the current study suggests that such optimism is not justified nationwide. In turn, a cautionary approach to the 'new orthodoxy' of multi-agency, coherent youth justice policy and practice requires more case-study research in the same vein, examining various local youth justice contexts, so as to enable the extent of justifiable optimism to be ascertained.

The study has shown that those who manage the macro-level of youth justice bail policy must examine micro-level policy and practice more closely in developing their own policy and practice. This may seem a surprising claim, given the recent increase in the Home Office's gathering of data from micro-level bail practitioners. However, it is argued that, quantitatively and qualitatively, in principle, policy and practice, the Home Office's approach to the collection and analysis of micro-level bail policy and practice is flawed. Quantitatively, the sheer amount of information required by the Home Office (e.g. the bail ASSET form) generated resentment and resistance at the micro-level. Qualitatively, macro-level research has overlooked the non-decision-making dimensions of micro-level policy and practice. Its limitations in this respect, as Chapter Three showed, formed the backdrop to this study, which has not just mapped out the structure of the bail process in Baytown by discussing and analysing its outcomes¹⁸⁴, but has also uncovered the mechanisms generating these structures in the particular context of Baytown.

The Youth Justice Board should undertake further, similar research to understand fully why the funding supplied to Baytown YOT to develop bail support services and reduce remands to custody made little practical difference to young people. More generally, it could be said that the macro level needs to accept the

¹⁸³ Although this research amply demonstrates how youth justice practitioners can use their discretion to choose between competing macro-level policy strands, in line with local cultures and priorities.

¹⁸⁴ Something which Youth Justice Board research has done (e.g. Youth Justice Board 2004), albeit, it is argued, not in as much depth as Chapters Four and Five above.

results of research evidence, even that which is critical of its own policy and practice, and adjust that policy and practice accordingly, rather than listening only to evidence which is congruent with its own political aims (e.g. Mair and Newburn 2001).

Research should involve greater scrutiny of discretion in the bail process for young people. In particular, it needs to acknowledge that discretion is an inevitable part of criminal justice decision-making, and cannot be entirely removed by moves towards centralisation. There should therefore be a focus upon the positive aspects of discretion, and analytical separation of these from the negative aspects, which lead to inefficiency and inappropriate outcomes in the bail process. Such an approach will inevitably lead to departure from a purely punitive managerialist approach to micro-level youth justice. But this may have the beneficial indirect effect of restoring a principled core, which prioritises the protection of young people's rights as children in the criminal justice process (Haines and Drakeford 1998), to the politics, policy and practice of youth justice in England and Wales. The next subsection returns to the opening chapters of this study in reconsidering the role of systems management in offering more principled bail policy and practice.

A return to principle – and systems management? Directions for future policy and practice

The Baytown bail process in practice was loosely formed around the idea of risk management (Feeley and Simon 1992, 1994). The rhetoric and the stated goals from the youth justice agencies was framed in terms of actuarial justice – protection of the public (staff and magistrates), efficiency of service (staff talking about the need to reduce costs by reducing remands and money spent on other services), a bifurcated approach (staff and magistrates talking about a 'hardcore' of young

offenders who were seen as beyond positive responses to their offending). Such rhetoric allowed YOT staff in particular to use the discourse of systems management. The actuarial justice model seemed to be what YOT staff and magistrates wished to work towards. Yet this aim was belied by the reality of practice, and the development of a negative youth justice culture.

In this culture there was 'unsystematic' evidence of serial discretion (even at the individual level, as seen in the 'old' YOT bail team), and only a loose commitment to actuarial justice and processing cases as quickly as possible, coupled with a desire to manage conflict out of the bail process. The tension between serial discretion and actuarial justice and efficiency was resolved by individuals and agencies who were well-known to one other, and therefore trusted by one another. This allowed key players to make their own non-consensual decisions, by-passing the need for consultation, and speeding the process up without necessarily making it more substantively efficient.

Such outcomes show the weaknesses of the actuarial justice model, and of systems management. They lack a specific theoretical core, a *principled* approach to youth justice, and therefore can be hijacked by those with power over youth justice, who wish to impose their own punitive agenda. They also tend to ignore the power of individual actors who have agency to resist, tinker with, challenge, misuse, guidelines/regulations – for whatever reason. In recent years power has – at least symbolically – been transferred to macro level central government, via managerialist youth justice policies. The Government wishes to maintain power, but also discretion and flexibility over policy, to respond to perceived public demand and promote an image of being 'tough on crime' where such an image is needed in rhetoric. The fact that actuarial justice lacks a theoretical core could be seen at the micro level in its

permission of unsystematic practices (particularly from YOT staff) in the name of 'risk management' and 'protecting the public' from the 'hardcore' of youth offending.

This is not to argue that managerialism, actuarial justice and systems management cannot produce positive outcomes for young people and the youth justice process alike. The quantitative data in Chapters 4 and 5, for example, suggested that young people were more likely to re-offend the longer they spent on bail. Therefore the fact that the Baytown courts reduced average lengths of time spent on bail by young people locally, in line with managerialist macro-level policy (Audit Commission 1996), was beneficial to young people and the process alike.

Neither is it to argue that systems management did not benefit young people and youth justice in the 1980s, at a time of punitive Government measures in youth justice but a *laissez-faire* macro approach to micro level practice. But it must be recognised that times – and macro-level youth justice policy – have changed. Now the Government is attempting to centralise control over youth justice policy to a far greater extent than it was attempting to do in the 1980s, while simultaneously shifting responsibility for policy effectiveness onto local youth justice agencies and individuals (Garland 1996). Now there is far greater macro level control over micro level policy, through managerialism and its accompanying legislation, national guidelines and bureaucracy, together with the same kind of punitive rhetoric as was used by the Government when addressing youth crime and justice in the 1980s (Pitts 2001).

In this climate of 'punitive managerialism' (Cavadino and Dignan 2002), the lack of theoretical thinking behind a systems management approach means that it can be pulled in various directions to suit various individuals' and agencies' own agendas (at local and national level). The approach is appealed to by a macro-level structure which attempts to be, and professes to be, more controlling than previously, in turn leading to resentment of macro-level policies at the micro-level. But it

simultaneously allows widespread discretion at micro-level by lacking a guiding set of principles, apart from efficiency and 'preventing youth offending'.

But, as this study has shown, efficiency can and does mean different things to different individuals and agencies in the youth justice process. In the 1980s in England and Wales, efficiency in youth justice primarily meant diverting young people from custody wherever possible at micro-level (Haines and Drakeford 1998). Now, although centralising, managerialist policies at macro-level have tried to control discretion and monitor practice through increased bureaucracy and detailed national standards, they have simultaneously made the youth justice structure more amorphous and flexible, by stating that the aim of youth justice in England and Wales is merely to 'prevent youth offending'. Underneath all of the managerialism and attempts at state control is a theoretical vacuum. In the current politics of criminal justice, the climate of 'populist punitivism' (Bottoms 1995), the need to look tough on crime, and the project of moral and social discipline (Pitts 2001) prevail in Government discourse on youth justice, as well as punitive managerialism (Cavadino and Dignan 2002).

A principled, theoretical approach must be re-injected into youth justice to avoid further injustice to young people, by means of disproportionate or inappropriate punishment, excessive and harmful youth justice agency discretion, unnecessary restrictions on the right to bail, and failure to provide youth justice interventions based on young people's criminogenic needs and rights to bail. It is submitted that the 'children first' approach, advocated by Haines and Drakeford (1998), is an effective means of filling this theoretical gap, while retaining the advantages of the systems management approach. Lack of space precludes detailed discussion of the children first approach here. However, its advantages include a built-in capacity to protect children's human rights, targeted interventions and systematic consideration of key

decision-making points in the criminal justice process, and a focus on society's responsibilities towards disadvantaged children, outside criminal justice as well as inside it.

Youth justice (and criminal justice generally) needs to recover moral integrity within practice (Rutherford 1993) by drawing upon a combination of theoretical perspectives, which King (1981) suggests is the key both to understanding and improving criminal justice policy and practice. The 'children first' approach is inherently pluralist, drawing upon (targeted) rehabilitation, managerialism (in terms of diversion as well as saving time) and just deserts (due process) perspectives, among others. In taking this approach, however, systems management must guard against the temptation to see youth justice as being entirely 'systematic'. On the basis of the evidence in this study, it is better viewed as a series of interdependent but semi-autonomous organisations, linked (but not in a linear, direct way) at both national and local levels. Such a view does not preclude a systems management approach to criminal justice, but has the advantage of acknowledging the inevitability of discretion within the 'system':

'Perhaps the most fundamental sense in which criminal justice agencies are linked together at the tactical level lies in the process of discretionary decision-making by which cases are adjudicated and transferred from one agency to another ... (t)his process is rather like an assembly line in which each agency's workload is essentially controlled by the actions of the previous agency. In most instances the decision of the transmitting agency is largely discretionary, but the receiving agency generally has little or no say in the decisions made.'
(Feeney 1985: 10)

It is also clear that a systems management approach can – and must – accommodate the need for clear and effective communications between the individuals and agencies which make up youth justice. This need has been reflected in the research, not just between individuals and agencies at the same level of the process (e.g. YOT staff and young people), but also between different levels of the

process (e.g. the stretched communications between the micro and mezzo level YOT staff, identified in Chapter Six). Again, though, writers on systems management have accepted the requirement of better communication:

'The criminal justice system can only work effectively if it has sufficient communication between its sub-systems ... (t)he structure of information flows, the methods of information handling, and the techniques of reducing the information to manageable levels are all of prime importance.' (Pullinger 1985: 26)

It is therefore submitted that the systems management approach to analysing youth justice can provide a response to the limitations of policy and practice identified in this study. However, such an approach requires better communication, particularly between governmental and local levels of the youth justice process. It also requires the governmental level to develop 'evidence-based practice' which takes into account all reliable research evidence available, and not just the evidence which reflects its own political priorities (Tonry 2004).

Conclusions

Detailed conclusions would largely repeat the previous discussion in this chapter. However, despite the limited impact of proactive bail services in Baytown, some optimism for the future is justified. The recently introduced Bail Intensive Supervision and Surveillance Scheme, organised and run by a specialist team of YOT staff in Baytown, could not be included in the research – but early indications are that it has been used both more effectively and more proactively than the previous bail support scheme (see Appendix H for more detailed discussion). The study indicates that, despite the increasing managerialism and control over local bail policy and practice from central Government level, micro-level practitioners can make a difference to the implementation of macro-level policy – for better or worse. And

negative youth justice cultures, which damage both the effectiveness and the legitimacy of the youth justice bail process, can be overcome.

But the message for the macro-level is that such cultures must be better understood; the micro-level in general must be listened to; and the views of young people on youth justice must be taken seriously, in order to make progress in terms of policy and practice. Without the right kind of Government monitoring of bail policy and practice – the kind which prioritises two-way communication, recognises young people as key players in the decision-making process, and is willing to accept evidence which the Government does not want to hear – wrong turns will continue to be made. All of the agencies involved in the youth justice bail process must take responsibility for developing better practice, and for restoring principles to the process. Even though New Labour's post-ideological approach may prove a major barrier to progress, it remains true that the local level of youth justice can, and should, take the initiative in moving forward.

Appendix A

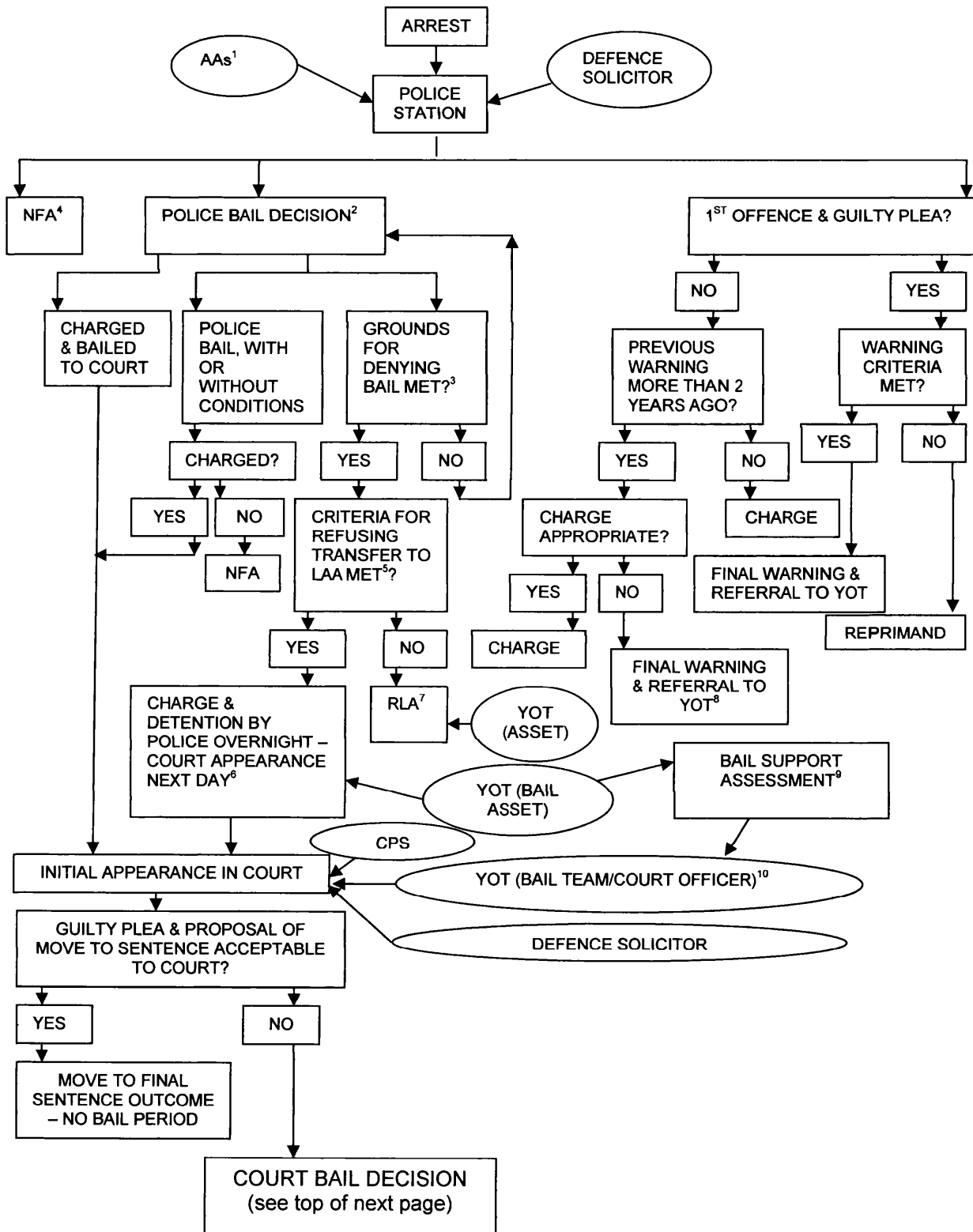
Systems management analysis flowchart of the Baytown youth justice bail process and its participating agencies

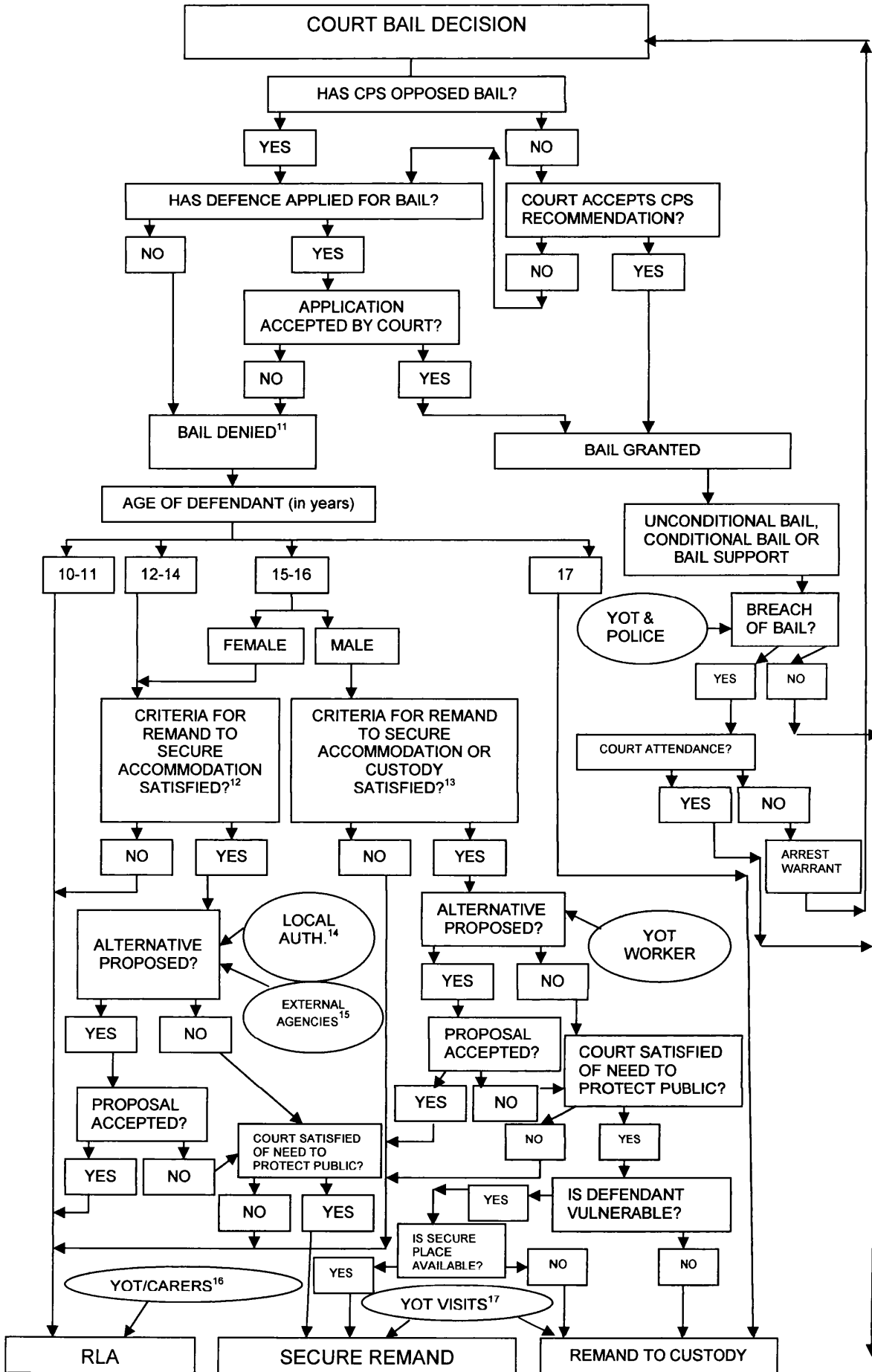
The following is a flowchart showing the basic operation of the Baytown youth justice bail process, and the agencies participating in it. Arrows on the flowchart show the order in which decisions are made as cases progress through the process. Rectangular boxes show the different stages in the process, and ovals show the stages at which agencies have decision-making input. As described in Chapter Two, this flowchart was devised as an aid to constructing the study's methodology. It therefore shows how the process was designed to work in theory, rather than how it actually worked in practice.

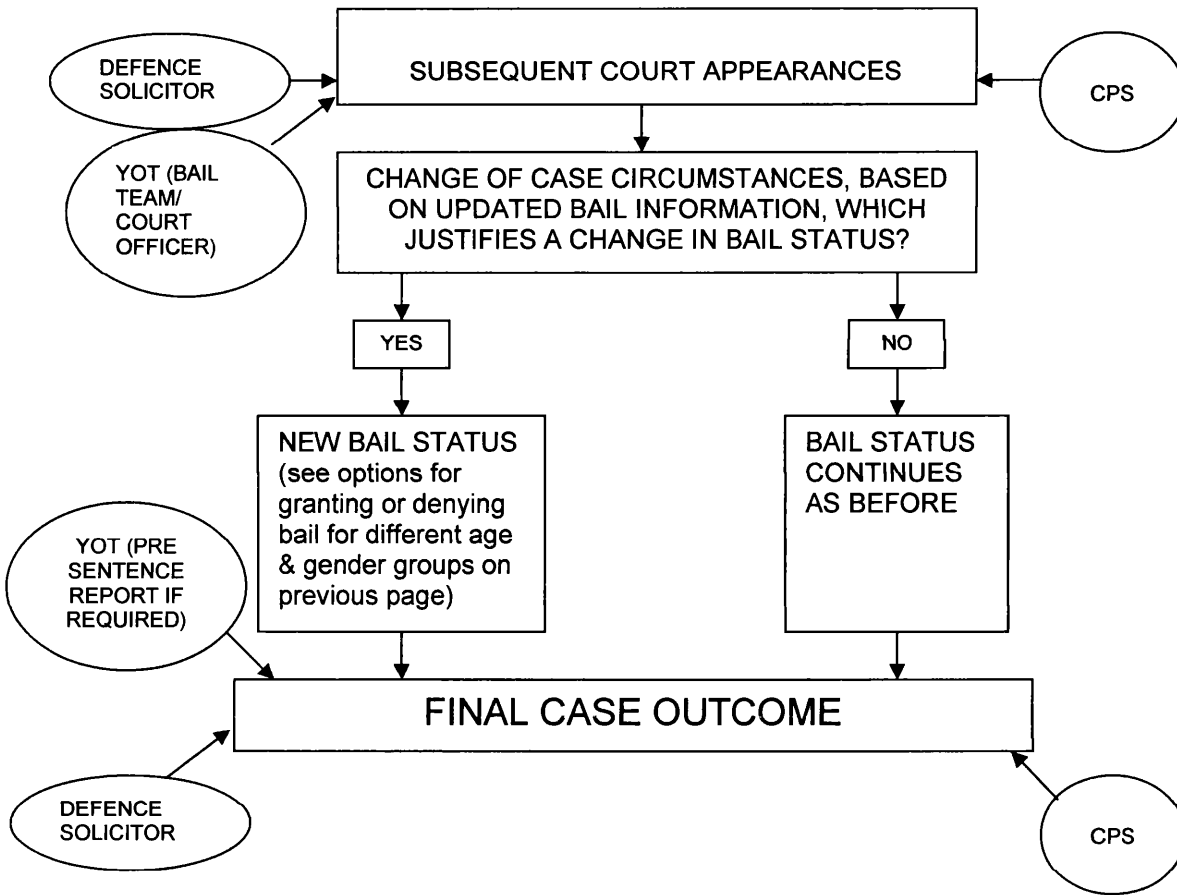
Due to space limitations, the flowchart is divided up into three parts across the following three pages. The first part deals with the pre-court bail process; the second part deals with the initial court appearance and bail decision; and the third and final part deals with subsequent court appearances and bail decisions.



Illustration A – systems management analysis flowchart of the Baytown youth justice bail process and its participating agencies







Notes on flowchart

1. Throughout the flowchart the abbreviation 'AAs' denotes 'appropriate adults'. The role of the appropriate adult during a young person's questioning at a police station is set out in the Codes of Practice of the 1984 Police and Criminal Evidence Act. The Codes deem all young persons aged 17 or under to be 'vulnerable' on the grounds of their age and understanding. Therefore interviews at police stations with young people must include the presence of an 'appropriate adult', defined as either a parent, guardian or social worker, or in the absence of any of these another responsible adult who is not a police officer or an employee, or a solicitor attending to offer legal advice. The role of AAs is a vital one and must involve intervening to protect basic principles (such as the young person's rights and civil liberties, his or her physical and emotional welfare, and due process, such as the prohibition of the use of statement-questions by the police during questioning). The role of AA can be and is sometimes fulfilled by volunteers rather than YOT members. In either situation the process is the same: the custody officer at the police station deems that an AA is needed in a particular case. Then the custody officer rings the local YOT. If necessary the YOT ascertains which area service office needs to be faxed (e.g. the learning difficulties team or mental health services). The relevant team is then contacted, and the volunteer who is on duty is notified to be prepared to act in the case. If the volunteer is to act, a time is arranged for him or her to arrive at the same time as the young person's defence solicitor. As mentioned above, whilst at the police station, if the volunteer has any concerns about the way in which the young person is being questioned by police, he or she can liaise with the relevant duty officer at the police station for advice. At the conclusion of questioning, the volunteer has to fax an AA monitoring sheet to the relevant service office (if

necessary) and to the YOT. In cases where the client is bailed to return back to the police station, the YOT logs the date of return, so that a volunteer can act in the same capacity on the second occasion.

2. Since the 1994 Criminal Justice and Public Order Act, the police now have the power to remand young people on conditional police bail (section 27 of the 1994 Act). The police now have the same bail powers as the courts in this regard, except that the police may not order a young person to live in a bail hostel, to live in local authority accommodation, or to undergo medical tests. Section 26 of the 1994 Act removes the presumption of bail in cases where a defendant is charged with an indictable or 'either-way' offence which was allegedly committed while on bail. The 1994 Act also introduces automatic refusal of bail in 'serious' cases, such as homicide and rape.
3. As stated above in note 2, the police have basically the same powers of denial of bail as the courts, subject to the exceptions that are again stated above at note 2. Generally speaking, the custody officer at the police station has the responsibility of deciding upon what action to take where he or she believes that bail may not be granted to a young person. The grounds for that decision must be one of the four set out in section 38(1)(a) of the 1984 Police and Criminal Evidence Act (hereafter 'PACE'). These are: 1) that the young person's name or address cannot be ascertained, or those given are believed to be false; 2) that a young person has to be detained for their own protection or in his or her own interests; 3) the belief that the young person will not answer bail, or might interfere with the administration of justice or the investigation of an offence if not detained; 4) section 28 of the 1994 Criminal Justice and Public Order Act amends the previous fourth criterion so that the police are now able to refuse bail whenever, in their view, there are reasonable grounds for believing that the young person would

commit an offence while on bail. If one or more of these criteria is satisfied, section 36(6) of PACE states that subject to the exceptions set out at note 4 below, the arrested young person must then be moved to local authority accommodation.

4. Throughout the flowchart the abbreviation 'NFA' denotes 'no further action (against the young person)'.
5. The abbreviation 'LAA' here denotes 'local authority accommodation'. The major exception to the rule requiring transfer of arrested young people to local authority accommodation is that 17-year-olds cannot be transferred in this way. Aside from this there are two other exceptions: when it is 'impracticable' to arrange a move (rather than merely inconvenient), and when, in the case of any young person aged between 12 and 16, the custody officer at the police station believes that other accommodation 'would not be adequate to protect the public from serious harm from him or her'. 'Serious harm' is defined in the 1991 Criminal Justice Act, in relation to sexual or violent offences, as 'death or serious injury, whether physical or psychological, occasioned by further offences committed by him or her'. Where this criterion is satisfied, the young person is held overnight in police cells to appear in court the next day. This represents a loophole in the 'impracticable' rule.
6. As mentioned in note 5 above, as 17-year-olds who are arrested cannot be transferred to local authority accommodation from the police station, where one or more of the above criteria for denying bail is satisfied the only option is to detain them overnight at the police station for an appearance in court the following day.
7. The abbreviation 'RLA', here and elsewhere on the flowchart, denotes 'remand to local authority accommodation'.

8. The reprimand and warning system was introduced to replace the process of informal cautioning of young people in the 1998 Crime and Disorder Act. The flowchart itself is designed to show the reprimand and warning system as set out in section 65 of the 1998 Act (i.e. how many reprimands and warnings each young person may receive, and in what circumstances). Section 66 of the 1998 Act deals with the referral to a YOT in the case of a warning. It states that where possible the YOT will provide the offender with a rehabilitative programme aimed at preventing further offending. This section also states that unless there are exceptional circumstances relating to the offender or the offence, the courts can no longer sentence an offender to a conditional discharge for a crime committed within two years of receiving a warning.
9. The YOT Bail ASSET form, which National Standards issued to bail workers by the Youth Justice Board (2001) state must be used to assess the suitability of all defendants for bail intervention at this point in the process, includes such assessment criteria as previous offending history, previous known reactions to bail and supervision, gravity of offence, verified address, nature of family support, drug & alcohol-related offending, welfare issues and suicide risk if the defendant was remanded in custody.
10. The abbreviation 'YOT' is used here and throughout the flowchart to denote 'Youth Offending Team'.
11. Once in court the decision whether or not to grant bail to a young person is governed by the 1976 Bail Act. The criteria that have to be satisfied before bail can be denied for imprisonable offences are set out in the 1976 Act. These are: that there are substantial grounds for believing that, if released on bail, the defendant would fail to appear for trial, would commit an offence while on bail, or would obstruct the course of justice; that the court thinks it necessary for the

defendant's own protection; that there has been insufficient time to enable the court to obtain enough information to reach a decision; and that the defendant has previously failed to answer bail. For non-imprisonable offences, the only criteria for refusing bail is that the defendant has previously breached bail, and the court thinks that this would be likely to happen again if the defendant was released (Jones 2003: 401). In addition, as mentioned above in relation to police bail, conditions can be imposed on bail. The 1976 Act also requires that bail decisions are recorded, and that grounds and reasons for refusing bail are given to the defendant.

12. Court-ordered remands to secure accommodation were introduced by sections 97 and 98 of the 1998 Crime and Disorder Act, amending section 23 of the Children and Young Persons Act 1969. Under the 1998 Act the criteria for this type of remand are as follows: that the young person is charged with, or has been convicted of, a violent or sexual offence, or of an offence punishable in the case of an adult with imprisonment for a term of 14 years or more; or that the young person has a recent history of absconding while remanded to local authority accommodation, and is charged or has been convicted of an imprisonable offence alleged or found to have been committed while he or she has been so remanded. In either case the court be of an opinion that only remanding the young person to local authority secure accommodation would be adequate to protect the public from serious harm from them.

13. Where the court is unwilling to consider bail or remand to local authority accommodation, then male offenders aged 15 or over can be sent either to a remand centre or to a young offender's institution. These are intended, in theory, to be transitional arrangements pending the availability of sufficient local authority-provided secure accommodation, at which point the court will be able to

impose a condition that a young person is kept in such secure accommodation. The 1994 Criminal Justice and Public Order Act extended this power to include all those aged 12 or over. Apart from the age and gender tests, a further five criteria must be satisfied before a custodial remand can be made. These are as follows: the court must first consult a probation officer or social worker; the young person must be given the opportunity to be legally represented; a remand to custody must be the only means by which the court can be satisfied that the public can be protected from serious harm done by the young person; the individual must have been charged or convicted of a violent or sexual offence, or an offence punishable by at least a 14-year jail term in the case of an adult; or (as an alternative to the previous criterion) a remand to custody can be considered where the young person in question has a recent history of absconding while remanded in local authority accommodation, and has been charged or convicted of an offence while so remanded.

14. The abbreviation 'local auth.' here denotes 'local authority'.

15. Consultation with drug or alcohol agencies, or mental health workers, could take place at this stage where earlier assessment of the young person had indicated that this was appropriate. The young person might then be referred to one of these agencies with a view to being remanded with them and provided with a remand bed by the agency involved, if it was thought appropriate that that agency should work with the young person as a condition of remand.

16. Remand foster carers are classed as local authority accommodation. If they are available they therefore provide an extra accommodation option for young people remanded in this way, where the young person returning to live at home is not a viable option (returning to live at home can also be classed as a remand to local authority accommodation).

17. Following a remand to custody, a YOT worker is also responsible for completing a post-court report, which is then forwarded to the custodial institution in which the young person is being held (Youth Justice Board 2001).

Appendix B

Classification of offences in quantitative data, by offence type and offence gravity

Appendix B consists of two parts. The first part lists the categories into which the offences recorded in Chapter Four above were compiled. Offences are listed in alphabetical order in each category. The second part lists recorded offences according to the category of seriousness under which each offence type was classified. Offences are listed in alphabetical order within each offence seriousness category. As noted in Chapter Four, eight categories of offence seriousness were used, with category 1 being the least serious and category 8 the most serious. Both scales were derived from the Baytown YOT's information database, from which information forming the basis of the quantitative data in Chapter Four was gathered.

It should be noted that, in both of the lists below, only offences which were recorded at least once during the study period are included. This includes offences and charges which were later reduced to lesser offences.

Contents of offence categories for offences recorded in quantitative data

MOTORING OFFENCES

Careless driving

Dangerous driving

Driving while disqualified

Driving while intoxicated

Driving without a licence

Driving without insurance

General road traffic offence

VIOLENCE AGAINST THE PERSON & SEXUAL OFFENCES

Abduction or kidnap

Aggravated common assault

Assault causing grievous bodily harm – wounding with intent (s.18 Offences Against the Person Act 1861)

Assault causing grievous bodily harm – wounding (s.20 Offences Against the Person Act 1861)

Assault occasioning actual bodily harm (s.47 Offences Against the Person Act 1861)

Assault on a police officer

Assault with intent to resist arrest

Attempted assault occasioning actual bodily harm

Common assault

Incest

Indecent assault

Making written or verbal threats to kill

Manslaughter

Murder

Racially aggravated common assault

Rape

Sexual assault

THEFT

Aggravated domestic burglary

Aggravated non-domestic burglary

Attempted deception

Attempted theft

Deception

Domestic burglary

Going equipped for burglary

Going equipped for theft

Handling stolen goods

Making off without payment

Non-domestic burglary

Robbery

Theft

VEHICLE THEFT

Aggravated being carried in the course of a TDA or TWOC

Being carried in the course of a TDA or TWOC

Interfering or tampering with a motor vehicle

Taking a vehicle without owner's consent (TWOC)

Taking and driving away a vehicle (TDA)

Theft of a motorcycle

DRUGS OFFENCES

Possession of a class A drug

Possession of a class A drug with intent to supply

Possession of a class B drug

Possession of a class B drug with intent to supply

Possession of a class C drug

Possession of a class C drug with intent to supply

Supply of a class A drug

Supply of a class B drug

Supply of a class C drug

PUBLIC ORDER OFFENCES

Affray

Being drunk and incapable

Breach of the peace

Causing fear/provocation of unlawful violence (Public Order Act 1986 s.4)

Causing harassment, alarm or distress with intent (Public Order Act 1986 s.4a)

Obstructing police

Racially aggravated causing of fear/provocation of unlawful violence (Public Order Act 1986 s.4 as amended by Crime and Disorder Act 1998 s.31(a))

Racially aggravated causing of harassment, alarm or distress with intent (Public Order Act 1986 s.4a as amended by Crime and Disorder Act 1998 s.31(b))

Racially aggravated causing of threatening or insulting words or behaviour (Public Order Act 1986 s.5 as amended by Crime and Disorder Act 1998 s.31(c))

Threatening or insulting words or behaviour (Public Order Act 1986 s.5)

ARSON AND CRIMINAL DAMAGE OFFENCES

Arson

Arson with intent to endanger life

Criminal damage

Racially aggravated criminal damage

OTHER

Breach of bail

Breach of court order

Causing death or injury through dangerous dogs

Cruelty to animals

Failure to surrender to court

Having an article with a blade or point in a public place

Hoax or malicious phone call

Interfering with or intimidating witness

Non-payment of fine or compensation order

Perverting the course of justice

Possession of an offensive weapon

Trespassing on a railway

Gravity scores for offences recorded in quantitative data

GRAVITY SCORE ONE

Breach of bail

Breach of court order

Driving without a licence

Failure to surrender to court

General road traffic offence

GRAVITY SCORE TWO

Attempted deception

Attempted theft

Being drunk and incapable

Breach of the peace

Non-payment of fine or compensation order

Trespassing on a railway

GRAVITY SCORE THREE

Being carried in the course of a TDA or TWOC

Careless driving

Common assault

Criminal damage

Deception

Going equipped for theft
Handling stolen goods
Interfering or tampering with a motor vehicle
Making off without payment
Obstructing police
Possession of a class B drug
Possession of a class C drug
Theft

GRAVITY SCORE FOUR

Aggravated common assault
Attempted assault occasioning actual bodily harm
Causing fear/provocation of unlawful violence (Public Order Act 1986 s.4)
Causing harassment, alarm or distress with intent (Public Order Act 1986 s.4a)
Cruelty to animals
Driving while disqualified
Driving without insurance
Going equipped for burglary
Having an article with a blade or point in a public place
Hoax or malicious phone call
Non-domestic burglary
Possession of an offensive weapon
Racially aggravated common assault
Racially aggravated criminal damage
Threatening or insulting words or behaviour (Public Order Act 1986 s.5)

GRAVITY SCORE FIVE

Aggravated being carried in the course of a TDA or TWOC

Aggravated non-domestic burglary

Assault occasioning actual bodily harm (s.47 Offences Against the Person Act 1861)

Causing death or injury through dangerous dogs

Dangerous driving

Interfering with or intimidating witness

Perverting the course of justice

Possession of a class A drug

Possession of a class B drug with intent to supply

Possession of a class C drug with intent to supply

Racially aggravated causing of fear/provocation of unlawful violence (Public Order Act 1986 s.4 as amended by Crime and Disorder Act 1998 s.31(a))

Racially aggravated causing of harassment, alarm or distress with intent (Public Order Act 1986 s.4a as amended by Crime and Disorder Act 1998 s.31(b))

Racially aggravated causing of threatening or insulting words or behaviour (Public Order Act 1986 s.5 as amended by Crime and Disorder Act 1998 s.31(c))

Taking a vehicle without owner's consent (TWOC)

Taking and driving away a vehicle (TDA)

Theft of a motorcycle

GRAVITY SCORE SIX

Affray

Assault on a police officer

Assault with intent to resist arrest

Domestic burglary

Possession of a class A drug with intent to supply

Robbery

Sexual assault

Supply of a class B drug

Supply of a class C drug

GRAVITY SCORE SEVEN

Abduction or kidnap

Aggravated domestic burglary

Arson

Assault causing grievous bodily harm – wounding (s.20 Offences Against the Person Act 1861)

Driving while intoxicated

Supply of a class A drug

GRAVITY SCORE EIGHT

Arson with intent to endanger life

Assault causing grievous bodily harm – wounding with intent (s.18 Offences Against the Person Act 1861)

Incest

Making written or verbal threats to kill

Manslaughter

Murder

Rape

Appendix C

Tables of data reported on in Chapters Four and Five

Appendix C includes the full tables of data, the results of which were reported on in Chapter Four of the study above. All discussion of individual tables in Chapter Four correspond with and refer to the listing of tables in Appendix C. It should also be noted that the analysis of the data contained in Chapter Five also refers to the tables in this Appendix.

Table 4.1 – frequency of arrests by age & gender

AGE	NUMBER OF ARRESTS		
	MALES	FEMALES	TOTAL
15	587 (78.8%)	158 (21.2%)	745 (100.0%)
16	892 (85.5%)	151 (14.5%)	1043 (100.0%)
17	771 (87.3%)	112 (12.7%)	883 (100.0%)
TOTAL	2250 (84.2%)	421 (15.8%)	2671 (100.0%)

Table 4.2 – number of arrests in breach of bail or community sentence, by age

AGE	STATUS AT POINT OF ARREST			TOTAL
	NOT ON BAIL OR COMMUNITY SENTENCE	ON BAIL	NOT ON BAIL BUT ON COMMUNITY SENTENCE	
15	302 (40.5%)	287 (38.5%)	156 (20.9%)	745 (100.0%)
16	348 (33.4%)	469 (45.0%)	226 (21.7%)	1043 (100.0%)
17	180 (20.4%)	457 (51.8%)	246 (27.9%)	883 (100.0%)
TOTAL	830 (31.1%)	1213 (45.4%)	628 (23.5%)	2671 (100.0%)

Table 4.3 – number of arrests in breach of bail or community sentence, by gender

GENDER	STATUS AT POINT OF ARREST			TOTAL
	NOT ON BAIL OR COMMUNITY SENTENCE	ON BAIL	NOT ON BAIL BUT ON COMMUNITY SENTENCE	
MALE	664 (29.5%)	1064 (47.3%)	522 (23.2%)	2250 (100.0%)
FEMALE	166 (39.4%)	149 (35.4%)	106 (25.2%)	421 (100.0%)
TOTAL	830 (31.1%)	1213 (45.4%)	628 (23.5%)	2671 (100.0%)

Table 4.4 – offence type, by age

AGE	TYPE OF OFFENCE										TOTAL
	MOTOR OFFENCE	VIOLENCE AGAINST PERSON	THEFT	VEHICLE THEFT	DRUGS OFFENCE	PUBLIC ORDER OFFENCE	CRIMINAL DAMAGE AND ARSON	OTHER	TOTAL		
15	25 (3.4%)	41 (5.5%)	234 (31.4%)	141 (18.9%)	10 (1.3%)	122 (16.4%)	63 (8.5%)	109 (14.6%)	745 (100.0%)		
16	79 (7.6%)	78 (7.5%)	329 (31.5%)	185 (17.7%)	27 (2.6%)	150 (14.4%)	57 (5.5%)	138 (13.2%)	1043 (100.0%)		
17	106 (12.0%)	52 (5.9%)	198 (22.4%)	168 (19.0%)	16 (1.8%)	150 (17.0%)	56 (6.3%)	137 (15.4%)	883 (100.0%)		
TOTAL	210 (7.9%)	171 (6.4%)	761 (28.5%)	494 (18.5%)	53 (2.0%)	422 (15.8%)	176 (6.6%)	384 (14.4%)	2671 (100.0%)		

Table 4.5 -- offence type, by gender

GENDER	TYPE OF OFFENCE										TOTAL
	MOTOR OFFENCE	VIOLENCE AGAINST PERSON	THEFT	VEHICLE THEFT	DRUGS OFFENCE	PUBLIC ORDER OFFENCE	CRIMINAL DAMAGE AND ARSON	OTHER			
MALE	205 (9.1%)	124 (5.5%)	627 (27.9%)	460 (20.4%)	41 (1.8%)	310 (13.8%)	151 (6.7%)	332 (14.8%)			2250 (100.0%)
FEMALE	5 (1.2%)	47 (11.2%)	134 (31.8%)	34 (8.1%)	12 (2.8%)	112 (26.6%)	25 (5.9%)	52 (12.4%)			421 (100.0%)
TOTAL	210 (7.8%)	171 (6.4%)	761 (28.5%)	494 (18.5%)	53 (2.0%)	422 (15.8%)	176 (6.6%)	384 (14.4%)			2671 (100.0%)

Table 4.6 – offence seriousness, by age

AGE	GRAVITY SCORE (FOR MOST SERIOUS OFFENCE IN EACH CASE)								TOTAL
	1	2	3	4	5	6	7	8	
15	98 (13.2%)	48 (6.4%)	264 (35.4%)	135 (18.1%)	104 (14.0%)	52 (7.0%)	35 (4.7%)	9 (1.2%)	745 (100.0%)
16	118 (11.3%)	70 (6.7%)	311 (29.8%)	244 (23.4%)	120 (11.5%)	96 (9.2%)	67 (6.4%)	17 (1.6%)	1043 (100.0%)
17	104 (11.8%)	58 (6.6%)	209 (23.7%)	237 (26.8%)	116 (13.1%)	62 (7.0%)	69 (7.8%)	28 (3.2%)	883 (100.0%)
TOTAL	320 (12.0%)	176 (6.6%)	784 (29.4%)	616 (23.0%)	340 (12.7%)	210 (7.9%)	171 (6.4%)	54 (2.0%)	2671 (100.0%)

Table 4.7 – offence seriousness, by gender

G E N D E R	GRAVITY SCORE (FOR MOST SERIOUS OFFENCE IN EACH CASE)								
	1	2	3	4	5	6	7	8	TOTAL
MALE	285 (12.7%)	140 (6.2%)	619 (27.5%)	509 (22.6%)	308 (13.7%)	182 (8.1%)	161 (7.2%)	46 (2.0%)	2250 (100.0%)
FEMALE	35 (8.3%)	36 (8.6%)	165 (39.2%)	107 (25.4%)	32 (7.6%)	28 (6.7%)	10 (2.4%)	8 (1.9%)	421 (100.0%)
TOTAL	320 (12.0%)	176 (6.6%)	784 (29.4%)	616 (23.0%)	340 (12.7%)	210 (7.9%)	171 (6.4%)	54 (2.0%)	2671 (100.0%)

Table 4.8 – police decisions to charge, bail¹⁸⁵ & prosecute, by age

AGE	POLICE DECISION											TOTAL
	NFA	CHAR. IMMED.	BAILED, CHAR. LATER	REPRI-MAND	FINAL WARN.	BAILED, REPR. LATER	BAILED, F/WARN LATER	BAILED, NFA LATER	U/K	TOTAL		
15	63 (8.4%)	434 (58.2%)	70 (9.4%)	49 (6.6%)	46 (6.2%)	15 (2.0%)	14 (1.9%)	52 (7.0%)	2	745 (100.0%)		
16	99 (9.5%)	659 (63.2%)	102 (9.8%)	56 (5.4%)	48 (4.6%)	6 (0.5%)	4 (0.4%)	68 (6.5%)	1	1043 (100.0%)		
17	75 (8.5%)	661 (74.9%)	86 (9.7%)	25 (2.8%)	15 (1.7%)	5 (0.6%)	1 (0.1%)	15 (1.7%)	0	883 (100.0%)		
TOTAL	237 (8.8%)	1754 (65.7%)	258 (9.7%)	130 (4.9%)	109 (4.1%)	26 (0.9%)	19 (0.7%)	135 (5.1%)	3 (0.1%)	2671 (100.0%)		

¹⁸⁵ No distinction was made, in the database used to generate statistical data in this chapter, between unconditional and conditional police bail. It was therefore impossible to tell how often conditions were attached to police bail during the study period. Other evidence suggests that the use of conditional police bail has increased since its introduction under the Criminal Justice and Public Order Act 1994 (see e.g. Raine and Willson 1995; Hucklesby 2001, 2002: 118-21).

Table 4.9 – police decisions to charge, bail & prosecute, by gender

G E N D E R	P O L I C E D E C I S I O N										T O T A L
	N F A	C H A R. I M M E D.	B A I L E D, C H A R. L A T E R	R E P R I - M A N D	F I N A L W A R N.	B A I L E D, R E P R. L A T E R	B A I L E D, F / W A R N L A T E R	B A I L E D, N F A L A T E R	U / J / K	T O T A L	
MALE	197 (8.8%)	1487 (66.1%)	229 (10.2%)	91 (4.0%)	86 (3.8%)	24 (1.1%)	18 (0.8%)	115 (5.1%)	3 (0.1%)	2250 (100.0%)	
FEMALE	40 (9.4%)	267 (63.4%)	29 (6.9%)	39 (9.3%)	23 (5.5%)	2 (0.5%)	1 (0.2%)	20 (4.8%)	0 (0.0%)	421 (100.0%)	
TOTAL	237 (8.8%)	1754 (65.7%)	258 (9.7%)	130 (4.9%)	109 (4.1%)	26 (0.9%)	19 (0.7%)	135 (5.1%)	3 (0.1%)	2671 (100.0%)	

Table 4.10 – police decisions to charge, bail & prosecute, by offence type

OFFENCE TYPE	POLICE DECISION										TOTAL
	NFA	CHAR. IMMED.	BAILED, CHAR. LATER	REPRI-MAND	FINAL WARN.	BAILED, REPR. LATER	BAILED, F/WARN LATER	BAILED, NFA LATER	U/K	TOTAL	
MOTOR OFF.	20 (9.5%)	135 (64.3%)	36 (17.1%)	3 (1.4%)	6 (2.9%)	5 (2.4%)	2 (1.0%)	3 (1.4%)	0 (0.0%)	210 (100.0%)	
VIOLENCE	15 (8.8%)	110 (64.3%)	18 (10.5%)	6 (3.5%)	6 (3.5%)	5 (2.9%)	0 (0.0%)	11 (6.4%)	0 (0.0%)	171 (100.0%)	
THEFT	76 (10.0%)	435 (57.2%)	89 (11.7%)	40 (5.3%)	38 (5.0%)	9 (1.2%)	9 (1.2%)	64 (8.4%)	1 (0.1%)	761 (100.0%)	
VEHICLE THEFT	55 (11.1%)	315 (63.8%)	53 (10.7%)	9 (1.8%)	18 (3.6%)	1 (0.2%)	6 (1.2%)	36 (7.3%)	1 (0.2%)	494 (100.0%)	
DRUGS	3 (5.7%)	19 (35.8%)	6 (11.3%)	11 (20.8%)	10 (18.9%)	1 (1.9%)	0 (0.0%)	3 (5.7%)	0 (0.0%)	53 (100.0%)	
PUBLIC ORDER	42 (10.0%)	298 (70.6%)	25 (5.9%)	34 (8.1%)	19 (4.5%)	0 (0.0%)	2 (0.5%)	2 (0.5%)	0 (0.0%)	422 (100.0%)	
CRIMINAL DAMAGE	19 (10.8%)	90 (51.1%)	22 (12.5%)	17 (9.7%)	9 (5.1%)	5 (2.8%)	0 (0.0%)	14 (8.0%)	0 (0.0%)	176 (100.0%)	
OTHER	7 (1.8%)	352 (91.7%)	9 (2.3%)	10 (2.6%)	3 (0.8%)	0 (0.0%)	0 (0.0%)	2 (0.5%)	1 (0.3%)	384 (100.0%)	
TOTAL	237 (8.8%)	1754 (65.7%)	258 (9.7%)	130 (4.9%)	109 (4.1%)	26 (0.9%)	19 (0.7%)	135 (5.1%)	3 (0.1%)	2671 (100.0%)	

Table 4.11 – police decisions to charge, bail & prosecute, by offence gravity

OFFENCE GRAVITY SCORE	POLICE DECISION											TOTAL
	NFA	CHAR. IMMED.	BAILED, CHAR. LATER	REPRI-MAND	FINAL WARN.	BAILED, REPR. LATER	BAILED, FWARN LATER	BAILED, NFA LATER	U/K			
1	6 (1.9%)	305 (95.3%)	6 (1.9%)	2 (0.6%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	1 (0.3%)			320 (100.0%)
2	41 (23.3%)	81 (46.0%)	8 (4.5%)	27 (15.3%)	14 (8.0%)	1 (0.6%)	0 (0.0%)	4 (2.3%)	0 (0.0%)			176 (100.0%)
3	77 (9.8%)	445 (56.8%)	89 (11.4%)	59 (7.5%)	45 (5.7%)	11 (1.4%)	9 (1.1%)	48 (6.1%)	1 (0.1%)			784 (100.0%)
4	45 (7.3%)	408 (66.2%)	68 (11.0%)	26 (4.2%)	31 (5.0%)	11 (1.8%)	7 (1.1%)	20 (3.2%)	0 (0.0%)			616 (100.0%)
5	37 (10.9%)	209 (61.5%)	36 (10.6%)	10 (2.9%)	13 (3.8%)	3 (0.9%)	3 (0.9%)	28 (8.2%)	1 (0.3%)			340 (100.0%)
6	14 (6.7%)	138 (65.7%)	30 (14.3%)	5 (2.4%)	4 (1.9%)	0 (0.0%)	0 (0.0%)	19 (9.0%)	0 (0.0%)			210 (100.0%)
7	10 (5.8%)	131 (76.6%)	17 (9.9%)	1 (0.6%)	2 (1.2%)	0 (0.0%)	0 (0.0%)	10 (5.8%)	0 (0.0%)			171 (100.0%)
8	7 (13.0%)	37 (68.5%)	4 (7.4%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	6 (11.1%)	0 (0.0%)			54 (100.0%)
TOTAL	237 (8.8%)	1754 (65.7%)	258 (9.7%)	130 (4.9%)	109 (4.1%)	26 (0.9%)	19 (0.7%)	135 (5.1%)	3 (0.1%)			2671 (100.0%)

Table 4.12 – bail outcome at first appearance in court, by age¹⁸⁶

A	BAIL OUTCOME ¹⁸⁷									
	UNCOND. BAIL	COND. BAIL	BAIL SUPP.	RIC	RLA	CHARGE WITHDRAWN OR DISMISSED	MOVE TO SENTENCE	ARREST WARRANT	TOTAL	
G	141	209	0	15	4	7	94	33	503	
E	(28.0%)	(41.5%)	(0.0%)	(3.0%)	(0.8%)	(1.4%)	(18.7%)	(6.6%)	(100.0%)	
	229	304	3	31	10	9	113	61	760	
	(30.1%)	(40.0%)	(0.4%)	(4.1%)	(1.3%)	(1.2%)	(14.9%)	(8.0%)	(100.0%)	
	176	225	3	115	0	19	122	83	743	
	(23.7%)	(30.3%)	(0.4%)	(15.5%)	(0.0%)	(2.5%)	(16.4%)	(11.2%)	(100.0%)	
TOT.	546	738	6	161	14	35	329	177	2006	
	(27.3%)	(36.8%)	(0.3%)	(8.0%)	(0.7%)	(1.7%)	(16.4%)	(8.8%)	(100.0%)	

¹⁸⁶ Figures for summonses were not consistently available from the source data. To aid clarity, they have been included with the figures for unconditional bail, both here and in the tables that follow.

¹⁸⁷ The following abbreviations are used, in this table and those that follow, when discussing bail and remand outcomes: 'uncond. bail' denotes unconditional bail; 'cond. bail' denotes conditional bail; 'bail supp.' denotes bail support; 'RIC' denotes remand to custody; and 'RLA' denotes remand to local authority accommodation. These terms were abbreviated in tables due to lack of space.

Table 4.13 – bail outcome at first appearance in court, by gender

G E N D E R	BAIL OUTCOME									
	UNCOND. BAIL	COND. BAIL	BAIL SUPP.	RIC	RLA	CHARGE WITHDRAWN OR DISMISSED	MOVE TO SENTENCE	ARREST WARRANT	TOTAL	
M	454 (26.6%)	647 (37.8%)	6 (0.4%)	154 (9.0%)	14 (0.8%)	32 (1.9%)	264 (15.4%)	139 (8.1%)	1710 (100.0%)	
F	92 (31.0%)	91 (30.7%)	0 (0.0%)	7 (2.4%)	0 (0.0%)	3 (1.0%)	65 (22.0%)	38 (12.8%)	296 (100.0%)	
TOT.	546 (27.3%)	738 (36.8%)	6 (0.3%)	161 (8.0%)	14 (0.7%)	35 (1.7%)	329 (16.4%)	177 (8.8%)	2006 (100.0%)	

Table 4.14 – bail outcome at first appearance in court, by offence type

OFFENCE TYPE	BAIL OUTCOME									
	UNCOND. BAIL	COND. BAIL	BAIL SUPP.	RIC	RLA	CHARGE WITHDRAWN OR DISMISSED	MOVE TO SENTENCE	ARREST WARRANT	TOTAL	
MOTOR OFF.	45 (26.5%)	41 (24.1%)	0 (0.0%)	13 (7.6%)	0 (0.0%)	9 (5.3%)	35 (20.6%)	27 (15.9%)	170 (100.0%)	
VIOLENCE	41 (32.3%)	54 (42.5%)	0 (0.0%)	18 (14.2%)	0 (0.0%)	0 (0.0%)	10 (7.9%)	4 (3.1%)	127 (100.0%)	
THEFT	172 (32.8%)	179 (34.2%)	5 (1.0%)	40 (7.6%)	2 (0.4%)	8 (1.6%)	71 (13.5%)	47 (9.0%)	524 (100.0%)	
VEHICLE THEFT	81 (22.0%)	164 (44.6%)	1 (0.3%)	51 (13.9%)	8 (2.2%)	5 (1.4%)	33 (9.0%)	25 (6.8%)	368 (100.0%)	
DRUGS	5 (22.7%)	5 (22.7%)	0 (0.0%)	1 (4.5%)	0 (0.0%)	0 (0.0%)	10 (45.5%)	1 (4.5%)	22 (100.0%)	
PUBLIC ORDER	101 (31.3%)	72 (22.3%)	0 (0.0%)	12 (3.7%)	0 (0.0%)	9 (2.8%)	93 (28.8%)	36 (11.1%)	323 (100.0%)	
CRIMINAL DAMAGE	44 (39.3%)	34 (30.4%)	0 (0.0%)	4 (3.6%)	1 (0.9%)	4 (3.6%)	17 (15.2%)	8 (7.1%)	112 (100.0%)	
OTHER	57 (15.8%)	189 (52.5%)	0 (0.0%)	22 (6.1%)	3 (0.8%)	0 (0.0%)	60 (16.7%)	29 (8.1%)	360 (100.0%)	
TOTAL	546 (27.3%)	738 (36.8%)	6 (0.3%)	161 (8.0%)	14 (0.7%)	35 (1.7%)	329 (16.4%)	177 (8.8%)	2006 (100.0%)	

Table 4.15 – bail outcome at first appearance in court, by offence gravity

BAIL OUTCOME									
O F F E N D E R I E S	UNCOND. BAIL	COND. BAIL	BAIL SUPP.	RIC	RLA	CHARGE WITHDRAWN OR DISMISSED	MOVE TO SENTENCE	ARREST WARRANT	TOTAL
	1	33 (10.6%)	172 (55.3%)	0 (0.0%)	18 (5.8%)	3 (1.0%)	4 (1.3%)	54 (17.4%)	27 (8.7%)
2	21 (23.6%)	21 (23.6%)	0 (0.0%)	2 (2.2%)	0 (0.0%)	3 (3.4%)	34 (38.2%)	8 (9.0%)	89 (100.0%)
3	165 (30.9%)	188 (35.2%)	1 (0.2%)	22 (4.1%)	3 (0.6%)	13 (2.4%)	91 (17.0%)	51 (9.6%)	534 (100.0%)
4	157 (33.1%)	114 (24.1%)	0 (0.0%)	19 (4.0%)	1 (0.2%)	12 (2.5%)	106 (22.4%)	65 (13.7%)	368 (100.0%)
5	75 (30.6%)	90 (36.7%)	2 (0.8%)	33 (13.5%)	4 (1.6%)	3 (1.2%)	21 (8.6%)	17 (6.9%)	245 (100.0%)
6	64 (38.1%)	62 (36.9%)	3 (1.8%)	23 (13.7%)	1 (0.6%)	0 (0.0%)	10 (6.0%)	5 (3.0%)	168 (100.0%)
7	24 (16.6%)	71 (49.0%)	0 (0.0%)	32 (22.1%)	2 (1.4%)	0 (0.0%)	13 (9.0%)	3 (2.1%)	145 (100.0%)
8	7 (17.5%)	20 (50.0%)	0 (0.0%)	12 (30.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	1 (2.5%)	40 (100.0%)
TOTAL	546 (27.3%)	738 (36.8%)	6 (0.3%)	161 (8.0%)	14 (0.7%)	35 (1.7%)	329 (16.4%)	177 (8.8%)	2006 (100.0%)

Table 4.16 – bail status on arrest compared with bail decision at first court appearance (all groups)

S T A T U S	BAIL OUTCOME									
	UNCOND. BAIL	COND. BAIL	BAIL SUPP.	RIC	RLA	CHARGE WITHDRAWN OR DISMISSED	MOVE TO SENTENCE	ARREST WARRANT	TOTAL	
NOT BAIL OR CS	154 (38.4%)	97 (24.2%)	1 (0.2%)	12 (3.0%)	0 (0.0%)	15 (3.7%)	87 (21.7%)	35 (8.7%)	401 (100.0%)	
BAIL BUT NOT CS	205 (19.2%)	488 (45.8%)	5 (0.5%)	113 (10.6%)	12 (1.1%)	14 (1.3%)	142 (13.3%)	87 (8.2%)	1066 (100.0%)	
CS BUT NOT BAIL	187 (34.7%)	153 (28.4%)	0 (0.0%)	36 (6.7%)	2 (0.4%)	6 (1.1%)	100 (18.6%)	55 (10.2%)	539 (100.0%)	
TOT.	546 (27.3%)	738 (36.8%)	6 (0.3%)	161 (8.0%)	14 (0.7%)	35 (1.7%)	329 (16.4%)	177 (8.8%)	2006 (100.0%)	

Table 4.17 – changes in bail status during the court process, by age¹⁸⁸

AGE	NUMBER OF CHANGES IN COURT BAIL STATUS			TOTAL
	NONE	ONE	TWO	
15	388 (78.1%)	57 (11.5%)	52 (10.4%)	497 (100.0%)
16	490 (65.4%)	125 (16.7%)	134 (17.9%)	749 (100.0%)
17	481 (65.9%)	129 (17.7%)	120 (16.4%)	730 (100.0%)
TOTAL	1359 (68.8%)	311 (15.7%)	306 (15.5%)	1976 (100.0%)

¹⁸⁸ Those cases which were moved to sentence, withdrawn or dismissed after the first court appearance are not listed separately here. If there was no change in bail status before sentence, they are listed under the 'none' category, here and in the tables that follow.

Table 4.18 – changes in bail status during the court process, by gender

GENDER	NUMBER OF CHANGES IN COURT BAIL STATUS			
	NONE	ONE	TWO	TOTAL
MALE	1153 (68.5%)	265 (15.7%)	267 (15.8%)	1685 (100.0%)
FEMALE	206 (70.8%)	46 (15.8%)	39 (13.4%)	291 (100.0%)
TOTAL	1359 (68.8%)	311 (15.7%)	306 (15.5%)	1976 (100.0%)

Table 4.19 – changes in bail status during the court process, by offence type

OFFENCE TYPE	NUMBER OF CHANGES IN COURT BAIL STATUS			
	NONE	ONE	TWO	TOTAL
MOTOR OFF.	110 (65.9%)	31 (18.5%)	26 (15.6%)	167 (100.0%)
VIOLENCE	87 (70.7%)	16 (13.0%)	20 (16.3%)	123 (100.0%)
THEFT	345 (66.4%)	74 (14.2%)	101 (19.4%)	520 (100.0%)
VEHICLE THEFT	218 (60.0%)	78 (21.5%)	67 (18.5%)	363 (100.0%)
DRUGS	16 (72.7%)	2 (9.1%)	4 (18.2%)	22 (100.0%)
PUBLIC ORDER	230 (71.7%)	56 (17.4%)	35 (10.9%)	321 (100.0%)
CRIMINAL DAMAGE	75 (68.8%)	13 (11.9%)	21 (19.3%)	109 (100.0%)
OTHER	278 (79.2%)	41 (11.7%)	32 (9.1%)	351 (100.0%)
TOTAL	1359 (68.8%)	311 (15.7%)	306 (15.5%)	1976 (100.0%)

Table 4.20 – changes in bail status during the court process, by offence gravity

O F F G R A V	NUMBER OF CHANGES IN COURT BAIL STATUS			
	NONE	ONE	TWO	TOTAL
1	245 (80.6%)	32 (10.5%)	27 (8.9%)	167 (100.0%)
2	66 (74.2%)	12 (13.4%)	11 (12.4%)	123 (100.0%)
3	362 (68.7%)	74 (13.9%)	91 (17.4%)	520 (100.0%)
4	328 (69.8%)	75 (15.8%)	67 (14.4%)	363 (100.0%)
5	149 (62.1%)	53 (21.9%)	38 (16.0%)	22 (100.0%)
6	100 (59.9%)	25 (15.0%)	42 (25.1%)	321 (100.0%)
7	86 (61.4%)	32 (22.9%)	22 (15.7%)	109 (100.0%)
8	23 (59.0%)	8 (20.5%)	8 (20.5%)	351 (100.0%)
TOTAL	1359 (68.8%)	311 (15.7%)	306 (15.5%)	1976 (100.0%)

Table 4.21 – results of first change in bail status, by age

A		BAIL OUTCOME (1 st CHANGE IN BAIL STATUS)									
		UNCONDITIONAL BAIL	CONDITIONAL BAIL	BAIL SUPPORT	RIC	RLA	ARREST WARRANT	NO CHANGE	TOTAL		
G	E										
15		25 (5.0%)	41 (8.2%)	0 (0.0%)	7 (1.4%)	2 (0.4%)	34 (6.8%)	388 (78.1%)	497 (100.0%)		
16		41 (5.5%)	90 (12.0%)	5 (0.7%)	20 (2.7%)	3 (0.4%)	100 (13.4%)	490 (65.4%)	749 (100.0%)		
17		32 (4.4%)	76 (10.4%)	7 (1.0%)	37 (5.1%)	0 (0.0%)	97 (13.3%)	481 (65.9%)	730 (100.0%)		
TOTAL		98 (5.0%)	207 (10.5%)	12 (0.6%)	64 (3.2%)	5 (0.3%)	231 (11.7%)	1359 (68.8%)	1976 (100.0%)		

Table 4.22 – results of first change in bail status, by gender

G E N D E R	BAIL OUTCOME (1 ST CHANGE IN BAIL STATUS)									
	UNCONDITIONAL BAIL	CONDITIONAL BAIL	BAIL SUPPORT	RIC	RLA	ARREST WARRANT	NO CHANGE	TOTAL		
MALE	81 (4.8%)	188 (11.2%)	12 (0.7%)	57 (3.4%)	5 (0.3%)	189 (11.2%)	1153 (68.4%)	1685 (100.0%)		
FEMALE	17 (5.8%)	19 (6.5%)	0 (0.0%)	7 (2.4%)	0 (0.0%)	42 (14.4%)	206 (70.8%)	291 (100.0%)		
TOTAL	98 (5.0%)	207 (10.5%)	12 (0.6%)	64 (3.2%)	5 (0.3%)	231 (11.7%)	1359 (68.8%)	1976 (100.0%)		

Table 4.23 – results of first change in bail status, by offence type

OFFENCE TYPE	BAIL OUTCOME (1 ST CHANGE IN BAIL STATUS)									
	UNCONDITIONAL BAIL	CONDITIONAL BAIL	BAIL SUPPORT	RIC	RLA	ARREST WARRANT	NO CHANGE	TOTAL		
MOTOR OFF.	7 (4.2%)	19 (11.4%)	4 (2.4%)	6 (3.6%)	0 (0.0%)	21 (12.6%)	110 (65.9%)	167 (100.0%)		
VIOLENCE	6 (4.9%)	12 (9.8%)	1 (0.8%)	4 (3.3%)	0 (0.0%)	13 (10.6%)	87 (70.7%)	123 (100.0%)		
THEFT	30 (5.8%)	62 (11.9%)	4 (0.8%)	16 (3.1%)	2 (0.4%)	61 (11.7%)	345 (66.3%)	520 (100.0%)		
VEHICLE THEFT	22 (6.1%)	45 (12.4%)	1 (0.3%)	16 (4.4%)	3 (0.8%)	58 (16.0%)	218 (60.1%)	363 (100.0%)		
DRUGS	1 (4.5%)	2 (9.1%)	0 (0.0%)	1 (4.5%)	0 (0.0%)	2 (9.1%)	16 (72.7%)	22 (100.0%)		
PUBLIC ORDER	15 (4.7%)	29 (9.0%)	1 (0.3%)	11 (3.4%)	0 (0.0%)	35 (10.9%)	230 (71.7%)	321 (100.0%)		
CRIMINAL DAMAGE	6 (5.5%)	13 (11.9%)	0 (0.0%)	3 (2.8%)	0 (0.0%)	12 (11.0%)	75 (68.8%)	109 (100.0%)		
OTHER	11 (3.1%)	25 (7.1%)	1 (0.3%)	7 (2.0%)	0 (0.0%)	29 (8.3%)	278 (79.2%)	351 (100.0%)		
TOTAL	98 (5.0%)	207 (10.5%)	12 (0.6%)	64 (3.2%)	5 (0.3%)	231 (11.7%)	1359 (68.8%)	1976 (100.0%)		

Table 4.24 – results of first change in bail status, by offence gravity

OFFENCE GRAVITY	BAIL OUTCOME (1 ST CHANGE IN BAIL STATUS)									
	UNCONDITIONAL BAIL	CONDITIONAL BAIL	BAIL SUPPORT	RIC	RLA	ARREST WARRANT	NO CHANGE	TOTAL		
1	10 (3.3%)	19 (6.3%)	1 (0.3%)	5 (1.6%)	0 (0.0%)	24 (7.9%)	245 (80.6%)	304 (100.0%)		
2	4 (4.5%)	5 (5.6%)	0 (0.0%)	2 (2.2%)	0 (0.0%)	12 (13.5%)	66 (74.2%)	89 (100.0%)		
3	26 (4.9%)	55 (10.4%)	1 (0.2%)	16 (3.0%)	1 (0.2%)	66 (12.5%)	362 (68.7%)	527 (100.0%)		
4	23 (4.9%)	49 (10.4%)	0 (0.0%)	17 (3.6%)	0 (0.0%)	53 (11.3%)	328 (69.8%)	470 (100.0%)		
5	10 (4.2%)	32 (13.3%)	0 (0.0%)	12 (5.0%)	1 (0.4%)	36 (15.0%)	149 (62.1%)	240 (100.0%)		
6	11 (6.6%)	23 (13.8%)	5 (3.0%)	9 (5.4%)	1 (0.6%)	18 (10.8%)	100 (59.9%)	167 (100.0%)		
7	12 (8.6%)	17 (12.1%)	4 (2.9%)	3 (2.1%)	2 (1.4%)	16 (11.4%)	86 (61.4%)	140 (100.0%)		
8	2 (5.1%)	7 (17.9%)	1 (2.6%)	0 (0.0%)	0 (0.0%)	6 (15.4%)	23 (59.0%)	39 (100.0%)		
TOTAL	98 (5.0%)	207 (10.5%)	12 (0.6%)	64 (3.2%)	5 (0.3%)	231 (11.7%)	1359 (68.8%)	1976 (100.0%)		

Table 4.25 – results of second change in bail status, by age¹⁸⁹

A	BAIL OUTCOME (2 nd CHANGE IN BAIL STATUS)							
	UNCONDITIONAL BAIL	CONDITIONAL BAIL	BAIL SUPPORT	RIC	RLA	ARREST WARRANT	NO 2 nd CHANGE	TOTAL
G								
E								
15	5 (1.0%)	32 (6.4%)	0 (0.0%)	6 (1.2%)	0 (0.0%)	9 (1.8%)	445 (89.5%)	497 (100.0%)
16	21 (2.8%)	61 (8.2%)	2 (0.3%)	21 (2.8%)	1 (0.1%)	28 (3.7%)	613 (82.1%)	747 (100.0%)
17	14 (1.9%)	44 (6.1%)	3 (0.4%)	35 (4.9%)	0 (0.0%)	24 (3.3%)	601 (83.4%)	721 (100.0%)
TOTAL	40 (2.0%)	137 (10.5%)	5 (0.3%)	62 (3.2%)	1 (0.1%)	61 (3.1%)	1659 (84.4%)	1965 (100.0%)

¹⁸⁹ The sample group for this and the following three tables was slightly smaller than that for the above tables examining the first change in bail status. This was because in 11 of the cases in which the outcome of the first status change was known, the outcome of subsequent court decisions in which the bail status could have changed was unknown.

Table 4.26 – results of second change in bail status, by gender

G E N D E R	BAIL OUTCOME (2 nd CHANGE IN BAIL STATUS)									
	UNCONDITIONAL BAIL	CONDITIONAL BAIL	BAIL SUPPORT	RIC	RLA	ARREST WARRANT	NO CHANGE	TOTAL		
MALE	34 (2.0%)	118 (7.0%)	5 (0.3%)	54 (3.2%)	1 (0.1%)	55 (3.3%)	1407 (84.1%)	1674 (100.0%)		
FEMALE	6 (2.1%)	19 (6.5%)	0 (0.0%)	8 (2.7%)	0 (0.0%)	6 (2.1%)	252 (86.6%)	291 (100.0%)		
TOTAL	40 (2.0%)	137 (10.5%)	5 (0.3%)	62 (3.2%)	1 (0.1%)	61 (3.1%)	1659 (84.4%)	1965 (100.0%)		

Table 4.27 – results of second change in bail status, by offence type

OFFENCE TYPE	BAIL OUTCOME (2 ND CHANGE IN BAIL STATUS)									
	UNCONDITIONAL BAIL	CONDITIONAL BAIL	BAIL SUPPORT	RIC	RLA	ARREST WARRANT	NO CHANGE	TOTAL		
MOTOR OFF.	3 (1.8%)	10 (6.1%)	0 (0.0%)	4 (2.4%)	1 (0.6%)	8 (4.8%)	139 (84.2%)	165 (100.0%)		
VIOLENCE	2 (1.6%)	8 (6.6%)	1 (0.8%)	5 (4.1%)	0 (0.0%)	4 (3.3%)	102 (83.6%)	122 (100.0%)		
THEFT	17 (3.3%)	47 (9.1%)	3 (0.6%)	13 (2.5%)	0 (0.0%)	21 (4.1%)	417 (80.5%)	518 (100.0%)		
VEHICLE THEFT	2 (0.6%)	32 (8.9%)	1 (0.3%)	20 (5.6%)	0 (0.0%)	12 (3.3%)	292 (81.3%)	359 (100.0%)		
DRUGS	0 (0.0%)	2 (9.1%)	0 (0.0%)	1 (4.5%)	0 (0.0%)	1 (4.5%)	18 (81.8%)	22 (100.0%)		
PUBLIC ORDER	8 (2.5%)	18 (5.6%)	0 (0.0%)	7 (2.2%)	0 (0.0%)	2 (0.6%)	284 (89.0%)	319 (100.0%)		
CRIMINAL DAMAGE	4 (3.7%)	5 (4.6%)	0 (0.0%)	7 (6.4%)	0 (0.0%)	5 (4.6%)	88 (80.7%)	109 (100.0%)		
OTHER	4 (1.1%)	15 (4.3%)	0 (0.0%)	5 (1.4%)	0 (0.0%)	8 (2.3%)	319 (90.9%)	351 (100.0%)		
TOTAL	40 (2.0%)	137 (10.5%)	5 (0.3%)	62 (3.2%)	1 (0.1%)	61 (3.1%)	1659 (84.4%)	1965 (100.0%)		

Table 4.28 – results of second change in bail status, by offence gravity

		BAIL OUTCOME (2ND CHANGE IN BAIL STATUS)									
O F F	G R A V	UNCONDITIONAL BAIL	CONDITIONAL BAIL	BAIL SUPPORT	RIC	RLA	ARREST WARRANT	NO CHANGE	TOTAL		
1		3 (1.0%)	12 (4.0%)	0 (0.0%)	5 (1.7%)	0 (0.0%)	7 (2.3%)	276 (91.1%)	303 (100.0%)		
2		4 (4.5%)	5 (5.6%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	2 (2.2%)	78 (87.6%)	89 (100.0%)		
3		12 (2.3%)	42 (8.0%)	2 (0.4%)	14 (2.7%)	0 (0.0%)	21 (4.0%)	433 (82.6%)	524 (100.0%)		
4		8 (1.7%)	34 (7.3%)	0 (0.0%)	9 (1.9%)	0 (0.0%)	16 (3.4%)	399 (85.6%)	466 (100.0%)		
5		1 (0.4%)	18 (7.6%)	0 (0.0%)	11 (4.6%)	1 (0.4%)	7 (2.9%)	200 (84.0%)	238 (100.0%)		
6		8 (4.8%)	16 (9.6%)	2 (1.2%)	10 (6.0%)	0 (0.0%)	6 (3.6%)	125 (74.9%)	167 (100.0%)		
7		2 (1.4%)	8 (5.7%)	1 (0.7%)	10 (7.1%)	0 (0.0%)	1 (0.7%)	118 (84.3%)	140 (100.0%)		
8		2 (5.3%)	2 (5.3%)	0 (0.0%)	3 (7.9%)	0 (0.0%)	1 (2.6%)	30 (78.9%)	38 (100.0%)		
TOTAL		40 (2.0%)	137 (10.5%)	5 (0.3%)	62 (3.2%)	1 (0.1%)	61 (3.1%)	1659 (84.4%)	1965 (100.0%)		

Table 4.29 – rates of recorded re-offending compared with first change in bail status (whole sample of re-offenders)

RECORDED RE-OFFENDING?	1 ST CHANGE IN BAIL STATUS									
	NO CHANGE	UNCOND. BAIL	COND. BAIL	BAIL SUPPORT	RIC	RLA	ARREST WARRANT	TOTAL		
NO	1028 (85.4%)	44 (3.7%)	55 (4.6%)	4 (0.3%)	6 (0.5%)	2 (0.2%)	65 (5.4%)	1204 (100.0%)		
YES	331 (43.3%)	52 (6.8%)	149 (19.5%)	8 (1.0%)	58 (7.6%)	3 (0.4%)	164 (21.4%)	765 (100.0%)		
TOTAL	1359 (69.0%)	96 (4.9%)	204 (10.4%)	12 (0.6%)	64 (3.3%)	5 (0.3%)	229 (11.6%)	1969 (100.0%)		

Table 4.30 – nature of recorded re-offending compared with first change in bail status (whole sample of re-offenders)

OFFENCE TYPE	1 ST CHANGE IN BAIL STATUS								TOTAL
	NO CHANGE	UNCONDITIONAL BAIL	COND. BAIL	BAIL SUPPORT	RIC	RLA	ARREST WARRANT		
MOTOR OFF.	34 (42.5%)	4 (5.0%)	21 (26.3%)	2 (2.5%)	6 (7.5%)	0 (0.0%)	13 (6.3%)	80 (100.0%)	
VIOLENCE	24 (49.0%)	5 (10.2%)	11 (22.4%)	0 (0.0%)	2 (4.1%)	0 (0.0%)	7 (14.3%)	49 (100.0%)	
THEFT	92 (46.2%)	16 (8.0%)	35 (17.6%)	1 (0.5%)	13 (6.5%)	2 (1.0%)	40 (20.1%)	199 (100.0%)	
VEHICLE THEFT	55 (39.6%)	5 (3.6%)	21 (15.1%)	1 (0.7%)	18 (12.9%)	0 (0.0%)	39 (28.1%)	139 (100.0%)	
DRUGS	6 (54.5%)	2 (18.2%)	1 (9.1%)	0 (0.0%)	1 (9.1%)	0 (0.0%)	1 (9.1%)	11 (100.0%)	
PUBLIC ORDER	48 (46.2%)	5 (4.8%)	17 (16.3%)	2 (1.9%)	8 (7.7%)	0 (0.0%)	24 (23.1%)	104 (100.0%)	
CRIMINAL DAMAGE	24 (68.6%)	1 (2.9%)	5 (14.3%)	0 (0.0%)	1 (2.9%)	0 (0.0%)	4 (11.4%)	35 (100.0%)	
OTHER	45 (32.4%)	13 (9.4%)	36 (25.9%)	2 (1.4%)	8 (5.8%)	1 (0.7%)	34 (24.5%)	139 (100.0%)	
TOTAL	328 (43.4%)	51 (6.7%)	147 (19.4%)	8 (1.1%)	57 (7.5%)	3 (0.4%)	162 (21.4%)	756 (100.0%)	

Table 4.31 – gravity of recorded re-offending compared with first change in bail status (whole sample of re-offenders)

OFFENCE GRAVITY	1 ST CHANGE IN BAIL STATUS								TOTAL
	NO CHANGE	UNCOND. BAIL	COND. BAIL	BAIL SUPPORT	RIC	RLA	ARREST WARRANT		
1	32 (27.4%)	12 (10.3%)	32 (27.4%)	2 (1.7%)	7 (6.0%)	1 (0.9%)	31 (26.5%)	117 (100.0%)	
2	21 (55.3%)	1 (2.6%)	6 (15.8%)	2 (5.3%)	1 (2.6%)	0 (0.0%)	7 (18.4%)	38 (100.0%)	
3	86 (44.3%)	13 (6.7%)	35 (18.0%)	2 (1.0%)	9 (4.6%)	2 (1.0%)	47 (24.2%)	194 (100.0%)	
4	89 (48.1%)	11 (5.9%)	40 (21.6%)	0 (0.0%)	12 (6.5%)	0 (0.0%)	33 (17.8%)	185 (100.0%)	
5	44 (50.0%)	2 (2.3%)	10 (11.4%)	0 (0.0%)	9 (10.2%)	0 (0.0%)	23 (26.1%)	88 (100.0%)	
6	29 (46.0%)	6 (9.5%)	11 (17.5%)	0 (0.0%)	8 (12.7%)	0 (0.0%)	9 (14.3%)	63 (100.0%)	
7	19 (33.9%)	5 (8.9%)	9 (16.1%)	2 (3.6%)	11 (19.6%)	0 (0.0%)	10 (17.9%)	56 (100.0%)	
8	8 (53.3%)	1 (6.7%)	4 (26.7%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	2 (13.3%)	15 (100.0%)	
TOTAL	328 (43.4%)	51 (6.7%)	147 (19.4%)	8 (1.1%)	57 (7.5%)	3 (0.4%)	162 (21.4%)	756 (100.0%)	

Table 4.32 – rates of recorded re-offending compared with second change in bail status (whole sample of re-offenders)

RECORDED RE-OFFENDING?	2 ND CHANGE IN BAIL STATUS									
	NO CHANGE	UNCOND. BAIL	COND. BAIL	BAIL SUPPORT	RIC	RLA	ARREST WARRANT	TOTAL		
NO	1129 (93.8%)	16 (1.3%)	35 (2.9%)	0 (0.0%)	11 (0.9%)	0 (0.0%)	13 (1.1%)	1204 (100.0%)		
YES	530 (69.8%)	24 (3.2%)	102 (13.4%)	5 (0.7%)	49 (6.5%)	1 (0.1%)	48 (6.3%)	759 (100.0%)		
TOTAL	1659 (84.5%)	40 (2.0%)	137 (7.0%)	5 (0.3%)	60 (3.1%)	1 (0.1%)	61 (3.1%)	1963 (100.0%)		

Table 4.33 – nature of recorded re-offending compared with second change in bail status (whole sample of re-offenders)

OFFENCE TYPE	2 ND CHANGE IN BAIL STATUS									
	NO CHANGE	UNCOND. BAIL	COND. BAIL	BAIL SUPPORT	RIC	RLA	ARREST WARRANT	TOTAL		
MOTOR OFF.	59 (73.8%)	2 (2.5%)	7 (8.8%)	0 (0.0%)	4 (5.0%)	0 (0.0%)	8 (10.0%)	80 (100.0%)		
VIOLENCE	35 (71.4%)	1 (2.0%)	6 (12.2%)	0 (0.0%)	4 (8.2%)	0 (0.0%)	3 (6.1%)	49 (100.0%)		
THEFT	138 (69.7%)	8 (4.0%)	23 (11.6%)	2 (1.0%)	15 (7.6%)	0 (0.0%)	12 (6.1%)	198 (100.0%)		
VEHICLE THEFT	92 (67.2%)	3 (2.2%)	26 (19.0%)	2 (1.5%)	8 (5.8%)	1 (0.7%)	5 (3.6%)	137 (100.0%)		
DRUGS	10 (90.9%)	0 (0.0%)	1 (9.1%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	11 (100.0%)		
PUBLIC ORDER	76 (73.8%)	6 (5.8%)	12 (11.7%)	0 (0.0%)	8 (7.8%)	0 (0.0%)	1 (1.0%)	103 (100.0%)		
CRIMINAL DAMAGE	27 (77.1%)	2 (5.7%)	2 (5.7%)	0 (0.0%)	3 (8.6%)	0 (0.0%)	1 (2.9%)	35 (100.0%)		
OTHER	87 (63.5%)	2 (1.5%)	23 (16.8%)	1 (0.7%)	6 (4.4%)	0 (0.0%)	18 (13.1%)	137 (100.0%)		
TOTAL	524 (69.9%)	24 (3.2%)	100 (13.3%)	5 (0.7%)	48 (6.4%)	1 (0.1%)	48 (6.4%)	750 (100.0%)		

Table 4.34 – gravity of recorded re-offending compared with second change in bail status (whole sample of re-offenders)

OFFENCE GRAVITY	2 ND CHANGE IN BAIL STATUS								TOTAL
	NO CHANGE	UNCOND. BAIL	COND. BAIL	BAIL SUPPORT	RIC	RLA	ARREST WARRANT		
1	67 (58.3%)	2 (1.7%)	22 (19.1%)	1 (0.9%)	5 (4.3%)	0 (0.0%)	18 (15.7%)	115 (100.0%)	
2	29 (78.4%)	3 (8.1%)	3 (8.1%)	0 (0.0%)	1 (2.7%)	0 (0.0%)	1 (2.7%)	37 (100.0%)	
3	136 (70.8%)	7 (3.6%)	27 (14.1%)	1 (0.5%)	14 (7.3%)	0 (0.0%)	7 (3.6%)	192 (100.0%)	
4	142 (76.8%)	3 (1.6%)	16 (8.6%)	0 (0.0%)	11 (5.9%)	0 (0.0%)	13 (7.0%)	185 (100.0%)	
5	58 (66.7%)	1 (1.1%)	17 (19.5%)	1 (1.1%)	7 (8.0%)	0 (0.0%)	3 (3.4%)	87 (100.0%)	
6	39 (61.9%)	5 (7.9%)	8 (12.7%)	2 (3.2%)	5 (7.9%)	0 (0.0%)	4 (6.3%)	63 (100.0%)	
7	42 (75.0%)	3 (5.4%)	6 (10.7%)	0 (0.0%)	3 (5.4%)	1 (1.8%)	1 (1.8%)	56 (100.0%)	
8	11 (73.3%)	0 (0.0%)	1 (6.7%)	0 (0.0%)	2 (13.3%)	0 (0.0%)	1 (6.7%)	15 (100.0%)	
TOTAL	524 (69.9%)	24 (3.2%)	100 (13.3%)	5 (0.7%)	48 (6.4%)	1 (0.1%)	48 (6.4%)	750 (100.0%)	

Table 4.35 – comparison of initial offence type and final case outcome (overall, all groups)

INITIAL OFFENCE TYPE	TYPE OF SENTENCE RECEIVED							TOTAL
	DISMISSED OR WITHDRAWN	DISMISSED OR WITHDRAWN WITH REPRIMAND/IF. WARN.	COMMUNITY SENTENCE	CUSTODIAL SENTENCE	FINE	TOTAL		
MOTORING OFFENCES	20 (12.3%)	3 (1.8%)	92 (56.4%)	23 (14.1%)	25 (15.3%)	163 (100.0%)		
VIOLENCE	21 (17.5%)	3 (2.5%)	78 (65.0%)	17 (14.2%)	1 (0.8%)	120 (100.0%)		
THEFT	45 (8.7%)	8 (1.5%)	362 (69.9%)	92 (17.8%)	11 (2.1%)	518 (100.0%)		
VEHICLE THEFT	35 (9.9%)	8 (2.3%)	215 (60.7%)	93 (26.3%)	3 (0.8%)	354 (100.0%)		
DRUGS OFFENCES	0 (0.0%)	1 (4.5%)	15 (68.2%)	2 (9.1%)	4 (18.2%)	22 (100.0%)		
PUBLIC ORDER OFFENCES	31 (9.8%)	12 (3.8%)	212 (66.9%)	27 (8.5%)	35 (11.0%)	317 (100.0%)		
CRIMINAL DAMAGE & ARSON	20 (18.2%)	4 (3.6%)	71 (64.5%)	12 (10.9%)	3 (2.7%)	110 (100.0%)		
OTHER	17 (6.9%)	3 (1.2%)	135 (54.7%)	64 (25.9%)	28 (11.3%)	247 (100.0%)		
TOTAL	189 (10.2%)	42 (2.3%)	1180 (63.7%)	330 (17.8%)	110 (5.9%)	1851 (100.0%)		

Table 4.36 – comparison of initial offence gravity and final case outcome (overall, all groups)

INITIAL OFFENCE GRAVITY	TYPE OF SENTENCE RECEIVED							TOTAL
	DISMISSED OR WITHDRAWN	DISMISSED OR WITHDRAWN WITH REPRIMAND/F. WARN.	COMMUNITY SENTENCE	CUSTODIAL SENTENCE	FINE	DISMISSED OR WITHDRAWN	TOTAL	
1	15 (7.5%)	3 (1.5%)	99 (49.7%)	58 (29.1%)	24 (12.1%)		199 (100.0%)	
2	6 (6.7%)	2 (2.2%)	60 (67.4%)	9 (10.1%)	12 (13.5%)		89 (100.0%)	
3	53 (10.2%)	12 (2.3%)	370 (70.9%)	69 (13.2%)	18 (3.4%)		522 (100.0%)	
4	52 (11.3%)	14 (3.0%)	306 (66.2%)	41 (8.9%)	49 (10.6%)		462 (100.0%)	
5	26 (11.0%)	3 (1.3%)	141 (59.7%)	63 (26.7%)	3 (1.3%)		236 (100.0%)	
6	21 (12.6%)	5 (3.0%)	99 (59.3%)	42 (25.1%)	0 (0.0%)		167 (100.0%)	
7	10 (7.1%)	3 (2.1%)	86 (61.4%)	37 (26.4%)	4 (2.9%)		140 (100.0%)	
8	6 (16.7%)	0 (0.0%)	19 (52.8%)	11 (30.6%)	0 (0.0%)		36 (100.0%)	
TOTAL	189 (10.2%)	42 (2.3%)	1180 (63.7%)	330 (17.8%)	110 (5.9%)		1851 (100.0%)	

Table 4.37 – comparison of denial of bail and final sentence outcome (overall, all groups)

DENIED BAIL AT SOME POINT IN COURT PROCESS?	TYPE OF SENTENCE RECEIVED						TOTAL
	DISMISSED OR WITHDRAWN	DISMISSED OR WITHDRAWN WITH REPRIMAND/F. WARN.	COMMUNITY SENTENCE	CUSTODIAL SENTENCE	FINE	TOTAL	
YES	14 (5.3%)	0 (0.0%)	129 (49.2%)	119 (45.4%)	0 (0.0%)	262 (100.0%)	
NO	176 (11.1%)	42 (2.6%)	1050 (66.1%)	211 (13.3%)	110 (6.9%)	1589 (100.0%)	
TOTAL	190 (10.3%)	42 (2.3%)	1179 (63.7%)	330 (17.8%)	110 (5.9%)	1851 (100.0%)	

Table 4.38 – comparison of initial bail decision and final sentence outcome (all groups)

INITIAL BAIL DECISION AT COURT	TYPE OF SENTENCE RECEIVED						TOTAL
	DISMISSED OR WITHDRAWN	DISMISSED OR WITHDRAWN WITH REPRIMAND/F. WARN.	COMMUNITY SENTENCE	CUSTODIAL SENTENCE	FINE	TOTAL	
UNCONDITIONAL BAIL	75 (14.2%)	18 (3.4%)	365 (69.0%)	40 (7.6%)	31 (5.9%)	529 (100.0%)	
CONDITIONAL BAIL	63 (10.1%)	4 (0.6%)	408 (65.6%)	136 (21.9%)	11 (1.8%)	622 (100.0%)	
BAIL SUPPORT	1 (16.7%)	0 (0.0%)	3 (50.0%)	2 (33.3%)	0 (0.0%)	6 (100.0%)	
REMAND TO CUSTODY	6 (4.0%)	0 (0.0%)	65 (43.0%)	80 (53.0%)	0 (0.0%)	151 (100.0%)	
REMAND TO LOCAL AUTHORITY ACC.	1 (7.7%)	0 (0.0%)	3 (23.1%)	7 (53.8%)	2 (15.4%)	13 (100.0%)	
CHARGE WITHDRAWN	21 (75.0%)	7 (25.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	28 (100.0%)	
CHARGE DISMISSED	6 (85.7%)	1 (14.3%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	7 (100.0%)	
MOVE TO SENTENCE	2 (0.6%)	7 (2.1%)	235 (71.9%)	34 (10.4%)	49 (15.0%)	327 (100.0%)	
ARREST WARRANT	15 (8.9%)	5 (3.0%)	100 (59.5%)	31 (18.5%)	17 (10.1%)	168 (100.0%)	
TOTAL	190 (10.3%)	42 (2.3%)	1179 (63.7%)	330 (17.8%)	110 (5.9%)	1851 (100.0%)	

Table 4.39 – comparison of first change in bail status and final sentence outcome (all groups)

FIRST CHANGE IN BAIL STATUS	TYPE OF SENTENCE RECEIVED							TOTAL
	DISMISSED OR WITHDRAWN	DISMISSED OR WITHDRAWN WITH REPRIMAND/F. WARN.	COMMUNITY SENTENCE	CUSTODIAL SENTENCE	FINE	TOTAL		
NO CHANGE	131 (10.5%)	39 (3.1%)	821 (65.6%)	169 (13.5%)	92 (7.3%)	1252 (100.0%)		
UNCONDITIONAL BAIL	13 (13.5%)	1 (1.0%)	58 (60.4%)	18 (18.8%)	6 (6.3%)	96 (100.0%)		
CONDITIONAL BAIL	16 (8.0%)	0 (0.0%)	126 (62.7%)	53 (26.4%)	6 (3.0%)	201 (100.0%)		
BAIL SUPPORT	0 (0.0%)	0 (0.0%)	8 (66.7%)	4 (33.3%)	0 (0.0%)	12 (100.0%)		
REMAND TO CUSTODY	5 (7.9%)	0 (0.0%)	39 (61.9%)	19 (30.2%)	0 (0.0%)	63 (100.0%)		
REMAND TO LOCAL AUTHORITY ACC.	0 (0.0%)	0 (0.0%)	4 (80.0%)	1 (20.0%)	0 (0.0%)	5 (100.0%)		
ARREST WARRANT	23 (10.5%)	2 (0.9%)	123 (55.9%)	66 (30.0%)	6 (2.7%)	220 (100.0%)		
TOTAL	188 (10.2%)	42 (2.3%)	1179 (63.8%)	330 (17.8%)	110 (5.9%)	1849 (100.0%)		

Table 4.40 – comparison of second change in bail status and final sentence outcome (all groups)

SECOND CHANGE IN BAIL STATUS	TYPE OF SENTENCE RECEIVED						TOTAL
	DISMISSED OR WITHDRAWN	DISMISSED OR WITHDRAWN WITH REPRIMAND/F. WARN.	COMMUNITY SENTENCE	CUSTODIAL SENTENCE	FINE		
NO CHANGE	161 (10.4%)	41 (2.6%)	1010 (65.1%)	234 (15.1%)	106 (6.8%)		1552 (100.0%)
UNCONDITIONAL BAIL	6 (15.0%)	1 (2.5%)	23 (57.5%)	9 (22.5%)	1 (2.5%)		40 (100.0%)
CONDITIONAL BAIL	7 (5.3%)	0 (0.0%)	87 (65.4%)	38 (28.6%)	1 (0.8%)		133 (100.0%)
BAIL SUPPORT	1 (20.0%)	0 (0.0%)	1 (20.0%)	3 (60.0%)	0 (0.0%)		5 (100.0%)
REMAND TO CUSTODY	4 (6.9%)	0 (0.0%)	27 (46.6%)	27 (46.6%)	0 (0.0%)		58 (100.0%)
REMAND TO LOCAL AUTHORITY ACC.	0 (0.0%)	0 (0.0%)	1 (100.0%)	0 (0.0%)	0 (0.0%)		1 (100.0%)
ARREST WARRANT	9 (15.0%)	0 (0.0%)	30 (50.0%)	19 (31.7%)	2 (3.3%)		60 (100.0%)
TOTAL	188 (10.2%)	42 (2.3%)	1179 (63.8%)	330 (17.8%)	110 (5.9%)		1849 (100.0%)

Table 4.41 – time taken for all cases to pass through bail process, by age

AGE	BAIL TIME PERIOD STATISTICS (in days)			
	MEAN	MEDIAN	STD. DEVIATION	RANGE
15	30.60	15.00	45.649	330
16	39.22	22.00	50.603	318
17	37.37	23.00	46.110	312

Table 4.42 – time taken for all cases to pass through bail process, by gender

GENDER	BAIL TIME PERIOD STATISTICS (in days)			
	MEAN	MEDIAN	STD. DEVIATION	RANGE
MALE	38.09	23.00	48.939	330
FEMALE	26.16	10.00	40.713	312

Table 4.43 – time taken for all cases reaching court to pass through bail process, by age

AGE	BAIL TIME PERIOD STATISTICS (in days)			
	MEAN	MEDIAN	STD. DEVIATION	RANGE
15	40.28	24.50	50.513	330
16	50.98	34.00	53.726	318
17	42.75	28.00	47.240	312

Table 4.44 – time taken for all cases reaching court to pass through bail process, by gender

GENDER	BAIL TIME PERIOD STATISTICS (in days)			
	MEAN	MEDIAN	STD. DEVIATION	RANGE
MALE	46.78	30.00	51.703	330
FEMALE	36.49	24.00	44.363	312

Table 4.45 – time taken for all cases reaching court and requiring bail period (at least 1 day) to pass through bail process, by age

AGE	BAIL TIME PERIOD STATISTICS (in days)			
	MEAN	MEDIAN	STD. DEVIATION	RANGE
15	45.28	29.00	51.402	329
16	55.45	38.00	53.774	317
17	45.90	29.00	47.450	311

Table 4.46 – time taken for all cases reaching court and requiring bail period (at least 1 day) to pass through bail process, by gender

GENDER	BAIL TIME PERIOD STATISTICS			
	MEAN	MEDIAN	STD. DEVIATION	RANGE
MALE	51.04	34.00	51.954	329
FEMALE	39.92	26.00	44.903	311

Appendix D

Schedule for interviews with Baytown youth court magistrates

MAGISTRATES' QUESTIONNAIRE

- Thank you for agreeing to take part in the research. Can I take this opportunity to assure you that all the information that you give me during this interview will remain completely anonymous. No records will be kept with your name on them, and all quotes used in the final written research report will be anonymised.
- On a scale of 1 to 5, to what extent would you agree with the following statements about your experiences of the Swansea Bail Support Scheme? Please choose the number that best fits the level of your agreement with the statements. The higher the number, the higher the level of agreement is that has been expressed by you.

Strongly disagree 1 2 3 4 5

THE RELATIONSHIP BETWEEN BAIL SUPPORT WORK AND THE
BAIL SERVICES GENERALLY

1. The bail support scheme for young people is an integrated part of
the local youth justice process.

Strongly disagree 1 2 3 4 5

Please give reasons for your answer:

2. The majority of young people who come before Swansea Youth
Court and are bailed are not suitable for placement on the bail
support scheme, because they do not need the intensive
conditions that come with bail support work to help them comply
with the conditions of bail.

Strongly disagree 1 2 3 4 5

Please give reasons for your answer:



3. The bail support project is an effective project in targeting the criteria regarding exceptions to bail as set out in the 1976 Bail Act, and therefore in increasing the chances of bail.

Strongly disagree 1 2 3 4 5

Please give reasons for your answer:

QUALITY OF INFORMATION ABOUT BAIL SERVICES

4. When you first sat in the Youth Court, the Youth Offending Team took steps to fully inform you about the way in which local bail services worked.

Strongly disagree 1 2 3 4 5

Please give reasons for your answer:

5. Currently, the Youth Offending Team continues to keep you updated with the way in which bail services are being used – rates of usage, programme components available, and so on.

Strongly disagree 1 2 3 4 5

Please give reasons for your answer:

6. The presentation and operation of the programme in court by YOT workers is helpful, well prepared and comprehensive.

Strongly disagree 1 2 3 4 5

Please give reasons for your answer:

7. The courts trust the recommendations made by the YOT workers as regards the most appropriate bail outcome for each young person.

Strongly disagree 1 2 3 4 5

Please give reasons for your answer:

RELEVANCE OF BAIL SERVICES TO LOCAL YOUTH JUSTICE AIMS

8. The existence of the bail support scheme can make the difference between remanding a young person to custody and allowing him or her to remain in the community.

Strongly disagree 1 2 3 4 5

Please give reasons for your answer:

9. The bail support scheme is always put before the court and considered as an option in cases where a young person is in danger of being denied bail.

Strongly disagree 1 2 3 4 5

Please give reasons for your answer:

10. Bail support is an essential part of the bail services offered by the YOT.

Strongly disagree 1 2 3 4 5

Please give reasons for your answer:

OBSTACLES TO BETTER PERFORMANCE

Using a similar scale of 1 to 5 to the one used above, to what extent would you agree that the following factors affect the performance of the Swansea YOT bail services generally, and the bail support scheme for young people in particular?

Strongly disagree 1 2 3 4 5

11. A lack of financial resources?

BAIL SERVICES GENERALLY: 1 2 3 4 5

BAIL SUPPORT SCHEME PARTICULARLY: 1 2 3 4 5

Please give reasons for your answers

12. A lack of staffing resources?

BAIL SERVICES GENERALLY: 1 2 3 4 5

BAIL SUPPORT SCHEME PARTICULARLY: 1 2 3 4 5

Please give reasons for your answers

13. The transfer of all young people from this area who are bailed in custody away from the local prison?

BAIL SERVICES GENERALLY: 1 2 3 4 5

BAIL SUPPORT SCHEME PARTICULARLY: 1 2 3 4 5

Please give reasons for your answers

14. Overcrowding in the youth justice secure estate generally?

BAIL SERVICES GENERALLY: 1 2 3 4 5

BAIL SUPPORT SCHEME PARTICULARLY: 1 2 3 4 5

Please give reasons for your answers

15. The needs of young people on bail?

BAIL SERVICES GENERALLY: 1 2 3 4 5

BAIL SUPPORT SCHEME PARTICULARLY: 1 2 3 4 5

Please give reasons for your answers

16. Protection of the public from offending by young people on bail?

BAIL SERVICES GENERALLY: 1 2 3 4 5

BAIL SUPPORT SCHEME PARTICULARLY: 1 2 3 4 5

Please give reasons for your answers

17. The needs of the victims of youth crime?

BAIL SERVICES GENERALLY: 1 2 3 4 5

BAIL SUPPORT SCHEME PARTICULARLY: 1 2 3 4 5

Please give reasons for your answers

18. The need for efficiency in the court process, in terms of reducing the time it takes for each case to pass through the youth justice system, from first appearance in court to final sentencing outcome?

BAIL SERVICES GENERALLY: 1 2 3 4 5

BAIL SUPPORT SCHEME PARTICULARLY: 1 2 3 4 5

Please give reasons for your answers

19. The nature and extent of recorded youth crime locally?

BAIL SERVICES GENERALLY: 1 2 3 4 5

BAIL SUPPORT SCHEME PARTICULARLY: 1 2 3 4 5

Please give reasons for your answers

IMPROVEMENTS

20. Can you think of any ways in which the YOT's bail services, and the bail support scheme in particular, could be improved? If you can think of ways in which the service might be improved in each aspect, please give details:

BAIL SERVICES GENERALLY?

BAIL SUPPORT SCHEME IN PARTICULAR?

21. Are there any other comments you would like to make about the issues covered in this interview?

- Thank you for taking part in the research. Can I emphasise once again that the information you have provided will be anonymised in all written records and reports.

Appendix E

Figures illustrating the responses to the quantitative Likert scale questions asked as part of the magistrates' interview schedule

The bar charts in Appendix E show the full range of responses to the quantitative Likert scale questions asked as part of the magistrates' interview schedule. The quantitative data reported on in Chapter Seven above draws on the results illustrated here. All references to individual figures in Chapter Seven apply to the charts included in this appendix.

Fig. 7.1 – 'bail support is an integrated part of the local youth justice process'

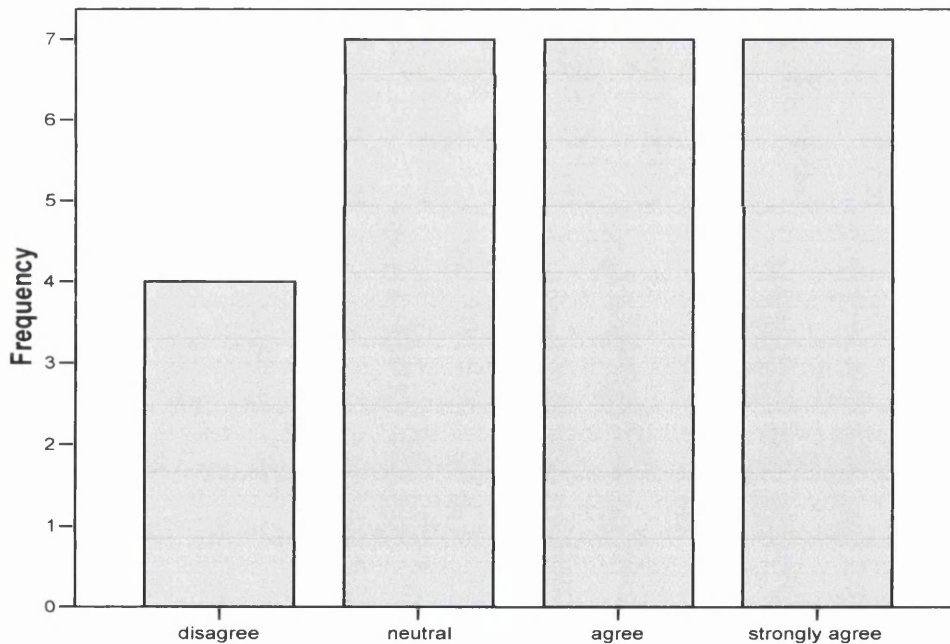


Fig. 7.2 – ‘the majority of young people in Baytown are not suitable for bail support work’

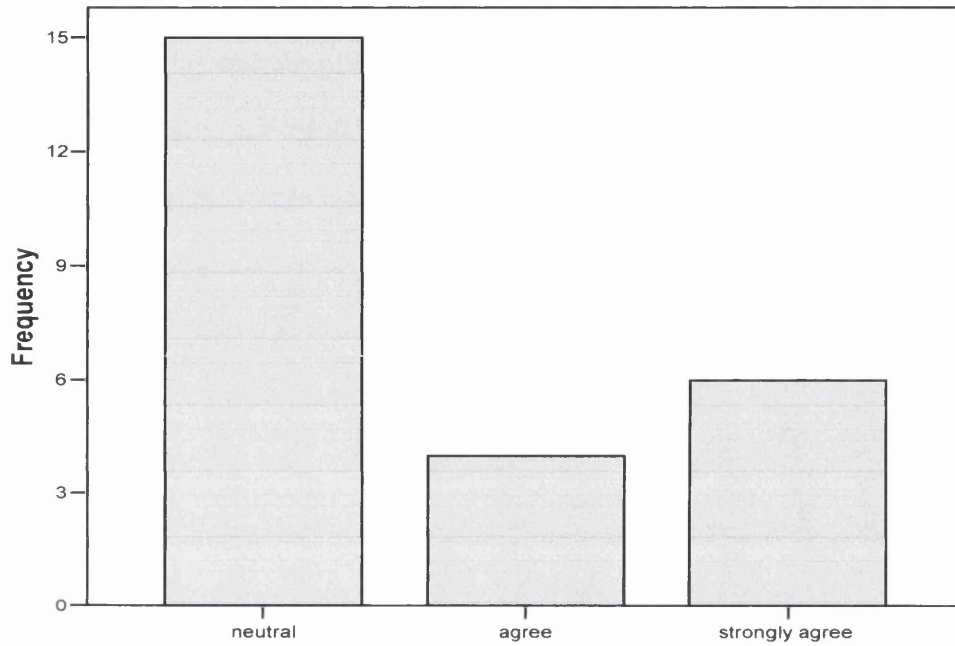


Fig. 7.3 – ‘the Baytown bail support scheme is effective in targeting the criteria for denying bail contained in the 1976 Bail Act’

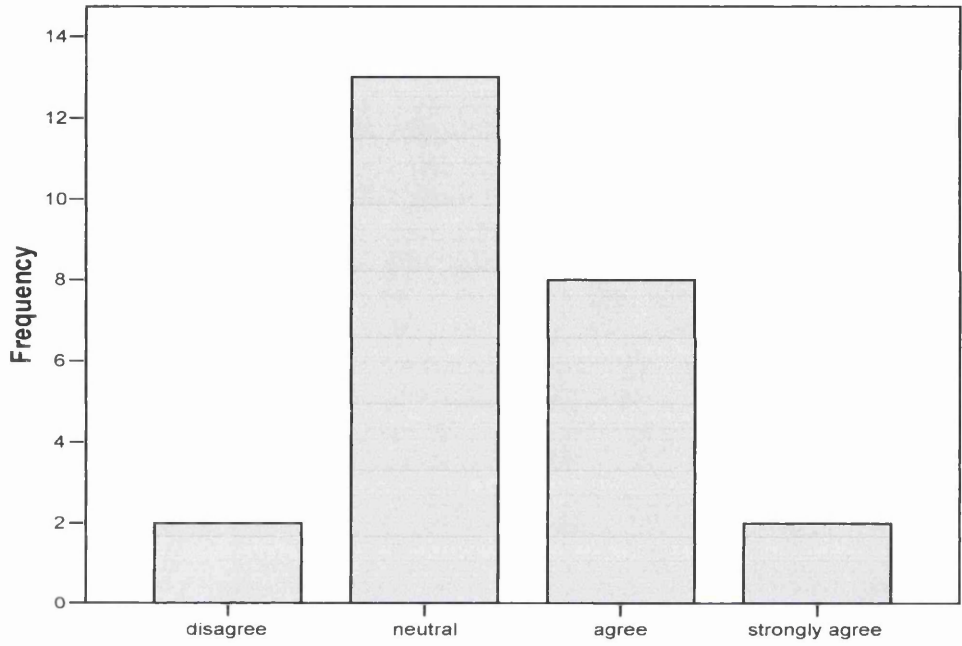


Fig. 7.4 – ‘magistrates were well-informed about bail services when they first sat in the Baytown youth court’

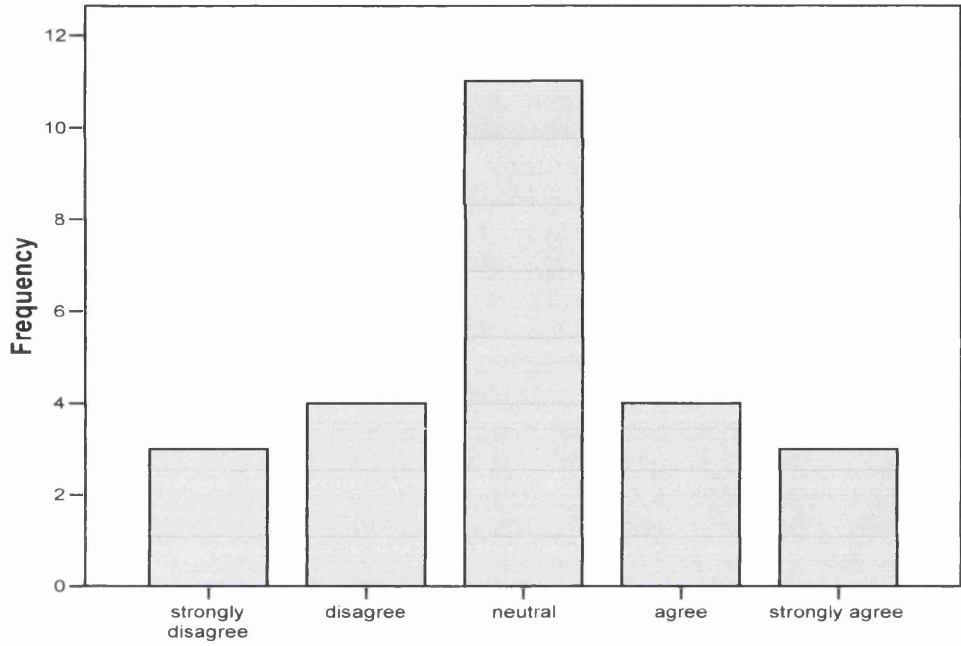


Fig. 7.5 – ‘magistrates are still well-informed about bail services

currently’

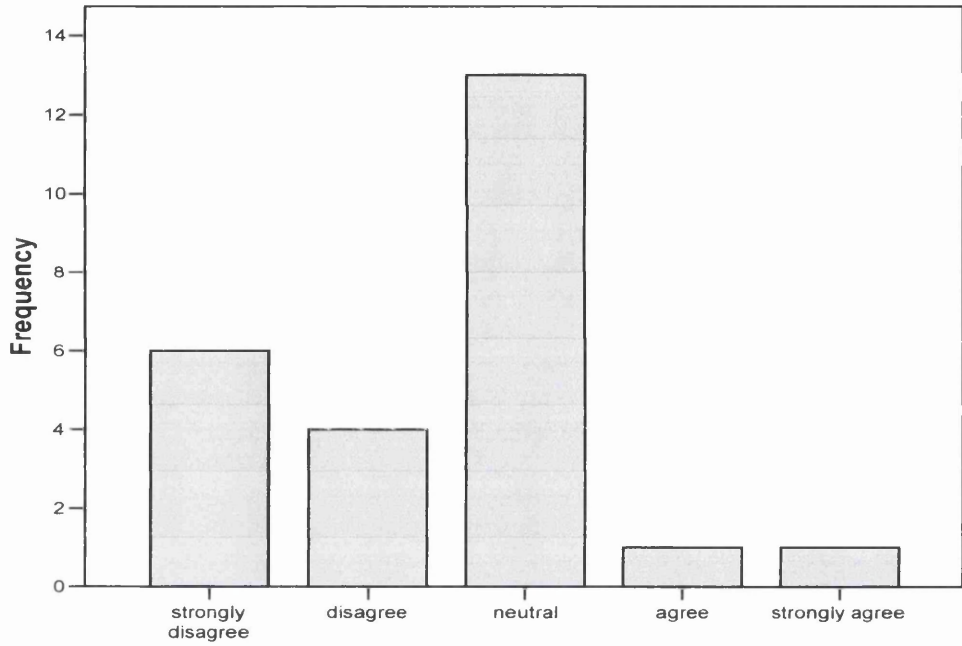


Fig. 7.6 – ‘YOT presentation of bail information in court is helpful, well-prepared and comprehensive’

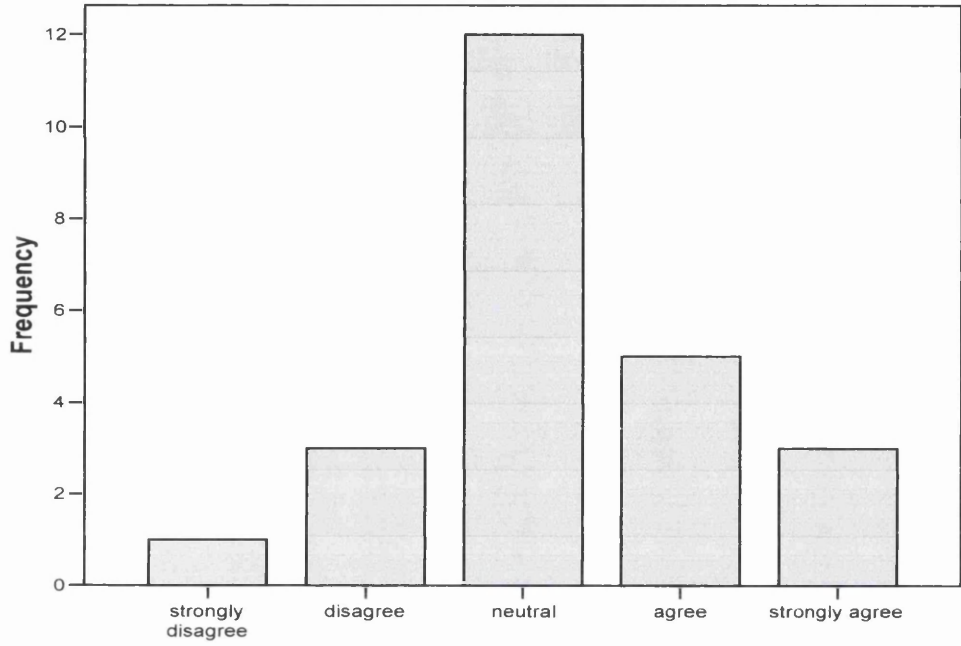


Fig. 7.7 – ‘Baytown magistrates trust bail recommendations made by

YOT staff’

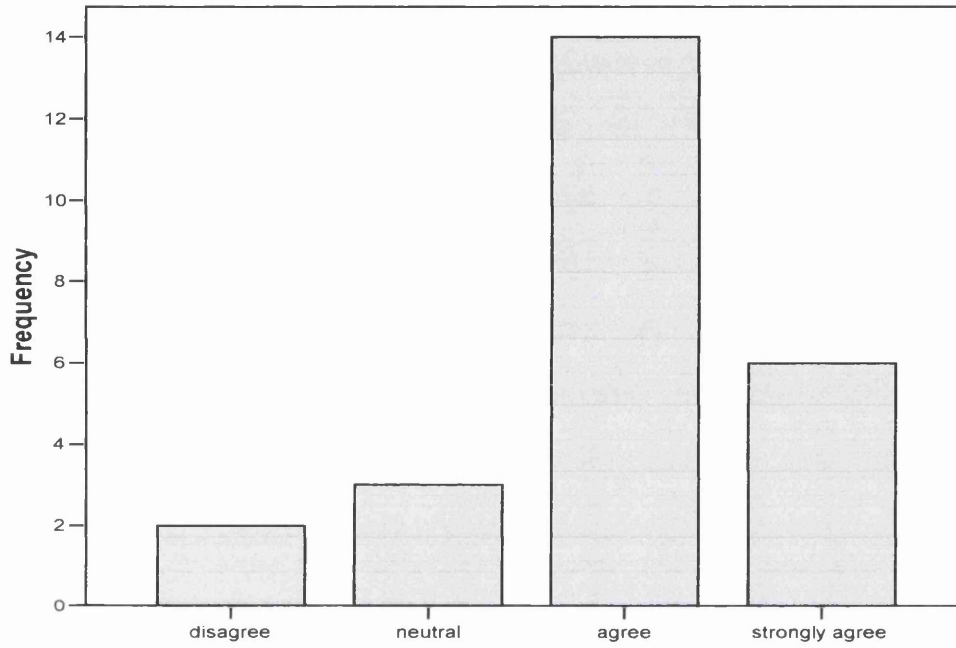


Fig. 7.8 – ‘bail support can make the difference between bail and remand to custody’

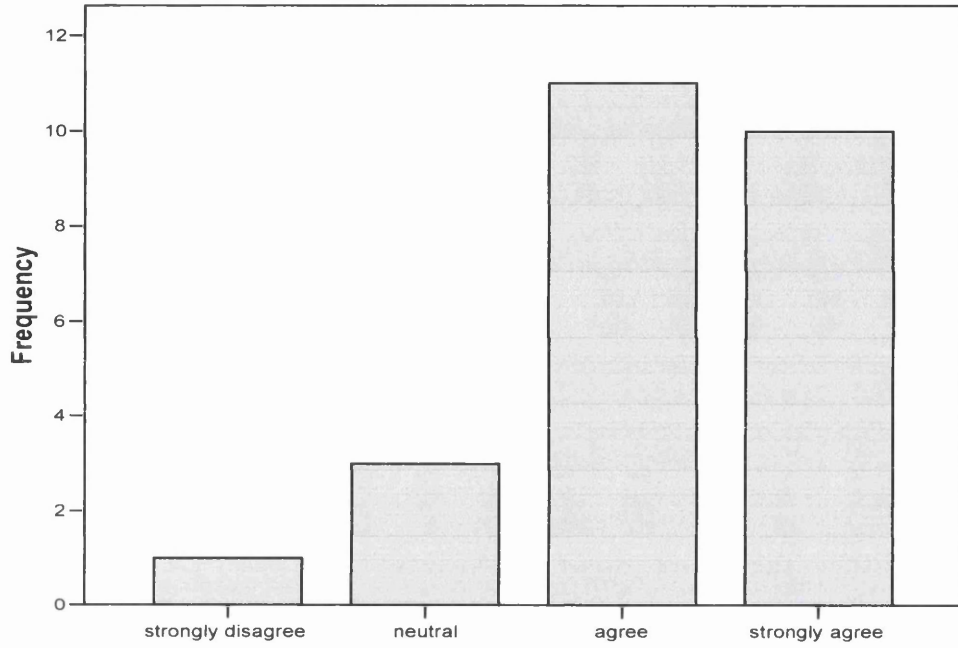


Fig. 7.9 – ‘bail support is always put before the court as an option where a young person is at risk of being denied bail’

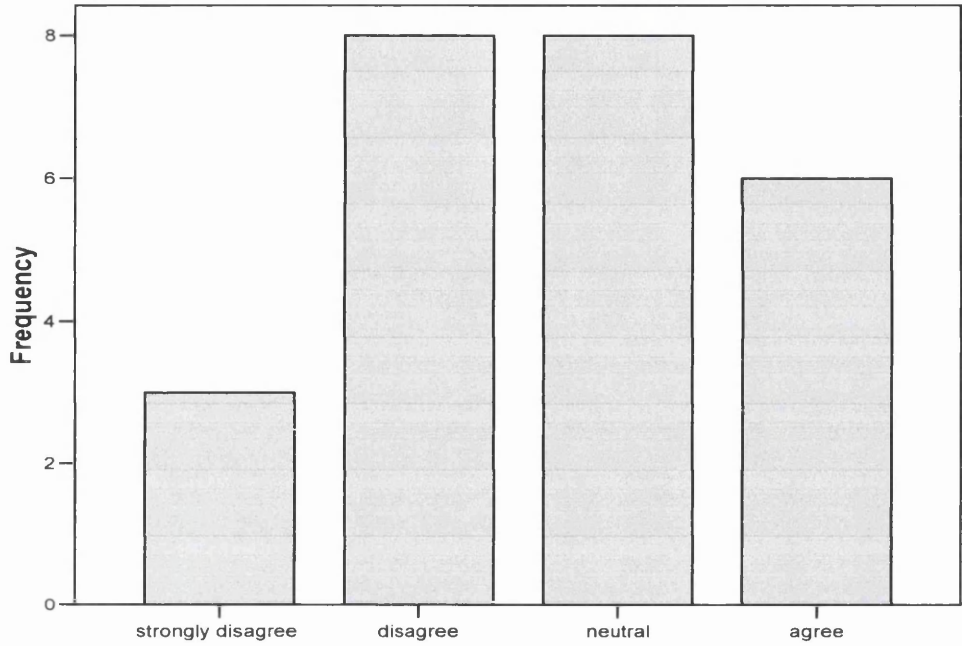


Fig. 7.10 – ‘bail support is an essential part of the bail services offered by the Baytown YOT’

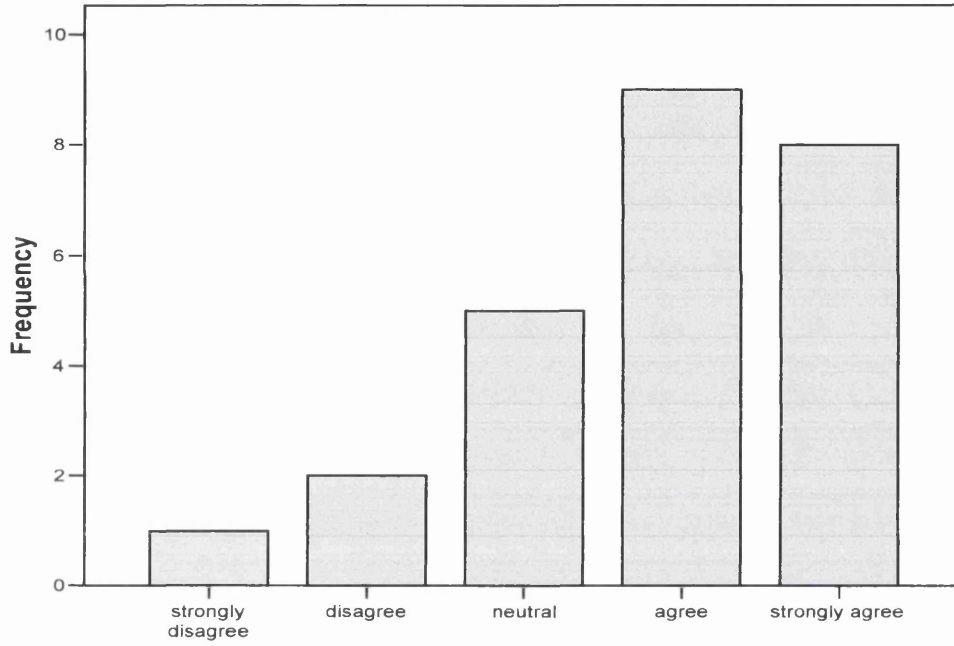


Fig. 7.11a – ‘lack of financial resources is an obstacle to bail services

generally’

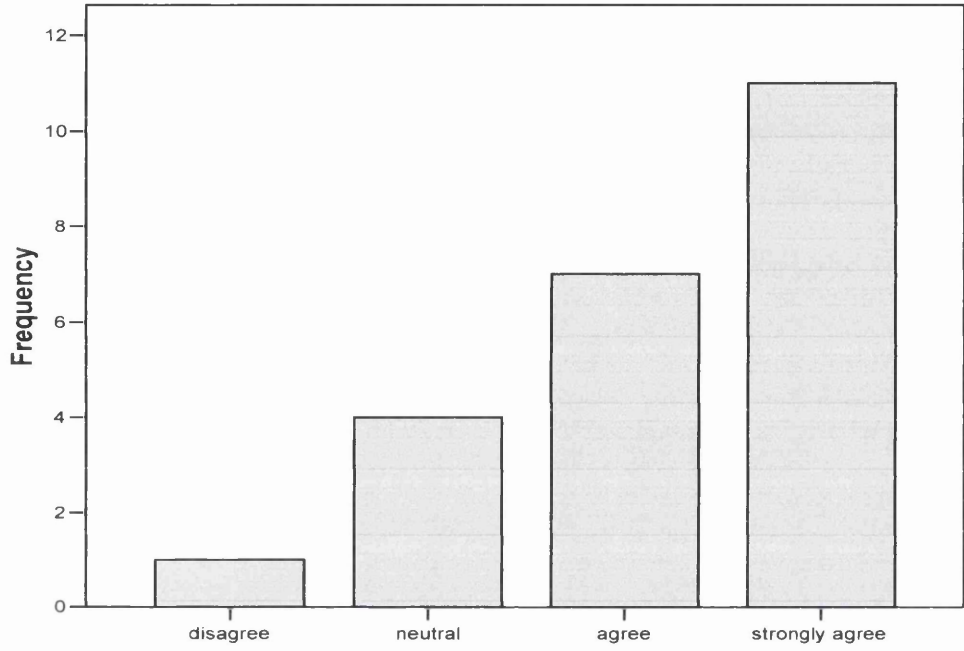


Fig. 7.11b – ‘lack of financial resources is an obstacle to bail support work in particular’

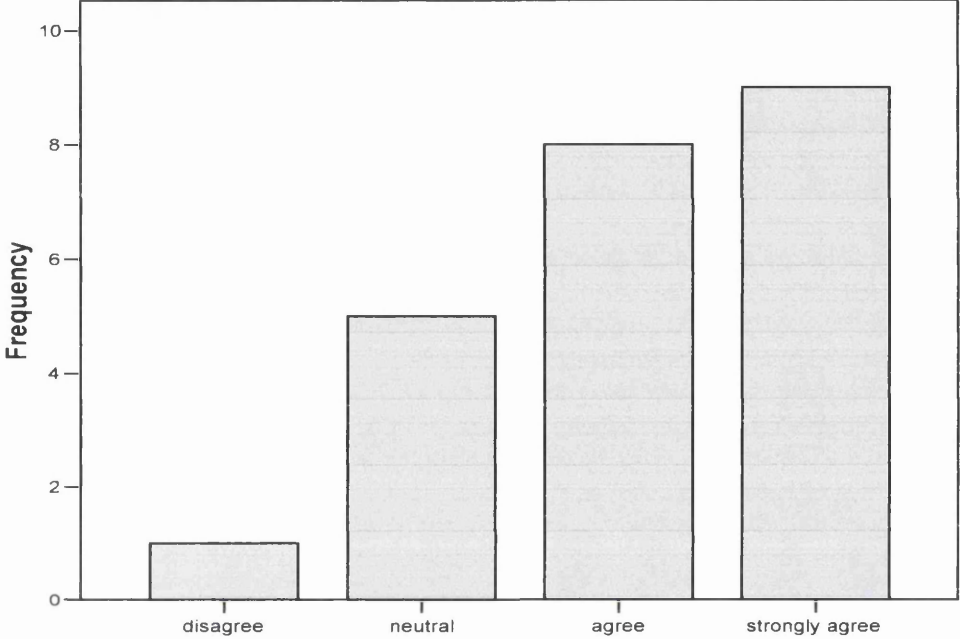


Fig. 7.12a – ‘lack of staffing resources is an obstacle to bail services generally’

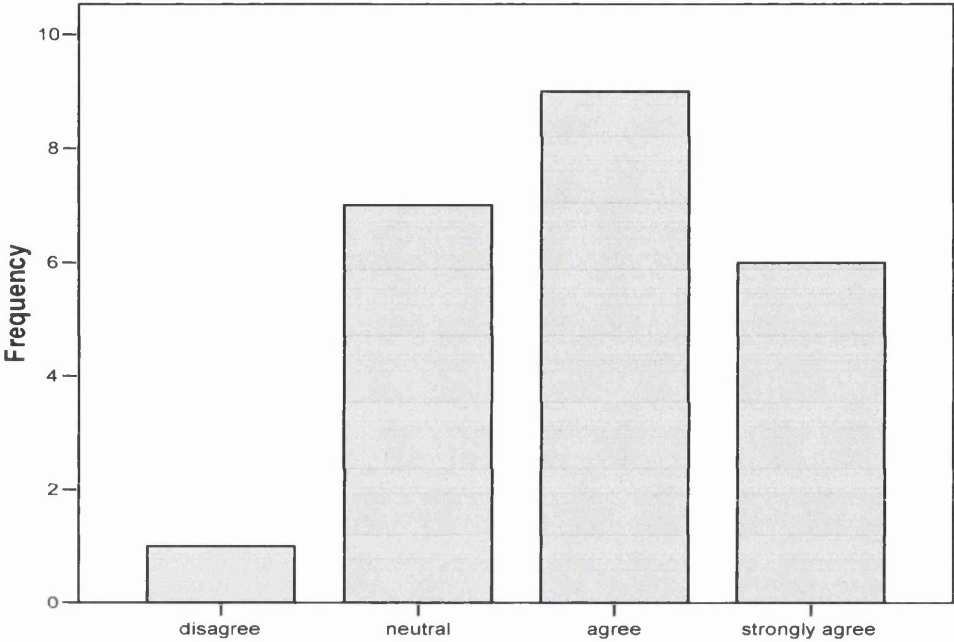


Fig. 7.12b – ‘lack of staffing resources is an obstacle to bail support work in particular’

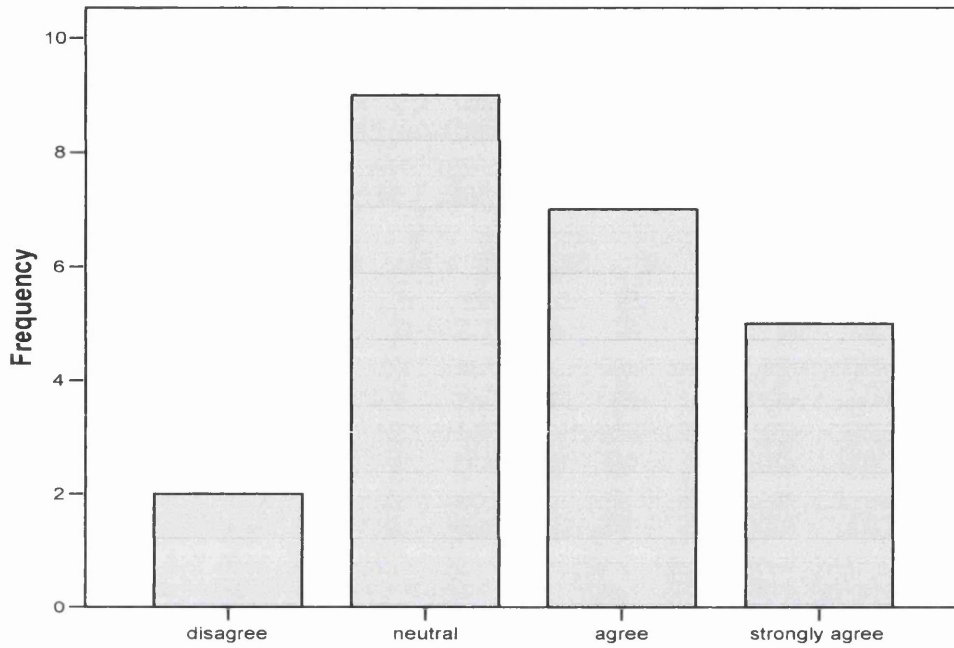


Fig. 7.13a – ‘the transfer of young people who have been remanded to custody away from HMP Baytown is an obstacle to bail services generally’

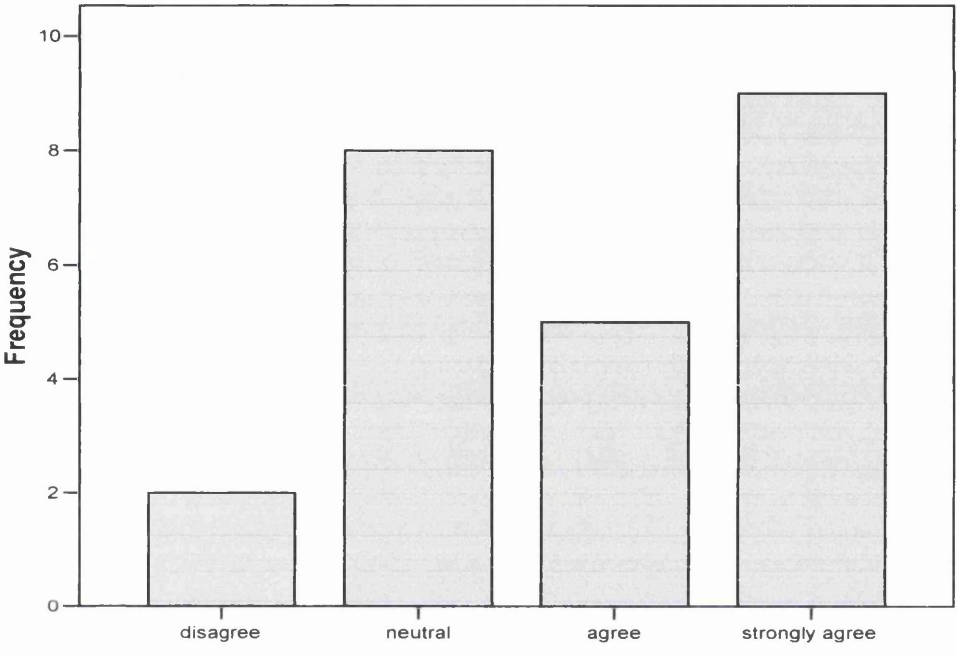


Fig. 7.13b – ‘the transfer of young people who have been remanded to custody away from HMP Baytown is an obstacle to bail support work in particular’

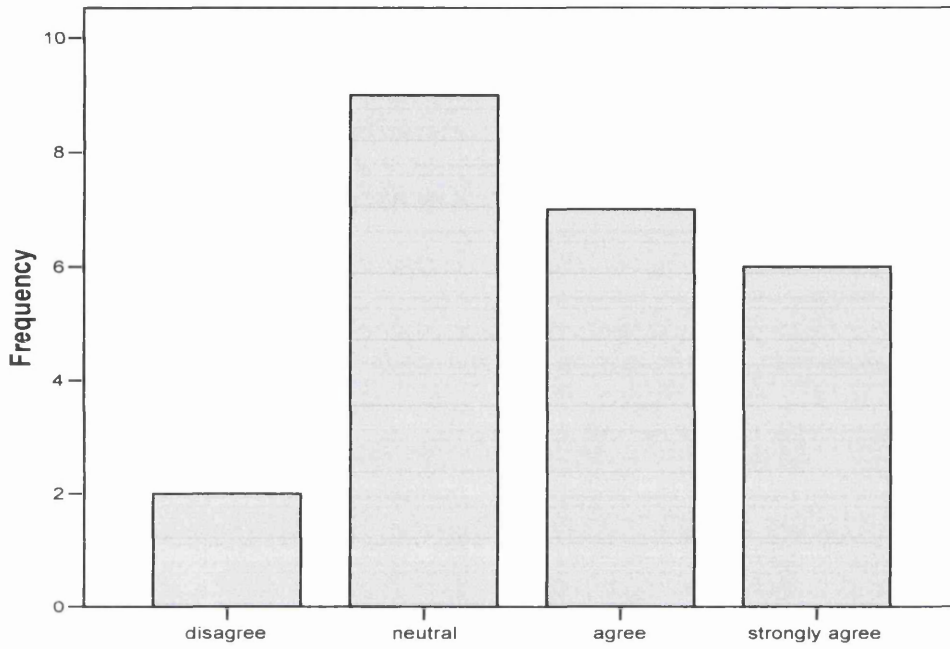


Fig. 7.14a – ‘overcrowding in the youth justice secure estate is an obstacle to bail services generally’

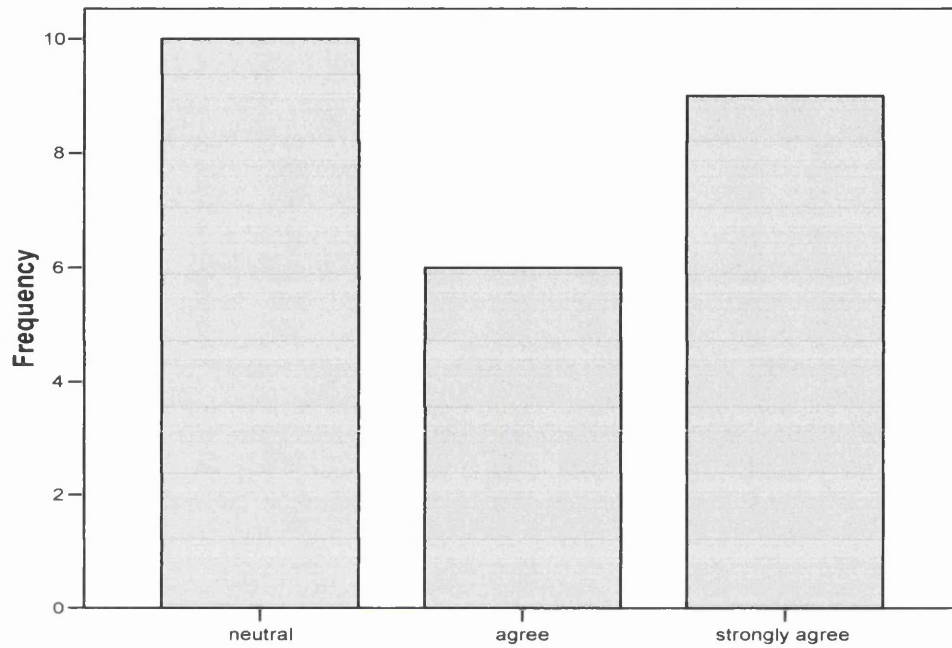


Fig. 7.14b – ‘overcrowding in the youth justice secure estate is an obstacle to bail support work in particular’

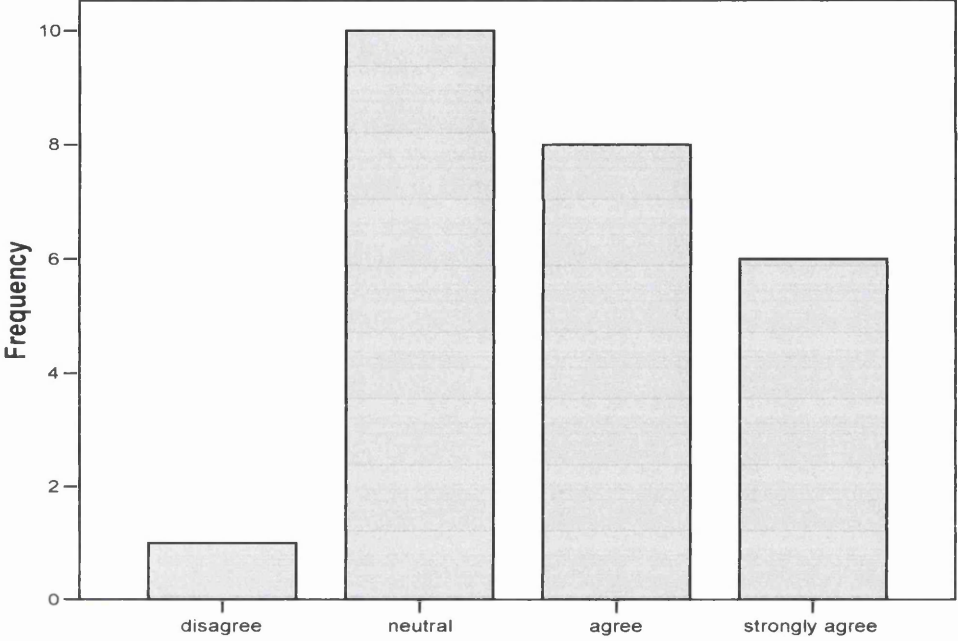


Fig. 7.15a – ‘meeting the needs of young people on bail is a key part of bail services generally’

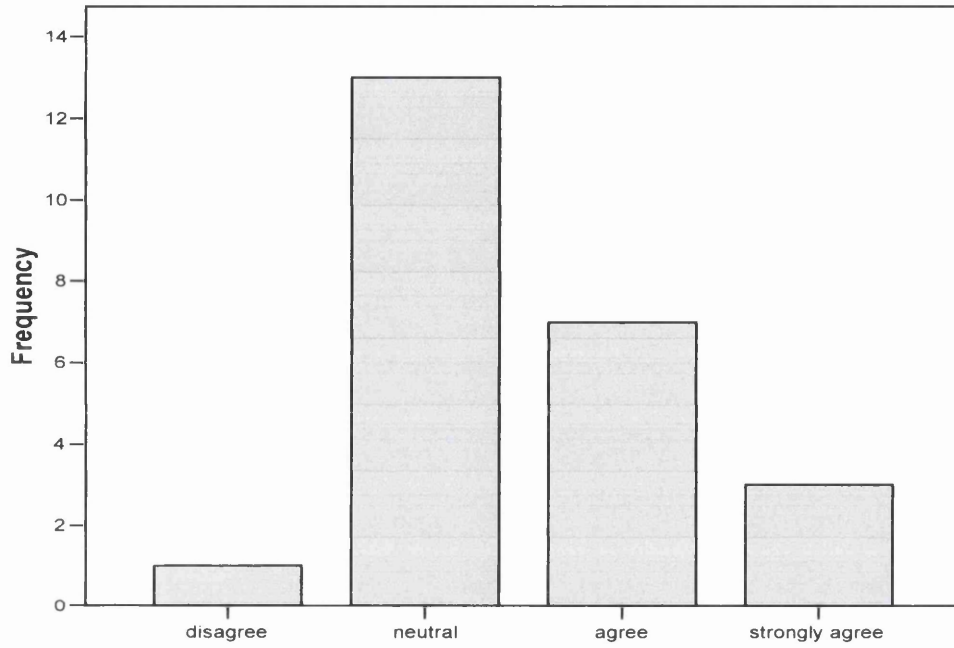


Fig. 7.15b – ‘meeting the needs of young people on bail is a key part of bail support work in particular’

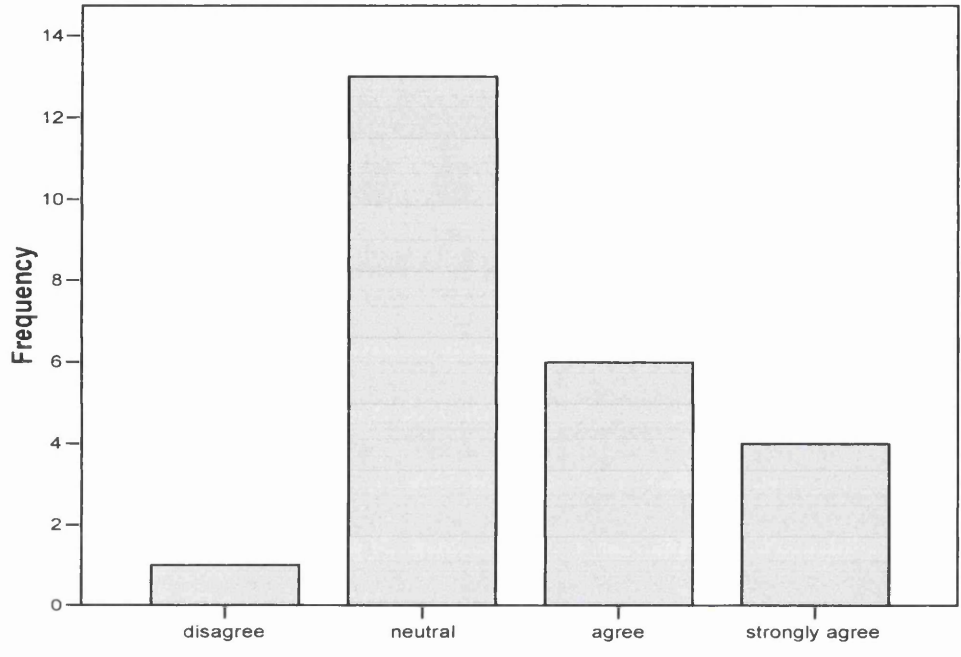


Fig. 7.16a – ‘protection of the public is a key part of bail services generally’

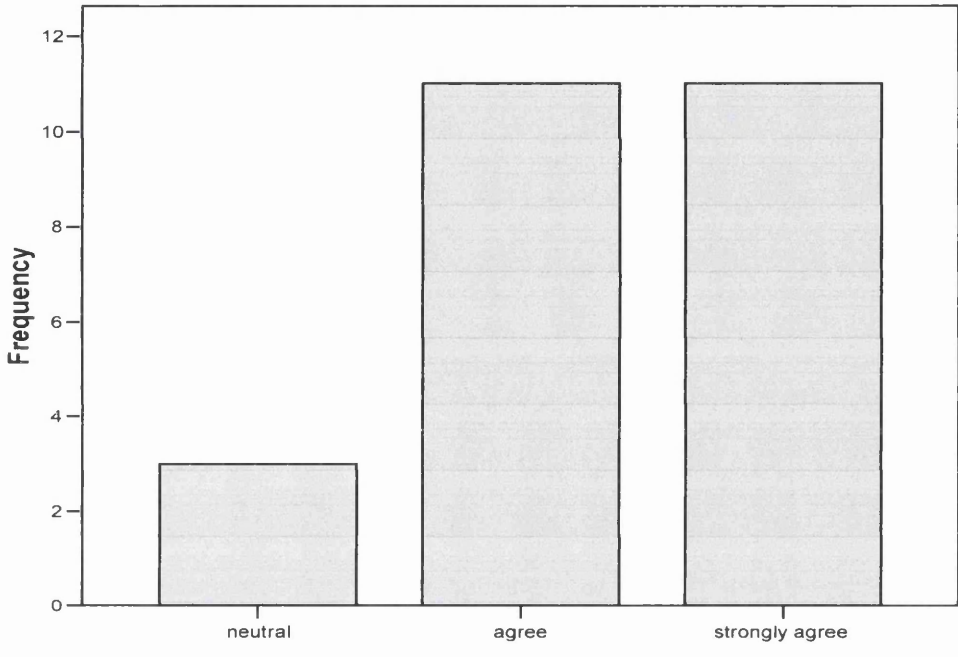


Fig. 7.16b – ‘protection of the public is a key part of bail support work in particular’

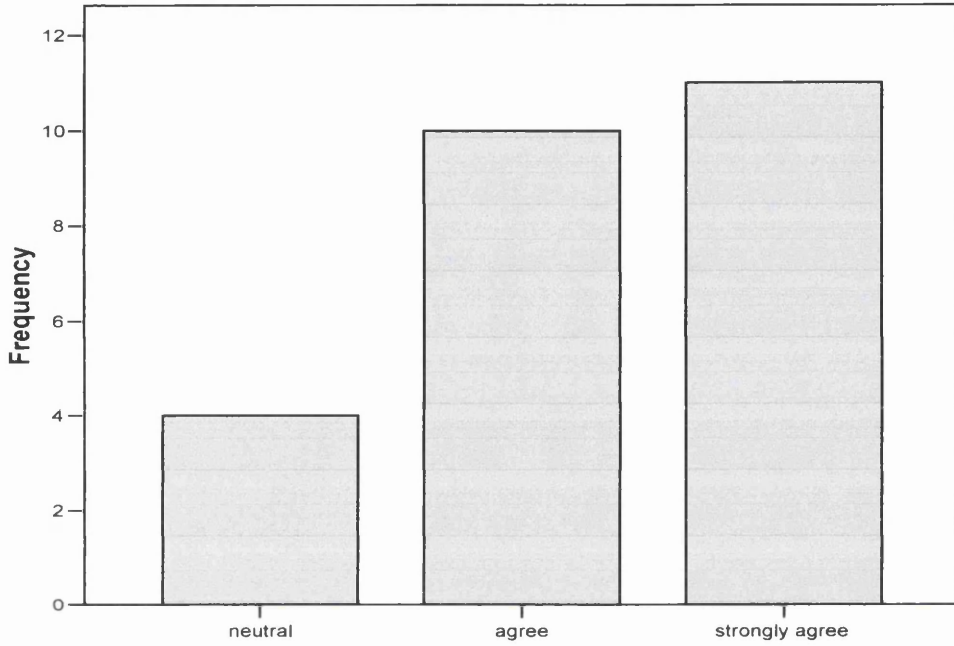


Fig. 7.17a – ‘meeting the needs of victims of crime is a key part of bail services

generally’

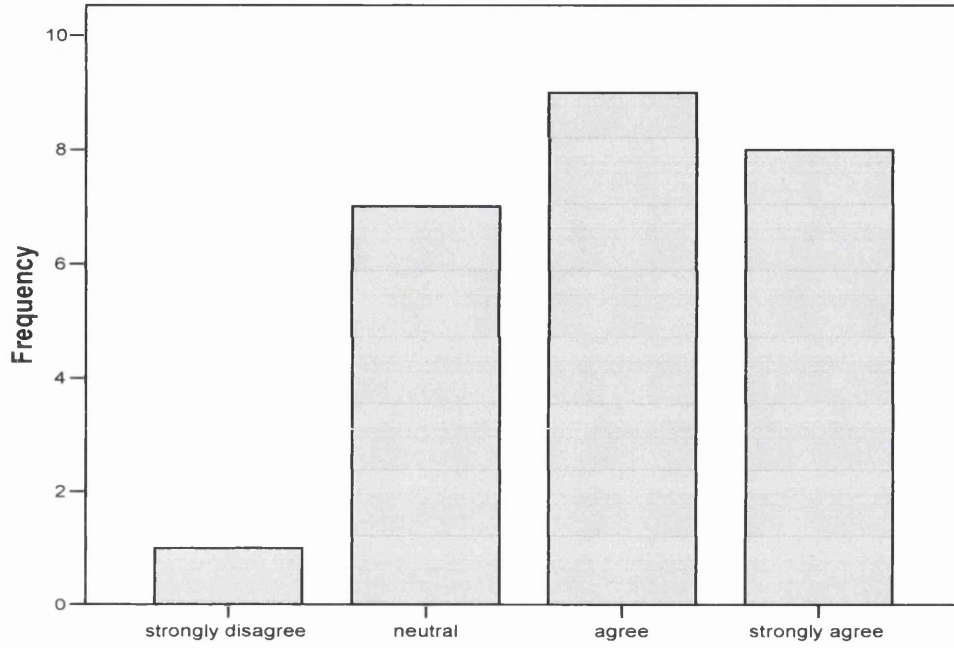


Fig. 7.17b – ‘meeting the needs of victims of crime is a key part of bail support work in particular’

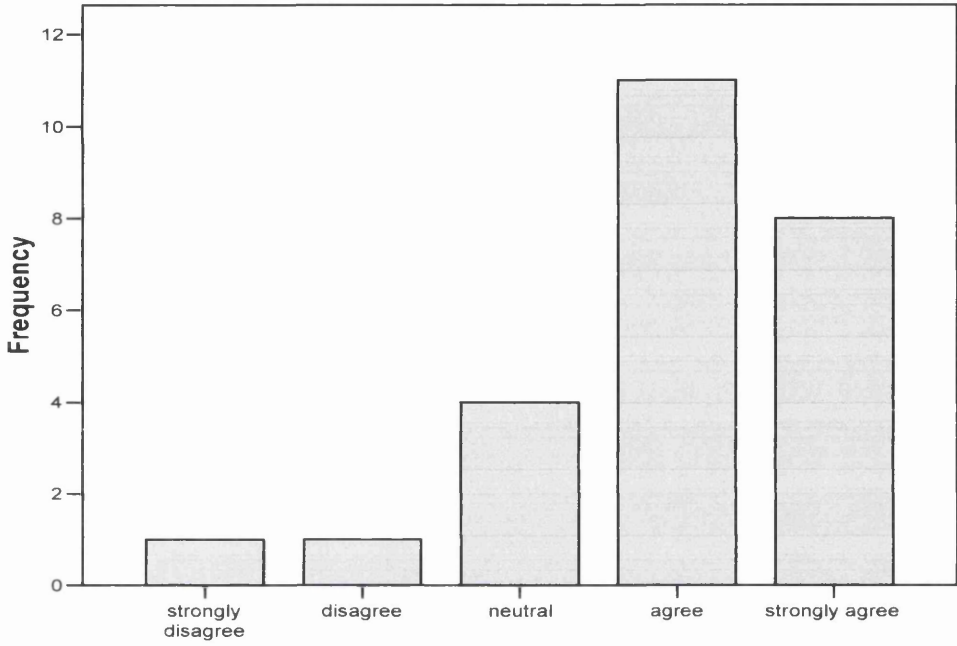


Fig. 7.18a – ‘improving time efficiency is a key part of bail services generally’

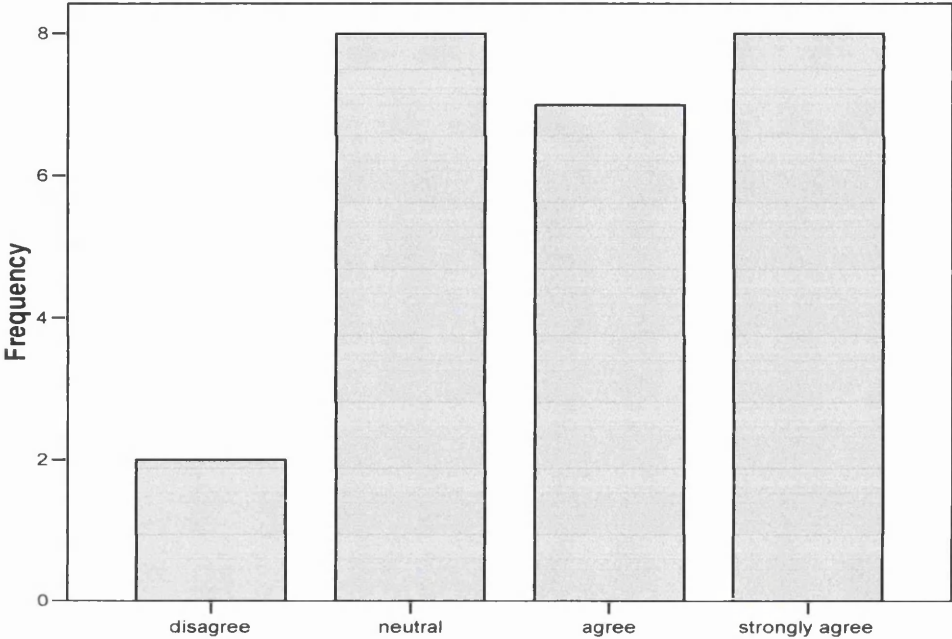


Fig. 7.18b – ‘improving time efficiency is a key part of bail support work in particular’

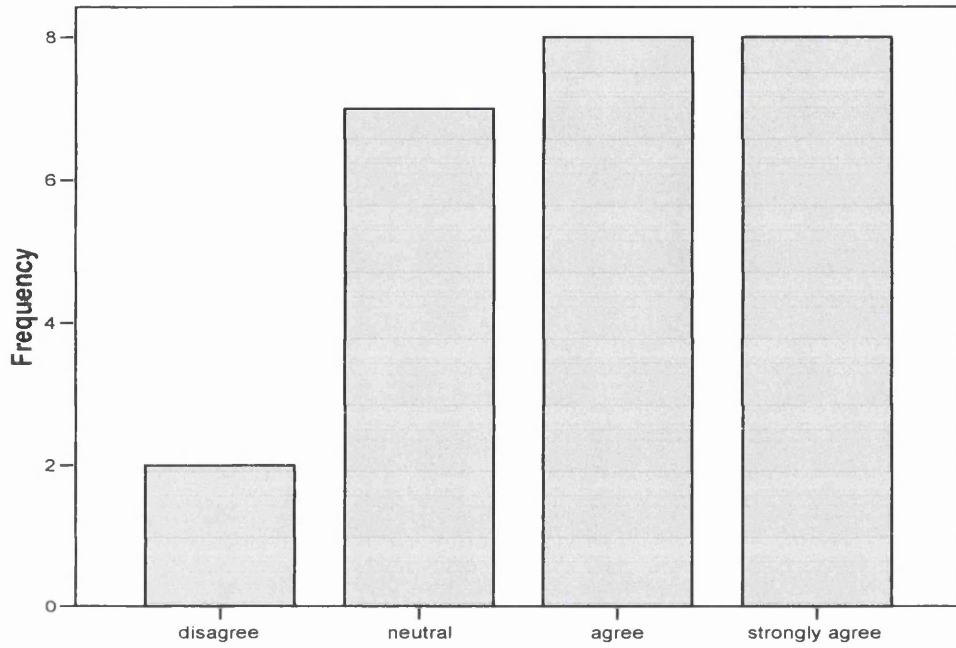


Fig. 7.19a – ‘the nature and extent of recorded youth crime in Baytown plays a key part in directing bail services generally’

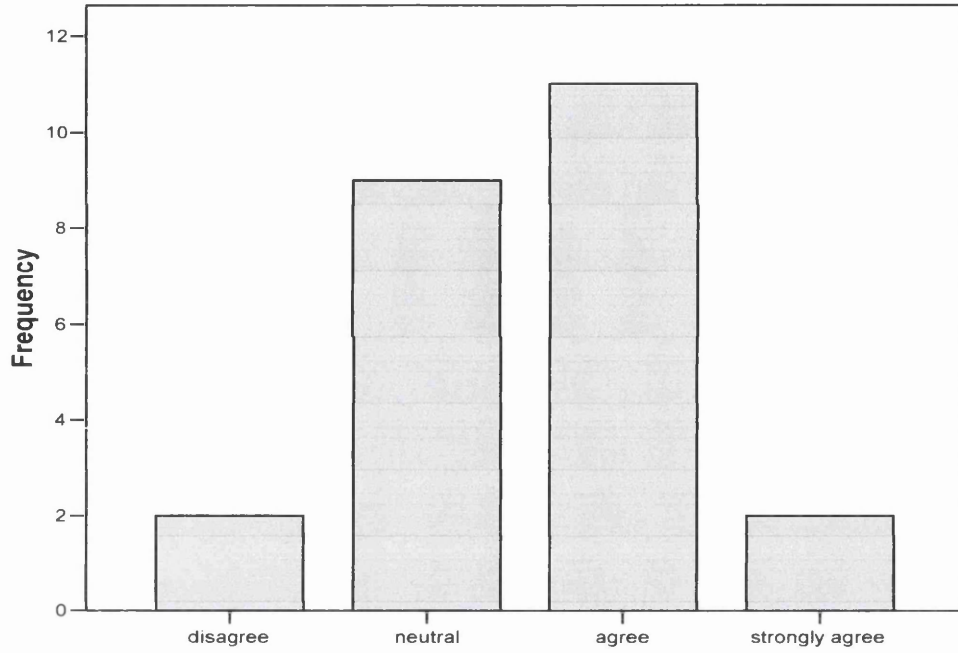
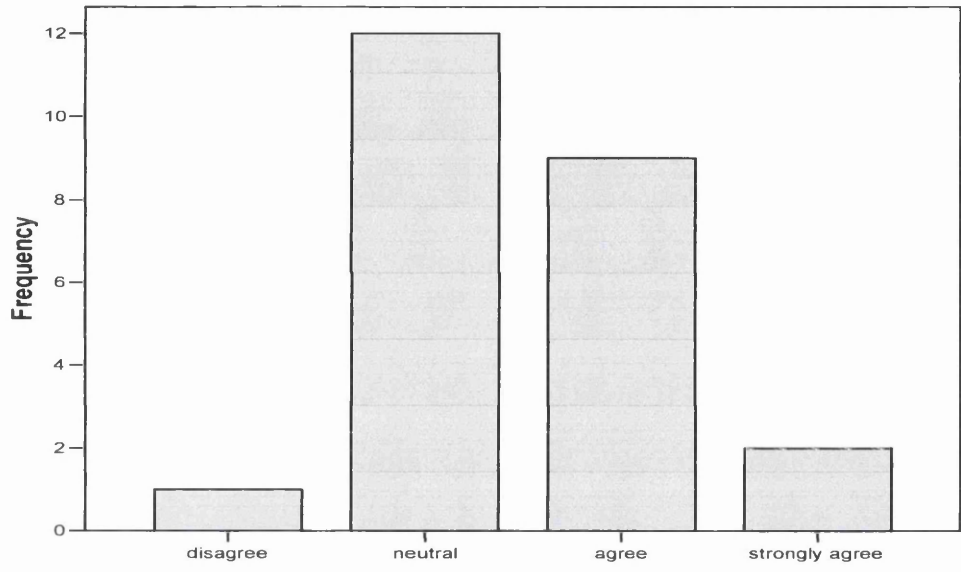


Fig. 7.19b – ‘the nature and extent of recorded youth crime in Baytown plays a key part in directing bail support work in particular’



Appendix F

Schedule for interviews with young people

YOUNG PERSONS' QUESTIONNAIRE

INTRODUCTION

Thank you for agreeing to take part in this research. None of the information that you give me will have your name on it if it is used in the research report, so no-one will be able to tell what you have said.

BACKGROUND INFORMATION

1. How old are you? _____ years (_____ when on bail support)
2. What were you doing before you went onto the bail support project (e.g. school, work, training, etc.)?

WHAT HAPPENED IN COURT, BEFORE YOU WENT ONTO THE BAIL
SUPPORT SCHEME

3. Had you heard about the project before you were referred onto it, for example did you know about the leaflets about the project available in the court?

Yes

No

4. Did you go onto the project the first time you appeared in court?

Yes

No

5. Before you actually started on the project, how did you feel about going onto it?

6. Did you plead guilty or show you were sorry for committing the offence before you were placed on the bail support scheme?

Yes

No

7. On a scale of 1 to 5, how much do you agree with this statement?

My bail support application was well presented in court by the YOT or solicitor.

Strongly disagree 1 2 3 4 5

Why did you give this answer?

YOUR NEEDS AND PROBLEMS

8. What needs and problems would you say are important in your life?

Do you think they have played a part in you committing crime? Why did you give these answers?

INFORMATION ABOUT WORK YOU HAVE DONE AS PART OF THE
BAIL SUPPORT SCHEME

9. Which of these things did you have to do as part of your bail support package? Did you think doing these things was useful, and why?

a) A curfew, or reporting at a police station (if you had to go to the police, how often did you have to go?)

Was it useful? Yes No

Why?

b) Complying with what the Youth Offending Team told you to do?

Was it useful? Yes No

Why?

c) Having to live in one particular place while you were on bail support?

Was it useful? Yes No

Why?

d) Training or education?

Was it useful? Yes No

Why?

e) Drug or alcohol treatment (if so, who did you do this with?)

Was it useful? Yes No

Why?

f) Not speaking to or meeting up with certain people?

Was it useful? Yes No

Why?

g) Anything else? If so, what?

Was it useful? Yes No

Why?

10. Did you breach the bail support package?

 Yes No

If you did, what did you do to breach the bail support package?

AFTER BAIL SUPPORT

11. Did you think that being on bail support made a positive difference to what happened to you afterwards (including the sentence you got)?

Yes No

Why?

12. Are you in prison now, or have you been in prison before?

Yes No

13. In general, what does being on bail or bail support mean to you?

14. In general, what does prison and being in prison mean to you?

15. Is there anything else you would like to say about the questions I've asked you?

Thank you again for agreeing to let me interview you. Can I just remind you that your name will not appear on any of the information that you have given me which is used in the final written report of the research, so nobody will be able to tell what you have said, or even that you have taken part in the research.

Appendix G

Figures illustrating the responses to the quantitative Likert scale questions asked as part of the young people's interview schedule

Appendix G includes the full responses to the quantitative Likert scale questions asked as part of the young person's interview schedule. The data from these questions is reported on and discussed in Chapter Eight above, and references to individual figures in Chapter Eight refer to and correspond with the figures included in this appendix.

Fig. 8.1 – 'did you plead guilty or show you were sorry for committing the offence before you were placed on the bail support scheme?'

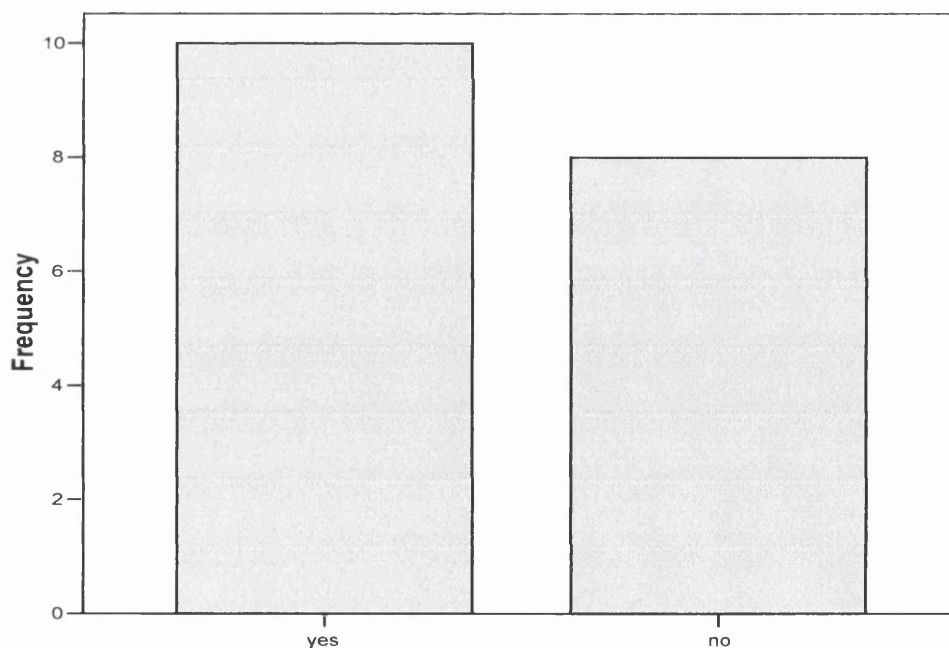


Fig. 8.2 – ‘my bail support application was well presented in court by the

YOT or solicitor’

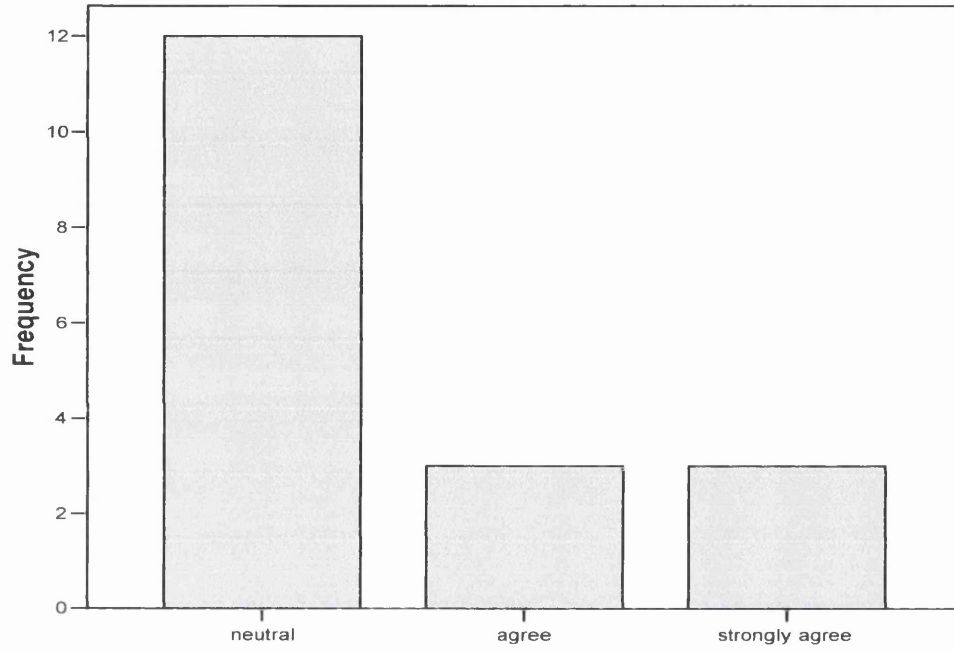
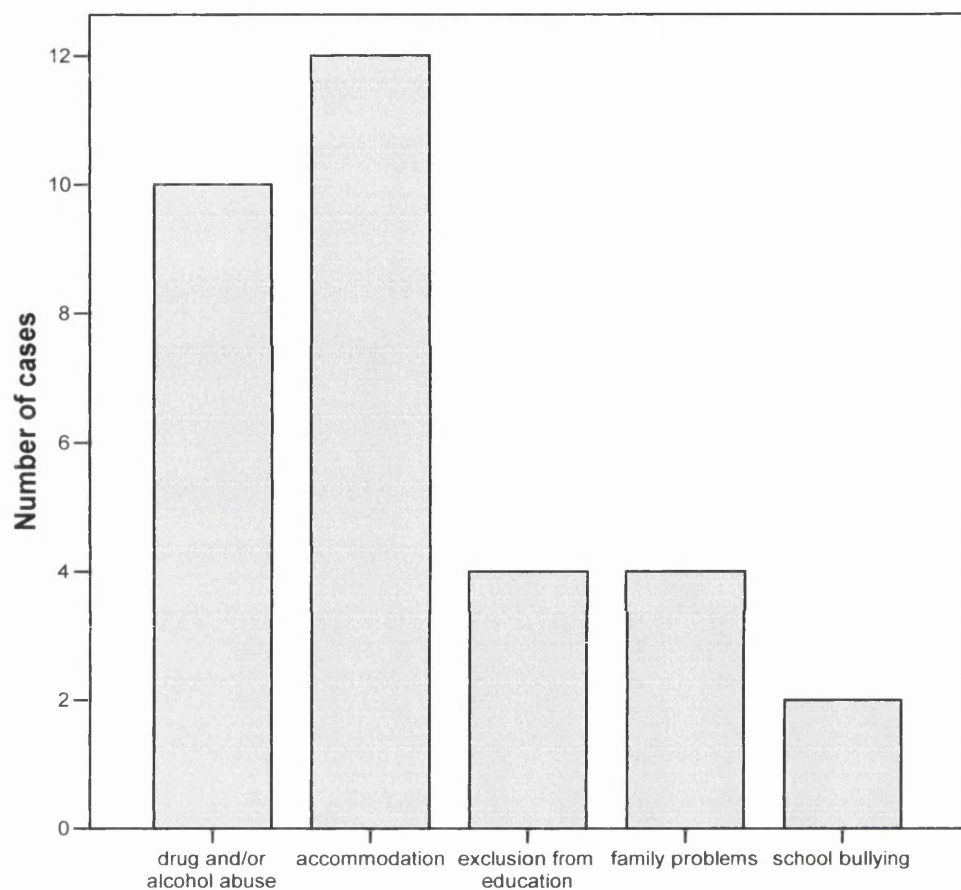


Fig. 8.3 – social needs identified as reasons for offending¹⁹⁰



¹⁹⁰ In Figure 8.3, the responses for family problems and school bullying as needs which were factors in offending were the result of the 'other' option on the questionnaire, i.e. after the interviewees had been asked about the specified options, they were also asked if there were any other social needs contributing to their offending which had not yet been mentioned.

Fig. 8.4 – conditions of bail support imposed

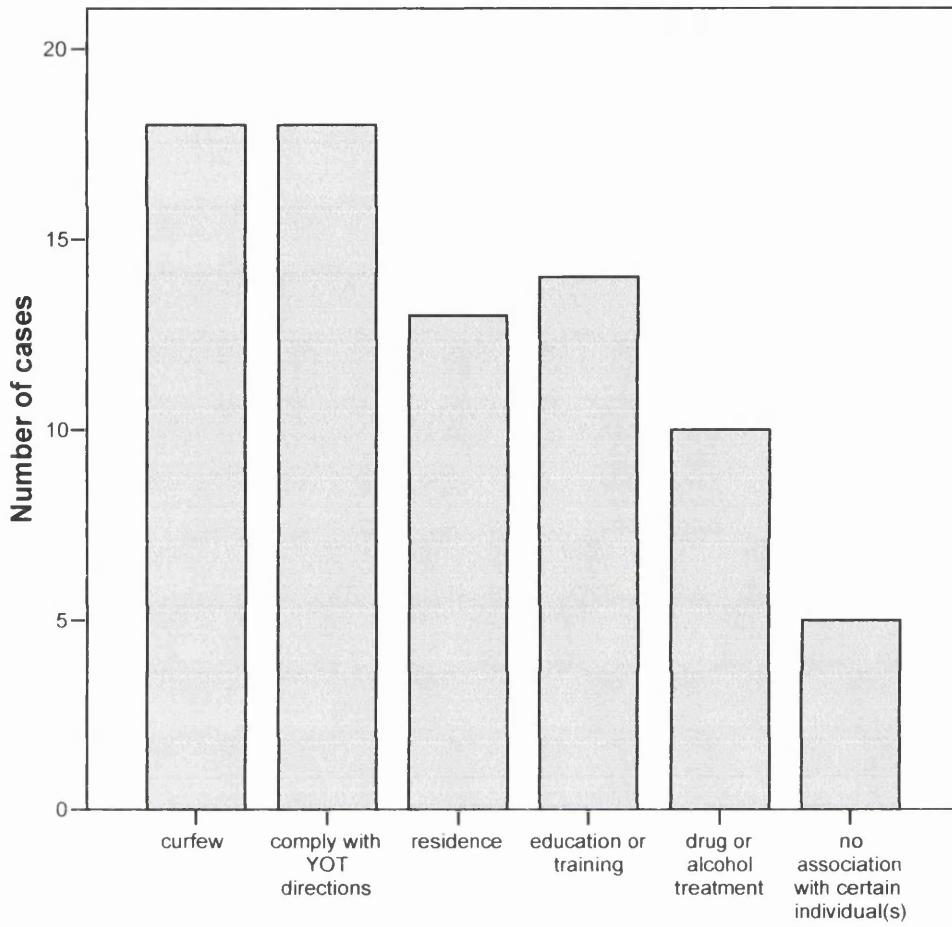


Fig. 8.5 – number of interviews reporting usefulness of conditions imposed, in terms of helping to prevent future re-offending

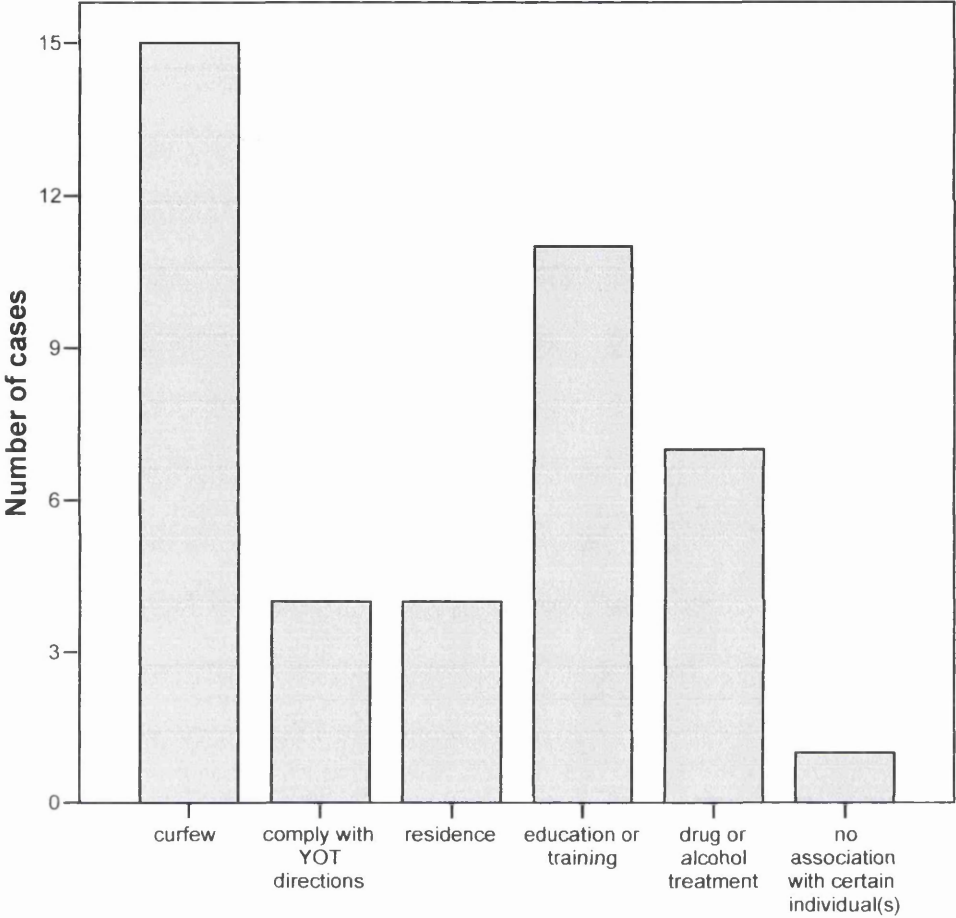


Fig. 8.6 – incidence of breach of bail support conditions

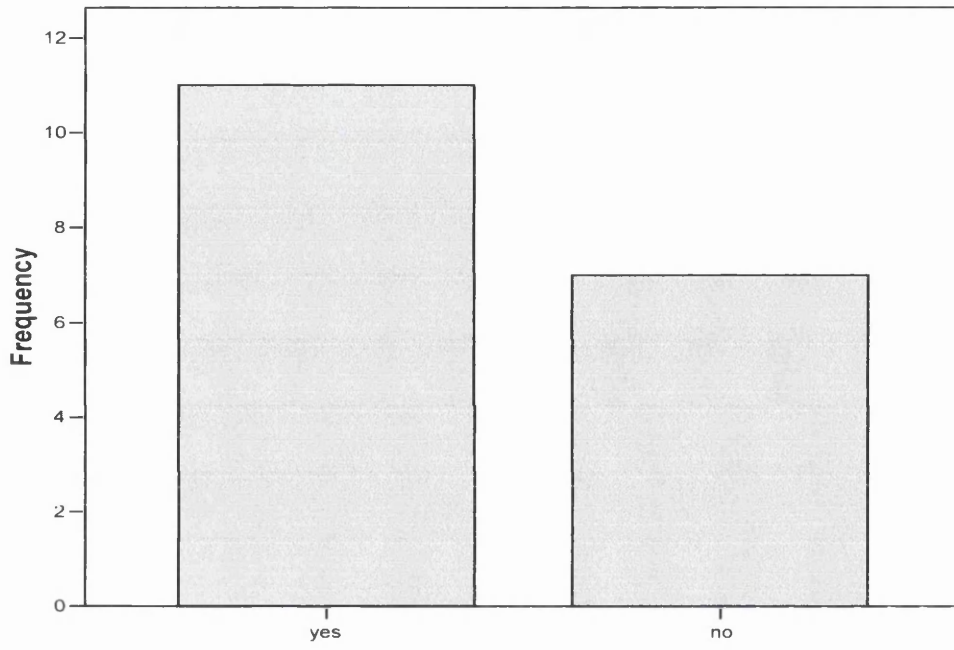


Fig. 8.7 – whether breach of bail support package was a new criminal offence (from total number of breaches)

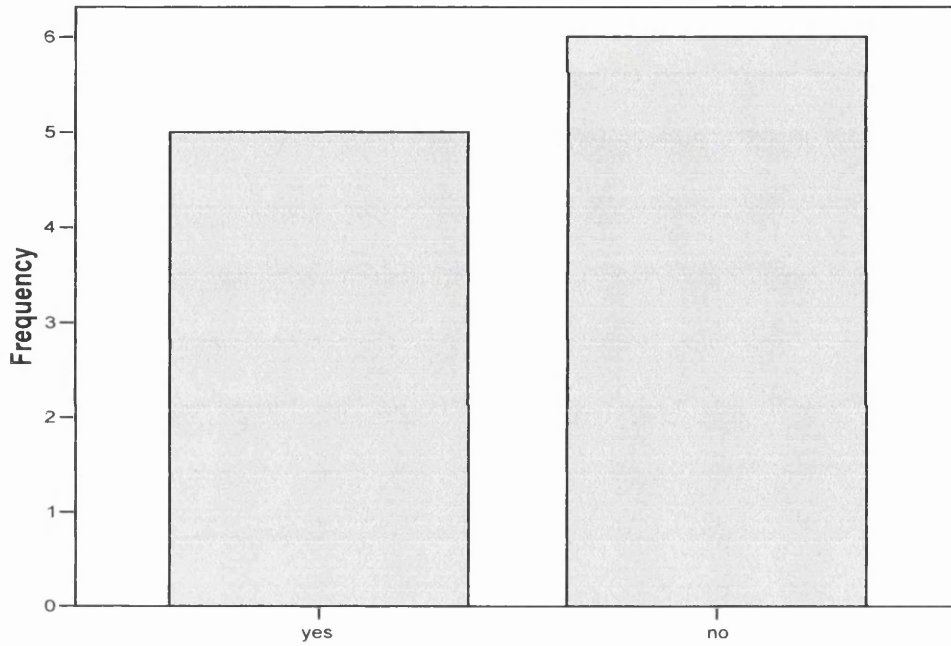
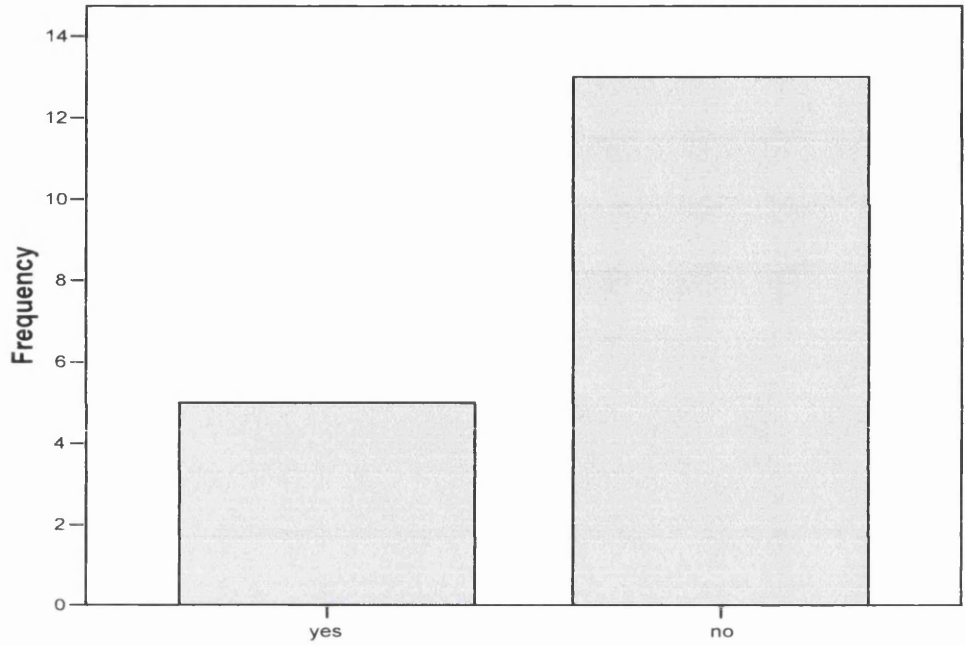


Fig. 8.8 – whether interviewees felt that being on bail support had had a positive impact on what happened afterwards (including sentencing)



Appendix H

Issues affecting Baytown youth justice bail services following the introduction of Intensive Supervision and Surveillance Programmes (ISSP) for young people on bail

The Intensive Supervision and Surveillance Programme (hereafter ISSP) was introduced in the Baytown YOT towards the end of the study period for this thesis (2001-2002). Funding from the Youth Justice Board was received in late 2001, and the ISSP team was in place by the end of the study period. Bail ISSP had the potential to change the face of bail services in Baytown, in the sense that the criteria for referring young people onto bail support changed. Evaluation of bail ISSP in Baytown was beyond the scope of the thesis, since detailed analysis of the new scheme would have reduced the scope of the analysis into existing bail services which has comprised the subject matter of the thesis. Undertaking in-depth evaluation of a tangibly different project would also have disrupted the overall integrity of the thesis. As an alternative, this appendix gives a brief overview of the key issues affecting the Baytown youth justice bail process following the introduction of ISSP, as well as background information on the aims and objectives of the new ISSP project.

Specific criteria for referral onto the ISSP scheme were introduced when the scheme was implemented in Baytown. If these criteria were met in any particular young person's case, then referral to ISSP was automatic, whether the young person was on bail or had been sentenced. The criteria for referral to the ISSP were:

- The young person had to have been charged with at least four offences in the twelve months previous to the date on which he or she was charged with the current offence.
- All of these charges had to have 'stuck' (i.e. if any were discontinued at any time, then they did not count towards the target of four or more).
- The young person had to have received at least one previous supervision sentence.

This meant that whenever a young person on bail met these criteria, the ISSP team offered a bail support package. Therefore they assumed responsibility for monitoring bail support work in these cases, taking over from the 'old' YOT bail team. The young people who were referred onto ISSP while on bail gained access to an extended range of activities that were set up as part of ISSP. These young people were also to be monitored by the police, following an agreement by local police to do this work. This arrangement was in contrast to the vague arrangements for the monitoring of bail conditions that existed between the 'old' bail team and the Baytown police (see Chapter Six above).

The ISSP scheme claimed to be aiming to tackle the problems which hindered the bail support service for young people in Baytown previously. One of the main obstacles for bail support services in the area, as the thesis showed (particularly in Chapters Six, Seven and Eight above), was the lack of suitable accommodation for young people who might be eligible for bail support. On several occasions during the study period, a young person met the locally defined criteria for bail support eligibility, but had no bail address (frequently because the young person in question had left the family home and had no suitable alternative accommodation while on bail), and as a result was denied bail. The ISSP scheme aimed to remedy this problem by

'ring-fencing' a number of beds at a local site run by Futurebuild¹⁹¹, near to the centre of Baytown. This had the advantage of being close to the Baytown Youth Court, reducing transportation problems as well as increasing locally available bail accommodation. Both of these factors had an impact on bail support services previously. The nearest available bail hostel was in Steeltown (see above, Chapter Eight), since Futurebuild would not previously accept young people on bail support. The ISSP team aimed to make dedicated bail support beds available at the Baytown Futurebuild site, but this was still under discussion when the study period ended.

The ISSP team also set up a range of other activities, which all of those young people referred to the ISSP scheme, whether as part of their sentence or as part of a bail support package, were able to use. These included a music course, teaching young people about music and allowing them access to musical instruments and a recording studio; anger management classes, which were already in place as a resource at the Baytown YOT¹⁹²; mentoring, accessing volunteers through the local agency which had previously provided the 'old' Baytown bail team with volunteers for appropriate adult work¹⁹³; and courses in motor mechanics, among other things.

Some pilot work was carried out before the priorities of the ISSP bail support service could be set. In particular, the co-ordinator of the ISSP team wished to secure particular information before piloting began. This information centred around the following:

- Previous rates of remand to custody for young people in Baytown, and the cross-referencing of previous remands to custody to ascertain their eligibility for ISSP on the date on which they were remanded;

¹⁹¹ A pseudonym given to a charitable organisation working with young people and the homeless.

¹⁹² Access was provided via the community psychiatric nurse on the Baytown YOT staff, who ran them from a gymnasium which he owned in Baytown.

¹⁹³ But see Chapter Six for the problems arising from this arrangement in practice.

- The rate of remands to custody at Saturday courts¹⁹⁴;
- The rate of young people from Baytown being remanded to custody at courts outside Baytown – the issues here being that the Baytown bail team were either not informed that the young person was appearing and risked being remanded to custody, or that the bail team found out about the case but could not travel to represent the young person when he or she was appearing in court, and present a bail support package to the court;
- The rate at which young people from Baytown had been remanded to custody (at least partly) on grounds supported by the reason that they had no available bail address.

It seemed probable that the implementation of the ISSP scheme and its application to young people who were persistent, but not necessarily serious offenders (since the criterion for acceptance onto the ISSP scheme for those on bail was persistent offending) would increase the number of young people being referred onto the bail support scheme in the Baytown YOT area. It was interesting to note that for the first time since the Baytown YOT bail support scheme received funding to extend its development to all young people between 10 and 17 years old (in September 1999), clearly defined referral criteria had been applied to at least part of its operation. The introduction of bail ISSP also meant that for the first time since the start of the study period, there were extra, dedicated staff who would only be working with young people on a bail support package. These staff remained separate, however, from the 'old' bail team, whose functions regarding 'the trawl', remand in custody visits, appropriate adult work and so on were scheduled to remain the same following the introduction of ISSP.

¹⁹⁴ At which, as noted above in Chapter Six, YOT bail staff did not offer bail interventions.

Also for the first time, extra resources were dedicated specifically, not directly for bail support work as such, but for some young people who will be allowed onto the bail support scheme through their eligibility for ISSP. Such a development contrasted sharply with the attitudes of the 'old' bail team towards dedicated bail support workers (see Chapter Six above). The resources to allow young people to undertake a course in music theory and production, for example, had never been accessed before. It is interesting to note, however, that the local resources employed by the ISSP team were for the most part accessible previously (for example, courses in motor mechanics), but were not used by the 'old' team.

Given these preliminary issues, the impact of the new staff who would be working specifically with young people on bail support was likely to be considerable, especially in terms of their differences in attitude towards bail support work. Those on the 'old' team consistently argued that bail support is a service designed only for a fairly specific minority of young people, usually (in practice) those who have committed a relatively serious offence without any history of serious or persistent re-offending (see in particular Chapter Six above). However, as noted in Chapter Six above, staffing levels on the bail team were halved during the study period. The two 'new' members of the team, who were employed (originally) to deal with the extended bail support service, left the bail team within two years of their appointment.

The 'old' team's cautious, negative attitudes towards bail intervention therefore endured, despite the Home Office decision to stop sending young people remanded in custody to HMP Baytown and to start sending them, along with all other young people from South Wales who were remanded in custody, to YOI Stonewall (see Chapters Six and Eight above). Under the old process, the close proximity of the YOT offices to HMP Baytown, and the close links and protocol formed between the staff of the two organisations, meant that it was easy for the Baytown YOT bail team

to visit those remanded in custody, and assess their vulnerability and possible suitability for bail support work. However, once the new procedure came into effect, the previous response to it remained, managed as it was by staff who historically were very suspicious of proactive bail intervention.

It may be that the remand to custody was not taken as seriously by the bail team when the young people were being remanded to custody locally, within easy reach of the YOT and their families, and that this may have contributed to their attitude that bail support should only be used 'in exceptional circumstances' (see Chapter Six in particular). The introduction of dedicated bail support staff, who were outside the direct control of the 'old' team in terms of the work that they undertook, and the referrals to bail support that they made, aimed to change the quantity and quality of bail support work done with young people in Baytown. Moreover, given the resources allocated to the new ISSP service (in terms of finance, staff and facilities), this aim was likely to come to fruition.

As a rough measure of the impact of ISSP, basic follow-up enquiries after the end of the study period (in August 2003) revealed that there had been a total of 33 remands to custody in the Baytown area over the previous year. While it was not possible to compare these data directly with that obtained during the study period (for example, the 2002-3 figures given above do not take into account the frequency, nature and seriousness of offending), Tables 4.12, 4.21 and 4.25 in Appendix C above (reported on in Chapter Four) show that there were a total of 287 remands to custody recorded during the three-year study period. Therefore, during the study period, there were an average of 95.7 remands to custody per year. While it must be re-emphasised at this point that the 2002-3 figures do not control for offending patterns in any way, the total of 33 remands to custody over this period was noticeably lower than the study period average. There is clearly, therefore, scope for

follow-up research which compares the operation of, and local attitudes towards, ISSP bail services in Baytown with the data on the previous services which has been gathered and analysed in this thesis.

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