UP BEFORE THE JUDGE:

PERSPECTIVES OF JUVENILE DEFENDANTS ON THE CHILDRENS COURT SYSTEM.

"The views expressed in this report are those of the author alone and do not necessarily represent the opinions of the Hon Minister for Community Welfare or the Department for Community Welfare, Western Australia."

DEPARTMENT FOR COMMUNITY WELFARE
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Perspectives of Juvenile Defendants on the Children's Court System

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Department for Community Welfare
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Chapter 1. INTRODUCTION

The defendant and his actions are supposedly the raison d'etre for a court case, yet little research has been conducted on the perspectives of either juvenile or adult defendants on the court, their treatment or dispositions they receive. On the other hand, judges, magistrates, lawyers, prosecutors, those who have been referred to as 'court regulars', have been well researched. Court regulars are said to share a sub-culture based on shared experiences, work routines, tacit knowledge and beliefs. Defendants usually do not share this sub-culture because of their different and usually more limited experiences and their subordinate role in the system.

The reasons for the lack of research of defendants in the criminal justice are many, though inter-related. Until recent years, there has been little interest among policy-makers, administrators and researchers with the viewpoints of those on the receiving end of services (patients, clients and so on). More specifically in relation to the criminal justice system, there has been a tendency to class the defendant as a completely passive participant - 'a dummy player' - because he does not share in the sub-cultural system of the court and because of his relative powerlessness in relation to court regulars and other agents such as the police. As a 'dummy player' the defendant was treated as relatively uninteresting and unimportant to the outcome of the proceedings (see Mather, 1979). If the viewpoint of the defendant was reported, it has generally been through the eyes of court regulars and not in their own words (Giordana, 1976). There has also been an assumption that defendants share uniform and stereotyped views on the system and that these views do not reflect the reality of their position and are merely a vehicle for them to blame

others for their predicament and to deny their own responsibility.

It has been argued by various reformers that there needs to be a trade off between actually doing justice and giving defendants a sense that justice has been done. Casper, (1978 (a)) contends that this argument is either dismissed as giving excessive attention to the views of defendants or as something, though of interest, which is only of secondary importance to the operations of the system.

There has been a realization that general community services cannot be understood without a discussion of the relationships that exist between the 'client' and the organization and the effects each has on the other (Rosengren and Lefton, 1970). The development of consumer movements (Haug and Sussman, 1969) and the increasing demand by both government and the public that services be evaluated, has also necessitated a consideration of the 'clients'' evaluation of the service. In both the adult and juvenile criminal justice systems there has been a growing call for the examination of the perspectives of defendants on the operations of the system or particular aspects of it. These calls have been based on the argument that the criminal justice systems have developed on the basis of a number of untested assumptions about the operations of the systems and their effects on defendants. It is also argued that the policies and practices of the systems cannot be adequately evaluated without reference to the defendants. Their perspectives on the evaluations of the system(s) and their treatment in it (e.g. their assessment of the justice of their treatment or sentence), it is contended, will affect their future behaviour and have consequences for the overall effectiveness of the system to deter crime generally. (See Casper, 1978(a) and Hapgood, 1979 for a discussion of some of these arguments.) Though increasing attention has been given in the past decade to the perspectives of defendants in both adult and juvenile courts, the number of studies completed has been small. Many of

these studies have also been limited in terms of the issues and the number of subjects researched. (See below p. 17.)

The present study was exploratory in nature and though the focus of the study was on the actual court appearances of the defendants charged with 'criminal' offences, attention was given to the defendants' experiences from the moment of apprehension by the police to their evaluation of their in-court experience and treatment. The study involved the use of observational, interview and documentary methods. Defendants were observed in court, interviewed about their experience, their actions, the reasons for their actions, their feelings and the evaluation of their treatment. Data was collected from the Department for Community Welfare (D.C.W.) records on defendants' previous contacts with the court and the Department. (See Chapter 2 for discussion of methodology.)

This report has three aims. The first is to present an empirical study of the perspectives of defendants on the juvenile judicial process in four courts in Western Australia. The concern here is not just with the defendants' accounts of what happened and what they did but also with the rationality of their actions and evaluations. That is, the report is concerned not merely with what the juveniles did or thought, but their stated reasons for doing or thinking certain things. Secondly, the report aims to highlight some of the difficulties and problems the defendants have experienced in their passage through the court process. Special attention is given to their knowledge and understanding of the process. The third aim is to discuss the implications of the defendants' perspectives and problems for the defendants and the juvenile judicial system.

The Defendant as Consumer?

One impetus to the study of the perspectives of defendants has been the development of research on the perspectives of 'consumers' and 'clients' and 'clients' evaluation of services. The existing research on both adult and juvenile defendants is often framed in these terms (see Casper, 1978(a) and Morris and Giller, 1977, for example). In fact this sort of conceptualization of the defendant as consumer or client underlay the initial development of this present study (see Chapter 2 below).

It is important to point out, however, that defendants in the criminal justice system are not consumers of legal services or justice in the real sense of the term. In fact, to see them as simply 'consumers' or even 'clients' is to confuse rather than help understand their position in the system. To paraphrase Stacey (1976) 'the important distinction is that the criminal justice system does things to people rather than for people'. Defendants are in one sense the products of the work of the criminal justice system. In another sense defendants are also actors and decision makers in the system. They may not be as powerful in this regard as other participants (e.g. magistrates, the police or even their own legal representatives). They may also be played for a fool by court regulars and unwittingly be the 'mark' in a con game where the motions to protect their interests are gone through. (Blumberg, 1969; Carlen, 1976). They nonetheless influence the manner in which the system operates and the outcomes which result. As McCleary (1978) has shown, even when the court has reached a decision and assigned the defendant to one of the 'corrective services' (e.g. probation, prison or after prison, parole), it is difficult to apply the term 'client' to the ex-defendant. Although the term is applied generally by professionals in these services to all the people they work with, in the actual day-to-day operations of the services workers distinguish between real or 'sincere clients' and other types of persons. These other

types are not 'clients' in the sense that workers are providing them with professional rehabilitative or social work/psychological services. They do not share as the 'sincere client' does the goal of rehabilitation or help with the professional worker for its own sake (McCleary, 1978; see also Morris and Beverly, 1975 on parolees' perspectives on parole and for a more general discussion of the position of clients in social work, see Ruzek, 1973). McCleary argues that the primary concern of parole workers with 'non-clients' is to control them and to ensure that they cause as little trouble as possible for them. The aim is not to rehabilitate.

For these reasons the notions of 'client' or 'consumer' are misleading and may direct our attention away from key issues of concern in an examination of the place of defendants in the criminal justice system and their perspectives on it. Focusing on the defendant as an object of work also provides a focus on the organizational structure of the court system as a people processing organization.

People Processing Organizations

The focus on defendants as products of work draws attention to the court as a people processing organization and the features it has in common with other such organizations. People processing organizations are defined by the products of their work which 'are people with changed statuses and locations in various community systems (Hasenfeld, 1972). These organizations control and shape people's lives by controlling access to a range of social situations and services by defining public statuses. They also define and confirm people's social positions when current statuses are in question. These organizations are distinguished from 'people changing' organizations where the focus is on the direct changing of the behaviour of people who come under their control.

People processing organizations have four main tasks:

1. The client's attributes and situation must be assessed to determine whether he is legitimately subject to official action;

2. The client's attributes and situation must be explored to determine appropriate action alternatives;

3. Choices must be made from among these alternatives; and

4. Once an alternative has been chosen, the person's relocation in a new social set must be managed.
(Hasenfeld, 1972: 61).

Central to the workings of all people processing (and changing) organizations, is the evaluation of the moral worth of the person under consideration. The worth that the person is assessed as having will ultimately affect the sort of treatment, services or status that will be given to the person at the end of processing. Such evaluations have been shown to affect how a dying patient will be treated by hospital staff (Sudnow, 1967), the quality of services one will get from a hospital emergency clinic (Roth, 1973) and whether one will be assessed as eligible to receive social services (Zimmerman, 1969). Evaluations of the clients' moral character and of their attributes and situations are conducted generally by professionals or others performing 'gate-keeping'/decision-making roles. Attention thus has to be focused on the organization of decision-making and the part the client plays in it. (Scheff, 1973; McKinley, 1975). As people processing organizations are allocating new statuses and rights on people cognizance has to be taken of the other organizations with whom they interact (e.g. refer people to, assess as being eligible to be treated by).

Courts: Organization and Orientation

Courts can profitably be examined as people processing organizations. Their concern is with the defendants' actions, attributes, status and location in the social system (Sarri and Hasenfeld, 1976). The public image of court is often that of an organization where an adversary system is operative, with the emphasis on formal procedures and rules of evidence, and a focus on truth finding (see below Chapter 6). Though trials may approximate to this image, most defendants, both adult and juvenile, are dealt with by courts that differ quite dramatically in organization and process. These include both lower or magistrates' courts and children's courts. There are a number of reasons for this difference. In the first place most of those dealt with by these courts plead guilty and so the major concern of the court is matching sentences to defendants. Another reason is that a great majority of defendants (and this frequently includes those who are contesting their cases) are unrepresented in lower and children's courts.

In both adult and children's courts the emphasis is supposedly on the individualization of justice. Here the focus is on the characteristics of the individual and on the gathering of information on his character and background so as to impose a suitable sentence on him. Howoritz and Wasserman, (1978) suggest that this involves a system of 'substantive rationality'. That is, decisions are based on the individual merits of each case rather than abstract rules (formal rationality). This implies the development of criteria to assess the individual's character and needs.

The notion of individualized justice is complimentary with the rehabilitative or treatment models of corrections. Central to this model(s) is the idea that the purpose of institutions and programmes is non-punitive. The rehabilitative model focuses on the offender and not the offence. The major assumption is that the offence is a symptom of some underlying psycho-social problem. According to this

view the offender requires to be treated for this problem and that by doing so, the problem of offending will also be solved.[1] In the second place, assessment of the offender and decisions about treatment have to be carried out at various stages by 'professional experts'. Thirdly, proponents of the rehabilitative model generally posit a consensus model of society and related to this, they generally treat the law and its application as non-problematic in nature. This is, they tend to assume that all accept the same values and are in agreement with the legal system and how the law should be enforced.

All of these assumptions have increasingly come under question from a variety of sources. This questioning has been both theoretical and empirical in nature. For example, it is increasingly argued by sociologists and criminologists that the law and its enforcement cannot be treated unproblematically and that the labelling or sanctioning of a person as deviant involves a variety of complex and problematic processes on the part of law enforcement agents, judicial agents and the person themselves.[2] The value of the rehabilitative model and treatment programmes have increasingly been questioned. Time or the space do not permit a discussion of these criticisms here. There is, however, a general consensus that rehabilitative programmes frequently do not in fact rehabilitate and that in many instances they are more punitive than the so-called punitive programmes which they supposedly replaced.[3]

In the context of its concern with imposing suitable sentences on defendants, the court is involved with the evaluation of the moral character of the accused. That is, in its concern with what to do with a particular case, the outcome will largely depend on the answer to the question 'what kind of youth are we dealing with?' (Emerson, 1969; Wiseman, 1970, Chapter 4). Emerson suggests that the answer to this question on assessment of the defendant which involves the interplay of the following factors:

(a) typical delinquencies (characteristics of typical offences encountered;

(b) the kinds of actors;

(i) typical kinds of actors in terms of social characteristics; age, sex, class, ethnicity;

(ii) the immediate motives for the offence.

(c) moral character;
weakness, strengths, pre-dispositions of the juvenile (e.g. tends to be aggressive, is easily led).

He concludes that broadly three types of characters are considered - normal, criminal, or disturbed (see also Sudnow, 1972).

> It must be emphasized that typical delinquencies so classified crosscut particular formal offence categories. Typical delinquencies in fact describe the features of "familiar" social performances and situations routinely encountered within a given legal offence category. Hence a single offence category may include a number of typical delinquencies, each implying an alternative version of moral character.

Emerson also argues that the juvenile court has an ongoing conflict between its legal role and its social welfare role - that is, between its concern with formal rationality on the one hand and substantive rationality on the other.

> The setting and internal organization of the court reveal a conflict between its function as an institution of the law and its attempt to act as a social welfare agency. The primary purpose related to the first will be to restrain, control and punish the offender. The primary purpose of the second will be to provide help and treatment for the stray.

A similar point was made by Anderson (1978) from his study of two English courts, despite legal and organizational differences. Data from the present study would indicate that a similar conflict is inherent in the Western Australian courts. The degree of conflict depends to some extent on the organization and legal orientation of the court. Many American juvenile courts, certainly before the Gault decision (1967) paid little attention to formal legal processes ('due process'). In Britain (Priestly et al, 1977) and Australia (Seymour, et al, 1979) Children's Courts were generally modified and simplified versions of traditional Magistrate[2] Courts. They have typically retained 'the look and feel of some of the dramatic ritual which dignifies adult justice'. (See Anderson, 1978)[4]

Two points need to be made about court ritual. In the first place, as well as involving the sentencing of defendant, the courtroom ceremony has also aspects of a degradation ceremony - "whereby the public identity of an (social) actor is transformed into something looked on as lower in the local scheme of things" (Garfinkel, 1973). A new moral character is imposed on the defendant (at least temporarily). This is achieved by the social isolation of the defendant and the fact that he and his actions are the centre of attention. Isolation is achieved in court by the spatial isolation of the defendant and the fact that he typically remains standing. He is frequently stared at and made to feel totally uncomfortable (see Chapter 10). This is heightened by the verbal and non-verbal communication between the court and himself and between members of the court which may not conform to normal polite discourse between people, yet he is forced to adopt a highly respectful and submissive stance towards the court (see Carlen, 1976). The defendant is also forced to publically accept the role of wrong-doer and to repent. (Emerson, 1969).

Courtroom rituals also have the function of enabling the court to attain its organizational goals of efficiently processing cases. Rituals are used to keep the defendants in line by controlling their behaviour in the court. This helps with the

smooth processing of defendants (Carlen, 1976).

Defendant in Court

The evaluation of the defendants' moral character is the result of negotiations between the defendant and/or his sponsors on the one hand, and the prosecution and other denouncers on the other. (The role of welfare staff[5] varies between cases, see Chapter 7 below). The former attempt to construct an image of sound character suggesting that the offence was out of character or that reform is possible and imminent. The latter argue that the offence is part of a pattern and that severe action needs to be taken against the defendant (Cicourel, 1976; Emerson, 1969). In this context the defendant himself and his actions in court may be crucial to the outcome of the case.

The defendants' demeanour and appearance may influence the outcome (Frazier, 1979). The defendant may be disrespectful and refuse to adopt the role of public repentance. This may result in situational sanctioning or sanctioning through a more severe disposition. The demeanour and deportment of the defendant may be clues used by the court in the evaluation of his character. For example, a defendant who is unable to sustain normal patterns of interaction (e.g. eye contact) may be assessed as being abnormal (Miller and Schwartz, 1966). The type of clothes worn by the defendants may also be used as evidence as to the type of person they are. Defendants may consciously manipulate these cues. They may be coached by others in these matters before they go to court. Sanders has documented this process between lawyers and long offenders.

> Prior to the appearance in court, the lawyer would often coach the client on the fine points of impression-management before the bench. It was clearly conveyed to the defendant that the court was a stage and a successful outcome was facilitated by the presentation of the role of a wrongly accused 'normal'. A client was advised to dress well, get his hair cut, and not to call attention to himself by his appearance or

> conduct before the judge. (Cited in Jette and Montanino, 1978:80)

Defendants may also make conscious decisions as to how they will participate in the case. Again, this may be the result of coaching by others. Many decide that passivity is the best strategy in the situation. As Spradley (1970) points out in regard to tramps, they know that it's frequently important for them to portray such an image to those who run the court. However, defendants may decide that they need to play a more active part in the proceedings and make a statement to the court, provide explanations, excuses, justifications and so on for the officer. Defendants may, however, try to get others such as solicitors or in the case of juveniles, parents, to do these things for them and remain passive themselves. Such decisions depend on some sort of understanding of court procedure and organization.

Culture and Rationality

Numerous studies have argued that defendants are disadvantaged in court because they generally are bewildered by the court process and are unable to understand the proceedings. The lack of understanding derives in part from the fact that the public in general are unfamiliar with courts and because once in court the defendant finds that he does not share with 'court regulars' (e.g. magistrates, lawyers, prosecutors) their cultural understanding of the court scene and its procedures, (Carlen, 1976; Bottoms and McClean, 1976; Priestley, et al, 1977). By culture we mean in general terms, "the acquired knowledge that people use to interpret experience and generate social behaviour" (Spradley, 1979:5). Goodenough, (1964) and others have suggested that people have to be concerned not just with generating behaviour but that this behaviour has to be appropriate and acceptable to other members. Goodenough (1964:36) defines culture as follows:

> ...a society's culture consists of whatever it is one has to know in order to operate in a manner acceptable to its members, and to do so in

any role acceptable to them.

The definition of what is acceptable and appropriate behaviour and in what situations is always problematic or at least potentially so. People in everyday life are always involved with the practical reasoning of interpreting the behaviour of others, generating appropriate behaviour of their own and making this accountable and understandable to others. This is done within their conceptions of their practical concerns about the tasks they have to accomplish, be that balancing the household budget, deciding on the eligibility of an applicant for welfare assistance or getting through one's appearance at court. In these situations people make rational choices about courses of action open to them. By rational here we are not referring to the ideas of rationality that inform scientific endeavour but the day to day decisions people make based on their explicit and implicit conceptualizations of the social world, definitions of the situations they are in and their practical concerns about what needs to be done in those situations. Cicourel (1976:49-50) suggests that the properties of rational action in everyday experience can be summarized thus:

1. Rational often is used in the same way as the term "reasonable" as in the case of deliberately following previous experiences or recipes. What worked before might well work now.

2. Seeking new ways of doing things that avoids the use of certain mechanical procedures and now deliberately rehearsing in imagination various (and possibly competing) lines of action, but doing so routinely, without any necessary weighing of alternatives carefully.

3. When the actor categorizes and compares experiences and objects.

4. Examining consequences that follow from various alternative courses of possible action. Planning or projecting.

5. A concern with the expectations that follow from the scheduling of events.

6. Allowing some possibility of choice and entertaining various grounds upon which some choice is made.

7. References to what is predictable in terms of likelihood of occurrence as estimated by the actor.

The argument here is when these sorts of properties are inherent in decisions about course of action followed by people, their actions can be considered to be rational.[6] There is not just one way of doing things in society, not only one form of rationality. One social group does not have the monopoly on rational behaviour. It is in the above sense that the rationality of defendants' actions is considered. This conceptualization of rationality does not mean of course, that there is no behaviour that may be considered to be irrational or non-rational by societal members. The point is that these definitions of irrationality or non-rationality are problematic and open to debate and conflicting definitions. Lawyers may consider, for example, the decision by defendants not to engage legal representation as being irrational but from the defendants' perspective, in relation to his practical concerns (e.g. accepting guilt and 'getting it over with') it may be a very rational choice. Choice always involves compromise and preceding decisions, and may foreclose further options without the person being fully aware of it (Haystead, 1971). Practical decisions are also always made within the limitations of a person's knowledge and understanding of a situation.

Evaluation and assessments which people make are thus generally based on such a system of rationality. Evaluations of an object, event or state of affairs are further complicated by the fact that it is not an act but rather involves several distinct logical moves:

1. The identification of the qualities associated with the object;

2. Placing the object on an ordered scale according to the qualities it possesses.

3. Expressing a liking or preference for the object.

The problem as Harré and Secord (1972) point out is that there may be any number of explanations or rationales for the ranking of qualities on a scale of preference. The person's decision-making in relation to evaluations is determined by the same conceptualization of the social world that affects all other rational decision-making. As will be seen below, defendants' evaluations of various aspects of their experience are extremely complex (see Chapters 5 and 12).

No member of society ever has complete knowledge of the social world, however in most situations with which people are familiar they are able to get by through the use of what Schutz (1971:95) has called 'recipes of actions'. These recipes allow the person to follow typical patterns of action used in other similar situations to complete the tasks at hand. They provide him with a reasonable chance of understanding and of being understood. However, when defendants enter court they are to some extent like a stranger entering a foreign culture. They do not generally understand the typical routines of action, the rules governing the interaction governing these routines, the verbal and non-verbal forms of communication and their rules of use. They may in fact find that the rules of interaction and discourse are contrary to the everyday forms with which the defendant is familiar (Carlen, 1976).

Most defendants have had none or only limited previous experience in court. Their knowledge and expectations tend to be transmitted either through other people or the mass media,

especially through television. "Very often this transmission process forms a long and complex chain and in each link selection and distinction takes place" (Kutchingsky, 1979:193). Defendants are frequently in a situation where they learn mostly as they go (Priestley, et al. 1977:87):

> ... especially those making first appearances in court (that) they are like players in a game who must pick up the rules as they go along, often by breaking them.

Also, as Carlen (1976:36-37) points out, if defendants exhibit knowledge and understanding of the court proceedings, this may be taken as a sign that the defendant has a criminal record:

> Indeed a certain inability to understand the court-room procedure is seen by the police as being indicative of the 'normal, ordinary person's' naivity about crime. "The regular villians understand it alright - the other types never understand all of it (Warrant Office, Metropolitan Court).

However, the defendants cannot let it seem that they do not understand at least some of the proceedings otherwise they may be judged to be socially incompetent.

Unlike defendants in adult courts, juveniles are generally unable to have a preview of a case prior to the commencement of their own. As adult courts are open, defendants (unless called first, of course) are able to sit and watch what happens to other defendants charged with similar offences. Brickey and Miller, (1975) and Mileski, (1972) have shown how this enables defendants to pick up cues about appropriate behaviour and strategies. Specifically, Brickey and Miller have demonstrated how the direction of the first pleas entered in court affect those that follow. Petersen, in a study of defendants in Magistrate's Courts in Western Australia has noted that they report that they are able to pick up cues from preceding cases and base their evaluations of their own treatment on the outcome of these cases (Petersen, personal communication). As Children's Courts are closed, this process is not open to juveniles. They

have to remain outside until their case is called. When the case is called the contact is too short and anxiety provoking to allow the defendant to adequately grasp its essence and develop strategies. (See Glasser and Straus, 1964 and Plummer, 1973 on 'awareness contexts')

The Research Context: The Literature

Few major studies have been completed on the perspectives of defendants on the juvenile court system. Those studies that have been done are not readily available. Hapgood's Ph.D. thesis Issues in Juvenile Justice : Some Perceptions of Juveniles and Parents (1979) has not been published. Neither has Giordano's Ph.D. thesis (1974) The Juvenile Justice System: The Client Perceptive and only one article (1976) relating to the study has been published. A recent major research project has been completed in Britain by Parker, et al. Again only one article (1980) from this work has been published and this does not deal directly with defendants' perspectives. (The authors hope to publish their work under the title Receiving Juvenile Justice later this year). There is no general body of literature on the perspectives of juvenile defendants. There is also no general body of theory on defendants in court. In fact, there has been little cross-fertilization between the material which has already been produced. For example, Hapgood (1979) refers only to two studies specifically on juvenile perspectives - Scott, (1959) and Morris and Giller (1977) - as well as to some more general, though related, material such as Parker, (1974), Priestley, et al. (1977) and Matza, (1964). In North America, Langley, (1978) refers only to the studies by Snyder, (1971) and Baum and Wheller, (1968) in addition to related works by Matza, (1964) and others.

Somewhat more research has been completed with adult defendants and there has been more cross-fertilization, however, even here there has been no real theoretical development. (See Blumberg, 1969; Bottoms and McClean, 1976; Casper, 1972 and 1978(a); Arcuri, 1976).

There are a number of related areas of research which add insight to studies on defendants' perspectives. These are:

(1) Studies of attitudes to law and law enforcement agencies, including the courts.

(2) Knowledge of Law (KOL) studies which have focused on people's knowledge, understanding, opinions of and attitudes to the law.

(3) Studies of the operations of juvenile and adult courts and of related agencies such as the police, probation and parole services with regard to both adults and juveniles.

Juvenile Defendants' Perspectives

The literature on juvenile defendants' perspectives will be reviewed briefly in this section, as well as some related literature on attitudes and KOL, to provide a broad perspective on current research. Specific references will be made to this research in relation to each chapter later in the report.

Of the major research works completed, only Hapgood, (1979) could be obtained. This study was concerned with the perceptions held by juveniles appearing in court and their parents about assumptions underlying the court system. These assumptions related to the nature of juvenile offending; the policy and practice of individualized justice and the consequences of a court appearance for the defendant with particular reference to labelling and the amplification of deviance. The research focused on two themes:

1. The perceptions of juveniles and parents of the event culminating in a juvenile court appearance (e.g. the offending, moral danger).

2. Their perceptions of the court proceedings themselves and the sanctions imposed.

Principally the research attempted to operationalize and measure Matza's (1964) notions on the assessment of justice. The research also examined the juveniles' and parents' views on Social Enquiry Reports, as well as offending and its causes. Interviews were conducted with 200 juveniles and 178 parents shortly after their court appearance. Hapgood also obtained data from social workers and from police and social service departments' records. However, he did not observe the juveniles in court. It is important to point out, however, that many of his findings are similar to the findings of this study, e.g. the importance of the defendants' acceptance of guilt to their perspectives on the court.

Scott, (1959) was concerned with juveniles' understanding of, attitudes to and evaluation of their court appearances. He had 112 boys in a remand centre write essays on "What happened to me in Court". This study was very impressionistic and limited in its scope. It was also uncritical in its assumptions about the operations of the court and unappreciative of the possibility of alternative perspectives on court. Howells and Brooks, (1966) also conducted a limited descriptive study with 100 boys, aged 11 to 17, after their appearance in court. The boys completed a questionnaire with 12 questions. The focus was on their reaction to court and their understanding of what had occurred.

Another British study was completed by Morris and Giller, (1977). They interviewed defendants and parents both before and after court and observed the juveniles in court. They interviewed 27 children and 29 parents out of a sample of 67 sets of children and parents. They were concerned with the defendants' views on the operation of the court "in order to assess the extent to which they were in line with official policy". They concluded that there was no substantial change from what the earlier studies had found. That is, 'parents and children clung to ideas of retributive justice' (despite greater moves to welfare orientation) and they were still confused about the court proceedings and the

role of various personnel in court. Voelcker (1960/61) followed up Scott's study with an examination of juvenile parents' points of view. He interviewed the parents of 37 boys who had been in court and who attended a youth club. As with Scott's study, he found that parents had difficulty understanding the court proceedings and saw the court in retributive justice and not welfare terms.

A number of studies have been completed in the U.S.A. and Canada. Among these was an early work by Baum and Wheller (1968). They examined the views of juveniles about court as part of a research programme into juveniles' perspectives on becoming inmates in an institution. They sampled 100 boys aged 14 to 16 years. They interviewed them about their understanding of court, their expectations, affect and feelings about their commitment and their conceptions of fairness and responsibility.

Giordano completed a larger study of youths' perspectives on court, however only one article has been published. This deals with the concepts of the 'sense of injustice' developed by Matza and examines youths' assessments of the fairness of the courts' decision and feelings of cynicism towards the Court, police and probation officers. She compares a sample of 'clients' with a control sample of non-offenders. The interview sample consisted of three sections which included nearly identical items for rating the police, probation and the court.

The studies by Lipsitt, (1968) and Snyder, (1971) were both concerned with measuring the impact of the court appearance on juveniles. Lipsitt interviewed 265 boys in three metropolitan courts before and after their appearance. Comparisons were made on semantic differential ratings of potency and evaluation of self and judge. These are related to background factors (socio-economic class, family and age) perception of participation in the court process and perceptions of interest of the judge. He concluded

that the judges were able to impress their personality on the proceedings and affect change in the boys, most of whom saw the judge as interested and concerned; 45% of them saw the judge as being on their side. There were, however, significant differences between first offenders and recidivists. Snyder (1971) interviewed a sample of 43 boys, aged 10-16, who had been placed on probation. She was concerned with the boys' feelings about the fairness of the hearing, their attitudes to various participants (e.g. the judge, police, probation officers) and to offending, their emotional state and their assessment of the impact of the hearing on their offending. She concluded that: "the court hearing has a significant impact on the child involved (particularly if it is his first hearing), rendering at least some children more capable of change during this phase in the delinquency pattern than during any later phase."

Langley, et al. (1978) adopted a pre-court/post-court interview strategy in their study which also involved observing the defendants in court. Their article examines the expectations the juveniles had about court and their reactions to the hearing, in the context of the outcome of the case. Their sample included 50 youths (45 male and five females) appearing for the first time in juvenile court. He concluded that most of the juveniles had no clear understanding of what to expect from court. They also were confused about the relationship between the offence they committed and the disposition they received. They operated on a 'tariff system'. They could not understand why the court did not. They also seemed to accept responsibility for their actions and did not neutralize guilt, (see Matza, 1964).

Petersen, (1978) conducted a study of 22 children appearing before the Children's (Suspended Proceedings) Panel of the Perth Division of the Department for Community Welfare. The children, 16 male and six female, were aged between eight and 15. They had a poor understanding of the Panel process and they lacked knowledge of the outcome of their hearings

and of the identities and roles of the two panel members. While some children indicated that they were fearful during the hearing, most were not.

Attitudes towards the Criminal Justice System

Attitudes to the police and other elements in the criminal judicial system (court) vary within the community. There has also been some discussion that differences in attitude are related to differences in orientation to crime and delinquency. Waldo and Hall, (1970) in a study of the relationships between attitudes and delinquency, found that though there was a relationship between the two it was not statistically significant. That is, there was a non-significant trend for delinquents to have more negative attitudes to the judicial system. They also found that there was no difference between black and white youth in attitude about the legitimacy of the court, the probation service and the police. However, black children did have more negative attitudes about the police per se. Unlike white children this was not, however, related to delinquency. Attitudes towards the criminal justice system are not therefore unitary. Cotton found (1974) a similar trend among Puerto Ricans. That is, they had very negative attitudes towards the police but did not reject the idea that police were necessary. In fact, the respondents generally would have liked better and more highly paid police.

Winfree and Griffiths (1972) examined the relationship between the experience of negative and positive contacts with the police and attitudes towards the police. They found that youths could experience both positive and negative contact. The prestige they give to the police was related to their attitudes and not to the type of contacts they had. However, negative contacts had twice the influence on attitudes that positive contacts had. Those who experienced the negative contacts were twice as likely than those with positive experience to have negative attitudes towards the police. (See also Wiley and Hudik 1980, for discussion of the effect of interaction on attitudes and behaviour towards the police in an encounter

situation in the street).

KOL Studies

A number of KOL type studies have been conducted in the U.S.A. which are of relevance to this research. Rafky and Sealey (1975) conducted a survey of 1000 high school students on their previous contact with the law; attitudes towards and knowledge of the law. They concluded that legal knowledge was not an all or nothing phenomenon. That is, the students were knowledgeable about some laws and were uninformed about others. Legal knowledge they found was independent of the youths' respect for the law and their previous contact with the law enforcement agencies.

La Kind, Sussman, and Gross (1977) administered a questionnaire to 396 subjects in a stratified random sample. The questionnaire contained 28 fixed choice questions on court and police procedures and six (Guttman) type scales on attitudes to authority. All of these instruments were presented in the context of a brief scenario. The data was examined in terms of the subjects' sex, age, race and previous arrest record. Unfortunately, apart from three items relating to the application of the Miranda decision (specifying accuseds' rights to legal counsel and against self-incrimination - the right to silence) the authors did not report on the items that they used to measure knowledge of court or police procedures. They found that those with previous arrests and non-whites were more cynical about the court and the police.

Knowledge of police and court procedures did not vary significantly with the race or previous arrest record of the respondents. However, there were slight trends for males to be more knowledgeable than females and older to be more knowledgeable than younger subjects. For two of the items relating to Miranda regulations, those with previous arrests scored lower than those without. The first item dealt with the right to remain silent. "Does Jim have to answer questions?" Only 84.6% of those with a

previous record compared with 93% of those without records answered the question correctly (i.e. Jim does not have to answer questions). (This trend, however, was not statistically significant, $P < 0.08$). The second item dealt with an accused's right to contact his parents. "Can Jim call his parents?" Again those who had been arrested previously were less correct in their responses than those who had no previous record (84.6% of those with records compared with 96.1% of those without previous arrests: this relationship was significant, $P < 0.001$). Those with records had, however, better knowledge of the provisions for the appointment of lawyers by the court for those who could not afford one, than had those without previous arrest experience. From these and other data La Kind et al (1977:336) concluded:

> First-hand exposure made negligible difference in knowledge of police or court procedures. Contact with the system manifestly does not teach; if such contact mystified, then it will alienate even further those who confront the legal institutions.

La Kind et al would seem to have neglected to take into account the actualities of arrest and interrogation, they deal only with the ideal. Certainly in common law and specifically under various U.S. laws (e.g. the Miranda decision) suspects do not have to answer questions: they have a right to remain silent. They are nonetheless typically placed in situations (e.g. an interrogation) where not only are these rights denied, but the situations are so structured so as to systematically negate those rights. Police interrogations are designed to get suspects to talk and make statements, regardless of the broader legal situation. (See Chapter 4). Similarly, under common law legal systems the accused is innocent until proven guilty. However, various participants in the system (e.g. Judges, Magistrates and even the defendants' own solicitors) may routinely operate on the assumption that they are guilty until proven innocent. (Sudnow, 1973; Priestly et al 1977). Rather than not having

learned through experience, the lower 'correct' scores by those with records probably reflect both the ambiguity they experienced in relation to the research questions themselves and with regard to their rights. They knew that they ideally have the right to remain silent; they also knew that the reality of the situation is that they do have to answer questions. The questions may therefore be ambiguous - do they request an answer about the ideal or about the actuality of the situation? This is a difficulty with some KOL research where the researchers assess the correctness of subjects' responses in relation to an ideal which may not operate in practice. Non-experienced subjects may be correct with regard to the ideal but not with the reality of routine law enforcement procedures.

OUTLINE OF THE REPORT

Chapter 2 discusses the background and development of the study and the methodology used. The following three chapters deal with a number of aspects of the defendants' pre-court contact with the police. Chapter 3 outlines the experiences of the youths during apprehension and processing by the police, as well as such issues as length of time in police custody and access to bail This is followed in Chapter 4 by a discussion of their interrogation by the police and their confessions and statements. Chapter 5 reports on their evaluation of their treatment by the police and the logic of these evaluations.

Chapter 6 examines the defendants' expectations of court and the disposition they would receive. Their assessments of the seriousness of the offences they were charged with and the assessments of seriousness they impute to their parents, the court, police, Community Welfare officers, teachers and their friends, are also reported. Their expectations of court and their plans of action, as well as their actual behaviour in regard to the use of legal representation and plea are examined in relation to these assessments of the seriousness of the offence(s) in this and

following chapters. Chapter 7 discusses the contacts they had at court prior to their hearing with Welfare Officers, solicitors, police and court officials. The concern of this chapter is especially with the information exchanged between the defendants and others, particularly where this relates to 'instructing' solicitors and interviews with welfare staff for the preparation of 'Informative Reports' for court.

Chapter 8 looks at the anticipated and actual use of legal representation by the respondents. The rationales they use to account for their use and non-use of representation are also discussed. The same approach is adopted in Chapter 9, where their anticipated and actual pleas and their rationales for various pleas are discussed. Chapter 9 also examines some of the in-court and out of court contingencies and constraints that affect the direction of the defendant's plea.

Chapter 10 reports on the defendants' actions while in court and their views on the nature of the dispositions they received. In Chapter 11 their understanding of the court process is examined and Chapter 12 looks at their attitudes to the court and their assessments of the fairness of their treatment.

Chapter 2. METHODOLOGY

This study developed from a concern the legal officers of the Department for Community Welfare (D.C.W.) had with various aspects of the Children's Court system in Western Australia. They felt as a result of their contact with juveniles, that many defendants were dissatisfied with the disposition they received from the court. They were also of the opinion that many youths had difficulty in understanding court proceedings. Other concerns included issues regarding pleas and the availability and quality of legal representation.

The Legal Section prepared a submission for the Department's Research Advisory Committee in April, 1978. In that submission they argued that a research project should be funded as "there has been no research done in Australia to obtain the 'consumer' views of children who were coming into contact with the court system". The Research Advisory Committee agreed to fund the project and the author was appointed as the research officer at the end of July, 1978. In the original submission, the objectives of the research were listed as:

1. To determine the impact of the juvenile judicial system on children;
2. To determine children's understanding of the law and the judicial process;
3. To investigate the relationship between the child's perception of the juvenile judicial system and recidivism.

The proposal was to interview a sample of 400 children. A sampling frame was to be developed to take account of such variables as pleas entered, legal representation, and court

outcome. It was also planned that the sample should be selected from children who had made their final appearance before the court during the year 1978 and who were between 12 and 18 years of age. Half of the sample was to be selected from the Goldfields. The interviews were to cover such areas as the children's views of the events leading up to their being brought before the court, legal representation, the court process and outcome of court and Departmental decisions. The main study was to be preceded by a short pilot study. This was to include a period of observation in court to familiarize the researcher with the operations of the court and the behaviour of defendants. The feasibility of the proposed research design and strategies for conducting the study were also to be examined. Of particular concern, at this stage was the feasibility of including the Goldfields in the study.

Pilot Study

The pilot study was conducted during September and November 1978. Sixty-four cases were observed in Children's Courts at Perth and Midland. (These cases included, 60 guilty plea cases, two contested actions and two preliminary hearings). In-depth semi-structured interviews were conducted with five of these defendants. Non-structured interviews were also conducted with youths at the Longmore Remand Centre. Interviews and discussions were held too with magistrates, court and Department for Community Welfare staff (both institutional and field) and police officers in Perth and Kalgoorlie.

Research Orientation and Strategy

As a result of the pilot study it was decided that the research objectives were too broad. The objectives were narrowed and refined. The aim of the study was restated as "to describe and account for the perspectives of juvenile defendants on the Children's Court system". More specifically the research objectives were:

1. To investigate the perspectives of juvenile defendants on the Children's Court process;
2. To investigate the behaviour of defendants within the court setting (e.g., pleading, participation in proceedings etc), and their rationales for this behaviour;
3. In the light of the above to investigate their perspectives on the juvenile court system as a whole.

The focus of the study was on what juveniles "know" about the court and how this related to their behaviour within the court system and how this, in turn, affected their understanding and evaluation of their contact with the court and related agencies (i.e., the police and the Department for Community Welfare).

It was decided that attention would be given to any court appearance rather than including only appearances which resulted in the final dispositions. This was done because it was thought that any appearance regardless of the outcome would have some effect on the juvenile's understanding of, and perspectives on, the court.

Because of the limitations of time, resources and personnel, it was decided to restrict observations in the Goldfields to the courts at Kalgoorlie and Kambalda. It was also decided to limit the study to the three major courts in the Perth Metropolitan area - Perth, Midland and Fremantle.

During the pilot study two alternative research strategies were considered. The first would have involved selecting a sample of youths from Departmental or court records and conducting interviews with them about their experiences in Court. The second involved sampling defendants as they were being processed through the court system. In this case, defendants could be sampledover a given period. This approach would combine observational and interview techniques.

The second strategy was chosen for a number of reasons. In the first place, there is a large body of research which shows that records cannot be accepted as a base line without an understanding of how the records are generated in the first instance. For example, without a knowledge of prior events there are grave difficulties in distinguishing the significance of a charge of "breaking and entering" from "breaking, entering and stealing" or, in the case of a trial, a "guilty" plea from a "not guilty" plea (Cicourel, 1976; McCleary, 1975; cf. Hindess, 1973). The second strategy involves an examination of record generating behaviour.

Secondly, the data contained on the various record systems, e.g., Police, Court and Community Welfare, did not give a full picture of court processes and the defendant's part in it. For example, while the recorded charge is an important determinant of the court disposition, it is by no means the sole determinant. Other factors such as the child's demeanour in court, the assessment of his character and of his chances for rehabilitation, and the interpretation of familial relationships and resources, may all be important determinants of court outcomes (Cicourel, 1976 and Emerson, 1969). Although there is an overlap of the information contained on different sets of records, some important information is missing from each. For instance, Departmental court records do not contain information on how a youth pleaded and whether or not he was represented in court. The second strategy allowed the defendant's behaviour in court to be investigated, both to provide an independent analysis of the proceedings and to provide a check on their responses during interviewing. It also allowed for such issues as plea and representation to be examined and accounted for. The selection of the sample from records would also have involved major problems in regard to time, with a considerable passage of time elapsing between the defendant's appearance in court and the interview. Vital issues could have been forgotten or re-interpreted in the light of new experiences.

There is also the problem that the pattern of people's accounts of some social situations and types of interaction may differ radically from what actually occurred. One such pattern of accounts has been referred to as "atrocity stories". This term was first used by Stinson and Webb to describe the ways in which patients talked about doctors. They argued, according to Dingwall (1977:375) that:

> ... atrocity stories can be seen as devices whereby patients retrospectively interpret their encounter with the medical profession, negotiate norms of the behaviour of patients and doctors, and redress the imbalance in the relationship between doctor and patients by voicing complaints, albeit at a safe distance. These stories are dramatic events staged between groups of friends and acquaintances that draw a shared understanding about the way of the world. The teller is cast as hero, in the right while the doctor was wrong and maintaining his reason despite the incompetence of others. Through these stories, social structures and parties to them are rendered rational and comprehensible.

There was always the possibility that the accounts obtained from defendants about their interactions within the judicial system would follow such a pattern. Thus, some or all defendants could deride the court and its participants or describe how they 'put one over' the magistrate in order to buttress their own self-esteem or reputation. One method to guard against such a process is to have an independent account of the interaction between the defendant and the court. In this way, the validity of the data collected in the interview can be checked (conversely, the validity of the observational data can also be demonstrated) (West, 1979).

This study was exploratory in nature and was guided by the sociological approach referred to as the "discovery of

grounded theory" (Glaser & Strauss, 1967). That is, the research was not developed within a specific theoretical framework nor was it directed at the testing of particular highly structured sets of hypotheses. There were two related reasons for this. Firstly, the author's research directions were influenced by Glaser and Strauss (1967), Cicourel (1964), Kaplan (1964) and Denzin (1970), all of whom in various ways argue for the need to base research on the everyday experience of people and to avoid the a priori assumptions of theory - avoidance of what Glaser and Strauss call the rhetoric of verification. The aim of research is the ongoing discovery of data and the verification of theoretical constructs (see Schatzman and Strauss, 1973).[1]

Secondly, as indicated in the Introduction there does not exist at present a body of literature or theory on juvenile (or adult) defendants. In fact, at the commencement of the main study (December, 1978) only the articles by Scott (1959), Morris and Giller (1977) and Langley et al. (1978) and the related work of Anderson (1978) were available to the researcher, despite an exhaustive literature search. The works by Bottoms and McClean (1976) and Casper (1972) on adult defendants were also available. However, the comparativeness of this material could not be fully assessed at the time. It was therefore difficult to design a highly structured hypothetical-deductive research project.

The research was, however, guided by a number of 'sensitizing concepts' (Glaser & Strauss, 1967) which directed attention to particular research issues. Of importance were McBarnet's (1976) and Bottoms and McClean's (1976) discussion of the importance of the pre-court process on the defendant's orientation to court; Matza's (1964) thesis on delinquency and drift and especially his discussion of the "sense of injustice"; Emerson's (1969) account of the operations of a juvenile court and the centrality of the evaluation of moral character; and the discussions of courtroom interactions by

Carlen (1976), Ute (1974) and Brickey and Miller (1975).

This literature in conjunction with the observations and interviews of the pilot study, and the pre-testing of the questionnaires, lead to the development of a number of research questions. These were:

1. Defendants will view the court as having a punitive/retributive orientation rather than a welfare orientation.

2. Understanding of court processes and of the functions of the various official participants will be dependent upon previous experience in the court system.

3. Neophyte defendants will be largely dependent on the police and welfare officials for information about the court and likely dispositions.

4. Defendants' behaviour in court will be guided by the principle of "getting it over with", with the least cost.

5. Defendants' pleas will be consistent with their perceptions of guilt.

6. Defendants will suffer from "stage fright" and will adopt a passive role in court and will rely on "sponsors" (e.g., parents, welfare officers, etc.) to act on their behalf.

7. The court and its officials will provide for experienced defendants a "grammar of motives" for their actions.

All of these issues are discussed in various degrees of detail in this report.[2] As with most exploratory research the data collection net was cast wide to ensure that as much relevant material as possible was obtained (Selltiz et al., 1965).

Another important issue which influenced this research project was the relating to "the right not to be researched". (See Sagarin, 1973, for discussion). In this study every effort was taken to inform youths and their parents as to the nature of study and its sponsorship by the Department for Community Welfare. The research team was careful to

ensure that no juvenile felt compelled to give an interview, especially those who were in Departmental institutions. Observational and records data on youths who declined to be interviewed were however included in the study.[3]

Every effort has been taken to hide the identity of the youths and others involved in this study. All names used are pseudonyms. Courts are not identified in the text and police stations, where discussed, are referred to only by a research identification number.

Research Methods

The research strategy of selecting defendants as they were being processed through the court system allowed for the triangulation of research methods. Denzin (1970) uses the term triangulation to refer to the use of multiple sources of data, methods of data collection, researchers and theories in the development of research projects. No project ever achieves the ideal state of complete triangulation. In this study, it was possible to triangulate:

1) Methods
   (a) observations
   (b) interviews
   (c) documentation

2) Sources of Data
   (a) defendants' accounts (interviews)
   (b) interviews with parents, magistrates, prosecutors, court and Departmental staff.
   (c) court and Community Welfare records.

3) Researchers; the author and four research assistants were involved in court observations, interviewing and documentary work for the Metropolitan study. The author conducted the Goldfields section of the study alone and the Legal Section clerk (D.C.W.) assisted with the collection of documentary data from the Department's records system.[4]

Court Observations

Data was collected on the court process and the defendant's part in it. Attention was focussed on the interactions between the defendant and other participants and on the demeanour and appearance of defendants. The interactive processes in the case were objects of analysis in themselves.[5] Observations were also used to provide basic data on:

1. The defendant's characteristics - sex, age, ethnicity.
2. The Charge(s).
3. Plea.
4. Representation.
5. Whether the defendant was in custody or not.
6. Whether the defendant was accompanied to court or not, and by whom.
7. What personnel were present in court for the case.

Observational data where possible were cross-checked with information on the court lists and other court records. These data were used to check the validity of the data given by defendants during the interview and test their knowledge and understanding of the court process. (See Appendix 2).

Interview Schedules

Interviews sought to elicit two types of data. The first, statements of "fact", usually of a yes/no type (e.g., Did you admit to the offence?). The second, elaborations by the respondents of their reasons for their actions, feelings or attitudes and so on. Most questions were open-ended and the interviewers were instructed to probe for the defendants' ideas on particular issues. They were also instructed to use the schedule more as an interview guide than an interviewer administered questionnaire.[6] The interview schedule also included seven Guttman-type scales to measure perceptions of offence seriousness. The schedules were structured as follows:

1. Pre-Court Experience and Perceptions

   (a) The offence, and the defendant's perceptions of its seriousness and consequences. (3 items)

   (b) Previous contact with the Children's Court. (5 items)

   (c) Contact with the police (arrest, confessions, bail, information given about court). (13 items)

   (d) Contact with D.C.W. (incarceration, contact with staff and inmates, information sharing). (7 items)

   (e) Information seeking about court and likely outcomes. (3 items)

   (f) Pre-court perceptions of court processes, outcome, plea, representation. (4 items)

2. Court Experience

   (a) Pretrial activities, contact with welfare officials, legal counsel, other defendants, information sharing, negotiations and coaching. (11 items)

   (b) Court room experience, plea, representation, participation, understanding and knowledge of proceedings and personnel and their functions and of outcome of trial. (15 items)

3. Assessment of Court Experience and Perceptions of the Court and related agencies

   (a) Assessment of the fairness of the decision and treatment by the agencies involved. (9 items)

   (b) Reassessment of personal orientation to court. If defendant was going through it again, what would he do? (2 items)

   (c) Perceptions of the function of the court and related agencies. (5 items)

   (d) Perceptions on the possible stigmatization effects of the court appearance. (3 items)

4. Socio-Demographic

   (a) Basic data on occupational status of self and father, residence and ethnicity. (8 items)

   (b) One item on friendship network to test for five possible sources of information on the court.

   (c) One item on leisure activities to examine for areas of conflict with police (e.g., hanging round the Hay Street Mall). (see Appendix 3).

Records Data

Data relating to the respondents' contact with the court

and D.C.W. were collected from their "court cards" in D.C.W.'s records system (see Appendix 4). Copies of these cards are usually handed to the magistrate during a case to indicate the defendant's records. The information collected for the study was thus roughly equivalent to that which influences the court in its decision. Data collected included details of the defendant's first and last appearances before the court (i.e., date, place, type and number of charges, disposition of the case), the number of previous appearances, the number and type of all charges and details of his/her passage through various statuses (e.g., first offender, probationer, under Departmental control). For the purposes of this analysis data on defendants number of previous appearances and their status at the time of their observed appearance are of importance. The status was calculated from the respondents previous disposition, if any, from the court.

Samples

The sample was selected from the population of defendants aged between 13-18 (at the time of their court appearance), who had been charged with "criminal" offences.[8] Defendants were selected from the Children's Courts at Perth, Midland, and Fremantle in the Metropolitan area and Kalgoorlie.[9] It had been hoped to also include defendants from the court in Kambalda. However, this court had to be excluded because of the small number of defendants charged with criminal offences and it proved logistically difficult to effectively cover both courts.[10]

It was planned to interview a sample of 100 defendants from the Metropolitan area and 50 from the Goldfields from non-contested cases, and 50 defendants from contested cases in the Metropolitan courts and 10 from the Goldfields. A quota sampling method was used to select interviewees. Equal numbers of male and female, Aboriginal and non-Aboriginal defendants were sought for both contested and non-contested cases. Court cases were to be sampled until each of the

quotas were filled.[11] The study thus contains two samples, the first is referred to as the "observational sample", the second the "interview sample". (These samples will be described below). The courts were to be randomly sampled in proportion to the number of cases they handle.

As one concern of the study was to examine the changes in attitudes and knowledge which resulted from the court appearance, it was thought desirable to conduct pre- and post-court interviews. It was not, however, considered logistically possible to complete pre- and postcourt interviews with all defendants. Consequently it was planned to interview all of those in contested cases and a sub-sample of a third of those in non-contested cases both before and after their court appearance. In order to examine the part defendants' parents played in the perspectives of the youths on the Court and in their decision-making it was planned to interview a sample of parents. This sample was to be selected from those cases where the defendant was interviewed both before and after court.[12]

Observational Sample

The "observational sample" consists of 472 cases. A case here refers to any appearance of an individual defendant had in court, regardless of the outcome (e.g., a remand, dismissal, probation). Not all of these cases were actually observed and recorded, as it was decided that if a juvenile in a contested case declined to be interviewed prior to court the case would not be observed. This decision was made because of the length and complexities of contested actions. A number of non-contested cases were also not observed, though the youths had been approached for an interview, either because they refused to be interviewed or because the venue or time of hearing was changed unbeknown to the researchers. (The latter was particularly a problem at the Perth courts where the venue of a hearing was sometimes changed from Court No. 1 to No. 2). The majority of the non-contested cases were observed prior to the defendant being approached for an

interview. The "observational sample" contains therefore all cases approached for interviews and/or observed.

The sample contains 398 (84.3%) non-contested cases or remand cases ("general" cases) and 74 (15.7%) contested cases ("defended" cases). In all 436 (92.4%) of the observational sample were observed and details recorded (Table 2.1).

TABLE 2.1

OBSERVATIONAL SAMPLE

OBSERVED IN COURT	SAMPLE					
	GENERAL		DEFENDED		TOTAL	
	N	%	N	%	N	%
Observed	387	97.2	49	66.2	436	92.4
Not observed	11	2.8	25	33.8	36	7.6
Total	398	100.0	74	100.0	472	100.0

In the Metropolitan area court observational data were collected between 7 December 1978 and the end of May 1979 and interviews were conducted between December and the end of June 1979. In Kalgoorlie observational data was collected between 12 December 1979 and the end of March 1979 and interviewing was continued until the end of April 1980. Because there were less prosecutions than expected during the fieldwork period in Kalgoorlie all cases meeting the sampling criteria, rather than a random sample of cases, were included in the study.

Sixty-seven (15.7%) cases were observed in the Court at Kalgoorlie. Forty-nine (11.2%) and 38 (8.7%) cases were observed at Midland and Fremantle courts respectively. The remainder 282 (64.6%) of the observed cases were in the two courts at Perth (Perth No. 1, 25.7%; No. 2, 38.9%).

The observational sample comprised 380 (80.5%) male and 92 (19.5%) female defendants (Table 2.2) The majority (69.2%) of the juveniles were non-Aboriginal (Table 2.3). Most of the defendants were 16 years and older (60.5%). The defended sample comprised significantly more 16-18 year old

defendants (Chi-square = 6.4929, with 1 degree of freedom $p < .001$) (see Table 2.4). There were no significant differences between the general and defended samples in terms of sex or ethnicity. Most of the juveniles (64.3%) had been to court prior to our observing them. There was a significant difference between the two samples with regard to record. (Table 2.5).

TABLE 2.2

SEX OF DEFENDANTS IN OBSERVATIONAL SAMPLE

Sex	Sample					
	General		Defended		Total	
	N	%	N	%	N	%
Male	321	80.7	59	79.7	380	80.5
Female	77	19.3	15	20.3	92	19.5
Total	398	100.0	74	100.0	472	100.0

TABLE 2.3

ETHNICITY OF DEFENDANTS IN OBSERVATION SAMPLE

Ethnicity	Sample					
	General		Defended		Total	
	N	%	N	%	N	%
Aboriginal	118	29.9	26	35.1	144	30.8
non-Aborig.	276	70.1	48	64.9	324	69.2
Total	394*	100.0	74	100.0	468	100.0

* Ethnicity of four defendants unknown.

TABLE 2.4

AGE OF DEFENDANTS IN OBSERVATIONAL SAMPLE

Age	Sample					
	General		Defended		Total	
	N	%	N	%	N	%
13-15	161	41.9	19	36.0	180	39.4
16-18	223	58.1	54	74.0	277	60.6
Total	384*	100.0	73**	100.0	457	100.0

* Age of 13 defendants unknown

** Age of 1 defendant unknown

As Table 2.5 shows, whereas 33.4% of the general sample had no previous court experience only 16.2% of the defended sample were novices in court (Chi-square = 9.1078, with 2 degrees of freedom, $p < .025$). 171 Juveniles (37.3%) were already under the control of the Department for Community Welfare at the time of their appearance.

TABLE 2.5

NO. OF PREVIOUS APPEARANCES OF DEFENDANTS IN OBSERVATIONAL SAMPLE

No. of previous appearances	Sample					
	General		Defended		Total	
	N	%	N	%	N	%
Nil	133	33.4	12	16.2	145	30.7
1-4	140	35.2	30	40.5	170	36.0
5 or more	125	31.4	32	43.2	157	33.3
Total	398	100.0	74	100.0	472	100.0

Interview Sample

A number of major problems were experienced with the research design. In particular it proved difficult to conduct pre-court interviews with defendants and this was especially so with youths in non-contested cases. It was planned that youths selected for the pre- and post-court interviews would be

contacted by a letter in which the study would be explained and an interview requested. Separate letters were to be sent to both the youth and his/her parents.

With general cases it was frequently not possible to obtain details from the courts as to what cases were listed until the morning of court or at best the night before. The cases that were available were usually remand cases and a significant number of those related to the completion of Community Service Orders where the defendant did not have to be present. Even where names and addresses were available it was often difficult to establish contact with the defendant and his/her parents prior to the day of the appearance. An attempt was made to interview a number of youths at the court prior to their appearance. This, however, proved to be an unsatisfactory arrangement because of the anxiety experienced by the youths and the unavailability of interview rooms and the general chaos that precedes the commencement of court, especially at the Perth courts. For these reasons the plan to interview youths in non-contested cases before their appearance was abandoned. However, we continued to interview youths in defended actions, both before and after court.

The mechanics of triangulating observations and interviews also proved to be more difficult than anticipated. The research team found itself overworked with court observations, writing up field notes and coding observational data, filing, getting letters out to defendants and their parents, actually contacting them and interviewing them, processing interview data and so on. This process was ongoing throughout the field work period as new observations had to be made to fill the sampling quotas because of refusals to be interviewed by juveniles and parents or because of our inability to establish contact with them.

Interviews were obtained from 122 defendants in the general sample and 29 from the defended sample. However, four of these 157 interviews (two from each sample) had to be discarded

for a number of reasons. The remaining 147 interviews form the basis of the data in this report. Interviews were also obtained with 48 parents.[13]

TABLE 2.6

INTERVIEWS OBTAINED FROM OBSERVATIONAL SAMPLE

Interview obtained	Sample					
	General		Defended		Total	
	N	%	N	%	N	%
Yes	122	30.7	29	39.2	151	32.0
No	276	69.3	45	60.8	321	68.0
Total	398	100.0	74	100.0	472	100.0

Refusals to participate in the study came from both juveniles and their parents. Fifty-four of the juveniles indicated their refusal by returning the form enclosed with the letter requesting an interview. It is not possible to determine how many of these refusals were the decisions of the parents or the youths themselves. The remainder of the refusals came when the youths and their parents were contacted. In six cases parents refused to allow their son/daughter to participate. In another four cases parents said that their son/daughter did not wish to participate in the study. However, there were also situations where parents agreed to their child participating and in some cases were very enthusiastic about the study but the youths themselves did not wish to be interviewed. In 17 (5.3%) of cases youths were not interviewed because of "other" reasons, including clerical and administrative errors. It was more difficult, generally, to contact Aboriginal than non-Aboriginal youths for interviews.

Most of the youths and parents who indicated their wish not to take part in the study were very pleasant. It was not always possible to get their reasons for not wanting to participate. Many youths (38%) said merely that they weren't

interested or "don't want to". Fourteen per cent said that they wanted to forget the appearance. Another 16% replied that they had nothing to say that would be of interest. Two youths said that they did not want their father to find out as he was unaware that they had been to court. They had been accompanied by their mothers. In five cases the youths or their parents refused with varying degrees of aggression. The remainder of those refusing to participate gave other reasons (e.g., no time, leaving for the country) for not wanting or not being able to participate.

The major reason for the low response rate was the inability to establish contact with juveniles. An attempt was made to call on each juvenile three times before he/she was excluded from the study. This was not always possible for logistical reasons. The research team travelled in excess of 7,500 kilometres in the Metropolitan area alone.[14] The fact that the fieldwork period coincided in part with school holidays also made contacting juveniles difficult, as did the mobility exhibited by Aboriginal and older non-Aboriginal youths.

It was not possible to fill the sampling quota for Aboriginal or female defendants. This was because enough such defendants were not located in the courts during the period of the study. It was also partly because of the high non-response and refusal rates.

TABLE 2.7

REASON FOR NO INTERVIEW

Reason for no interview	N	%
Refusal	117	36.5
No response	173	53.9
Country address	14	4.4
Other	17	5.3
Total	321	100.0

of the 321 juveniles with whom interviews were not obtained, fourteen were excluded either because they returned to their home in the country or moved to a country address before an interview could be arranged. Refusals were obtained from 117 (36.5%) and the research team was unable to contact 173 (53.9%) of the non-interviewed category. The non-response group includes twelve youths who broke appointments with interviewers and seventeen youths for whom a correct address could not be obtained from either court or departmental records.

The high refusal rate may be partly associated with the sponsorship of the study by the Department for Community Welfare. Juveniles (and parents) may have felt more reluctant to be interviewed by people employed by the "welfare" Department. Morris and Giller (1977) contacted their sample through social workers and probation officers. They managed to obtain interviews from 27 (43%) juveniles and 29 (46%) adults out of a potential sample of 63 "sets" of juveniles and parents. Hapgood (1979) had a response rate of 94%. Though employed by a local welfare authority he was conducting the research for a PhD programme. He took steps to ensure that his connection with the welfare authority was not disclossed to his respondents on the basis that it might inhibit their willingness to be interviewed. His field-work was also conducted over a 49 week period and did not include the observation of the juveniles in court.

The respondents and non-respondents were compared with regard to their characteristics and backgrounds. Comparisons were made with regard to the defendants' sex. ethnicity, age, work status, number of previous court appearances, type of housing, family income and type of offence.[15] The respondents differed significantly from the non-respondents in terms of the type of offence the youths were charged with and age.

Significantly, more of those charged with offence against the person and 'good order' did not participate in the interview stage of the study compared with those charged with offences against property. This group included a number of youths who had been charged with serious offences against the person. There were nine youths charged with rape, attempted rape, indecent assault, and one girl charged with robbery with violence. There was also a group of five Aboriginal girls charged with drinking offences who refused to participate. The overall relationship between type of offence and non-response is difficult to explain. However, it may be related to the trends shown in the following chapters (4, 9 and 12) between offences against 'good order' and the person and the defendants' denial of guilt and the feeling that their prosecutions and referrals to court were unfair. Such feelings may have inhibited youths from participating in the study, especially one sponsored by a Government Department. It is possible that the reported trends would have been stronger had more of those charged with such offences participated.

TABLE 2.8

INTERVIEWS OBTAINED BY TYPE OF OFFENCE

Interview Obtained	Property		Good Order/ Person		Total	
	N	%	N	%	N	%
Yes	144	35.3	36	25.9	180	32.9
No	264	64.7	103	74.1	367	67.1
Total:	408	100.0	139	100.0	547 *	100.0

* The larger N results from youths being charged with offences in both categories. Nine defendants charged with drug offences excluded. Chi-square = 4.1448 with 1 degree of freedom, $p < 0.05$.

Proportionally more youths in the 13 - 15 year category were interviewed than those in the 16 - 18 year old category. Age was dichotomized into these categories to facilitate data analysis. The significance of the relationship between age and participation in the interview stage of the study is partly due to this dichotomization. In actuality all of the age groups from 13 to 18 responded proportionally with the exception of 13 and 15 year olds. There were significantly less 13 year olds interviewed than expected. However, a greater proportion of 14 year olds participated than would be expected by chance.

TABLE 2.9

INTERVIEW OBTAINED BY DEFENDANTS' AGE

Interview Obtained	Age					
	13 - 15		16 - 18		Total	
	N	%	N	%	N	%
Yes	69	38.3	79	28.5	148	32.3
No	111	61.7	198	71.5	309	67.7
Total:	180	100.0	277	100.0	457	100.0

Chi-square = 4.7984, with 1 degree of freedom, p .05

Despite these significant results, however, the average age of both groups was equivalent. The modal age for both the non-interviewed and interview samples was 17 years. The mean age of the sample was 15.8 years and of interview sample 15.5 years. The differences between the ages of the respondents and non-respondents are therefore not as significant as it would seem from Table 2.9.

The respondents and non-respondents in the interview stage of the study thus differ significantly only with regard to the type of offence they were charged with. However, despite this and despite the fact that non-respondents were replaced by new cases selected by the same procedures as the original sample (Selltiz et al 1965) the interview sample should be

treated as a non-probability sample and therefore not necessarily representative of the total court population as a precautionary measure. This is because a large number of non-respondents may differ from the respondents in other ways not accounted for in this analysis. Because of the research emphasis on the 'right not to be researched' the interview sample is to some extent a self-selected sample. As an exploratory study the aim was not sampled in order to estimate population values but rather to generate insights into juvenile perspectives on the Children's Court system and the factors that might account for those insights and to get some idea of the diversity of perspectives among the court population (Selltiz et al 1965).

Tables 2.10, 2.11 and 2.12 show the distribution of sex, ethnicity and age of the defendants in the interview sample. The sample was predominantly male (82.3%), non-Aboriginal (74%) and 16 years and older (52.7%). Apart from age, where there are significantly more older youths in the defended sample, the male and female, and Aboriginal/non-Aboriginal defendants are evenly spread between the general and defended samples. Forty-nine of the youths (34.5%) were full-time students and 26 (18.3%) were employed full-time. The remaining 47.2% were unemployed (Table 2.13).

The majority of youths (62%) were from two-parent families. Of the remainder (31.8%) were from single parent families (in all but 4 cases, single mother) and 6.2% were either living away from home or with relatives (Table 2.14). In the majority of cases, the youths' parent(s) were employed (62.6%). However, more than a third (37.4%) were either unemployed or not in the workforce (Table 2.15). Of those who were employed nearly half (49.4%) were employed in working class occupations (e.g., labourers (15.2%), operators (9%), service workers (8%), drivers (16.5%)).* Twenty-seven percent (26.6%) were tradesmen or craftsmen and are classified here as upper working class and the remainder (24.1%) were employed in upper or middle class occupations or professions.

Just over half of the youths' families (51.9%) lived in rented accommodation and the families of the others either owned or were buying their homes. Most of the renters were State Housing Commission tenants (Table 2.16).

TABLE 2.10

SEX OF DEFENDANTS

	Absolute freq.	Relative freq. %	Adjusted freq. %
Sex			
Male	121	82.3	82.3
Female	26	17.7	17.7
Total	147	100.0	100.0

TABLE 2.11

ETHNICITY

	Absolute freq.	Relative freq. %	Adjusted freq. %
Ethnicity			
Aboriginal	38	25.9	26.0
Non-Aboriginal	108	73.5	74.0
Not known	1	.7	Missing
Total	147	100.0	100.0

TABLE 2.12

AGE

	Absolute freq.	Relative freq. %	Adjusted freq. %
Age			
13-15	69	46.9	47.3
16-18	77	52.4	52.7
Not known	1	.7	Missing
Total	147	100.0	100.0

TABLE 2.13

DEFENDANTS" WORK STATUS

	Absolute freq.	Relative freq.%	Adjusted freq.%
Student	49	33.3	34.5
Employed	26	17.7	18.3
Unemployed	67	45.6	47.2
No data	5	3.4	-
Total	147	100.0	100.0

TABLE 2.14

FAMILY TYPE

Family type	Absolute freq.	Relative freq.%	Adjusted freq.%
Single parent	41	27.9	31.8
Two parent	80	54.4	62.0
Other	8	5.4	6.2
No data	18	12.2	
Total	147	100.0	100.0

TABLE 2.15

PARENTS' WORKFORCE STATUS

	Absolute freq.	Relative freq.%	Adjusted freq.%
Employed	77	52.4	62.6
Unemployed	46	31.3	37.4
Not in the workforce	24	16.8	
Total	147	100.0	100.0

TABLE 2.16

HOUSING TYPE

Housing type	Absolute freq.	Relative freq.%	Adjusted freq.%
Owned/buying	62	42.2	48.1
Renting	67	45.6	51.9
No data	18	12.2	Missing
Total	147	100.0	100.0

Most of the youths were Australian-born (86.8%). Another 11.1% were born in the U.K. and the remaining three youths were born in other European countries. The distribution of youths in the general and defended samples with regard to family type, parental employment status and occupation and housing type were roughly equal. However, there was significantly more students in the general than defended sample and significantly more employed youths in the defended than general sample (Chi-square = 8.20182, with 2 degrees of freedom, $p < 0.25$).

Defendants' Records

Two measures of the defendants' criminal records were used. The first was the number of previous appearances the youths had in Children's Court. These data were obtained from each youth's D.C.W. court record card. A major problem with these records is that only appearances during which defendants are found guilty and a disposition given are recorded. Thus a youth may have considerable court experience because of remands and adjournments without these being recorded. The appearance of defendants who have been acquitted are also not recorded.

The second measure of record used here is status, by this is meant the defendant's status vis a vis the court at the time of his appearance (e.g., first offender, probationer, "under control"). The youth's status was calculated from the

disposition at his previous court appearance (if any). These two measures are used because they indicate qualitively different aspects of the youth's records. The two variables are closely related (Chi-square = 93.71917, with 4 degrees of freedom, $p < .0000$). Generally, those with a large number of court appearances have the "worst" status (i.e., under Departmental control). There is not a unilineal relationship, however, between the number of appearances and status. The passage to various statuses may vary with the youth's background, the type of offences committed, the place of residence and so on. In this sample Aboriginal youths had a mean of 4.3 appearances before being placed under control compared to 6.4 appearances for non-Aboriginal youths.

Table 2.17 shows the number of previous court appearances the youths had. Thirty-nine juveniles (26.5%) had no previous appearance, 63 (52.9%) had one to four, and 45 (30.6%) had five or more appearances. The highest number recorded was 18 previous appearances. There were no significant differences between the general or defended samples with regard to the number of previous appearances.

TABLE 2.17

NUMBER OF PREVIOUS APPEARANCES

Number of Appearances	Absolute freq.	Relative freq.%	Adjusted freq.%
0	39	26.5	26.5
1-4	63	42.9	42.9
5 or more	45	30.6	30.6
Total	147	100.0	100.0

The statuses of the defendants are shown in Table 2.18. The following statuses are distinguished:

1. First offender - no previous court appearance;
2. Previous dismissal - previous appearance with a dismissal and no conviction recorded under Section 26 or Section 34B of the Child Welfare Act;

3. Probation/supervision - placed on probation on last appearance or dismissed under Section 26 and placed on supervision;

4. Place under control - placed under the control of the Department for Community Welfare (P.U.C.) or gaoled.

5. "Other" - fine, good behaviour bond, or Community Service Order (C.S.O.) on last appearance, unless previously placed under control.

The status of five youths could not be determined because data were not available from Departmental records. Of the remainder, 38 (26.8%) were "first offenders", 19 (13.4%) had dismissals on their last appearance, 17 (12.0%) were probationers or on supervision (only two youths were on supervision), 17 (12.0%) had previous fines, C.S.O.'s or bonds (fines were the most frequent), and 51 (35.9%) had been previously placed under control.

TABLE 2.18

DEFENDANTS' STATUS

Status	Absolute freq.	Relative freq.%	Adjusted freq.%
First offender	38	25.9	26.8
Prev.Dismissal	19	12.9	13.4
Probation/super.	17	11.6	12.0
P.U.C.	51	34.7	35.9
Other	17	11.0	12.0
No data	5	3.4	-
Total	147	100.0	100.0

There were no significant differences between juveniles in general or defended cases with regard to status. In all further analysis status will be categorized as:

(a) First offender - first offenders and those with one previous dismissal;

(b) Intermediate - probation/supervision and those with "other" statuses;

(c) P.U.C. - those previously placed under Departmental control.

Relationships Between Background Variables

The sexes and age were roughly proportionally distributed in both the Aboriginal and non-Aboriginal samples. There were differences however with regard to work status. The majority of Aboriginal youths were not at school and were unemployed (in fact, only two had full time jobs). Work status was also unevenly distributed between male and female defendants. None of the girls in the sample were employed and most were at school.

As mentioned above, status and the number of previous appearances were highly interrelated. There was also a significant relationship between defendants' ages and their statuses (Chi-square = 12.3782, with 1 degree of freedom, $p < .01$). Older youths tended to have intermediate statuses; whereas proportionally more of the 13-15 year olds were first offenders or had P.U.C. statuses. Male defendants on the whole had more previous appearances than female (chi-square = 6.85217, with 2 degrees of freedom, $p < .0325$). Youths from Kalgoorlie tended to have both a higher number of previous appearances and higher statuses (i.e., more P.U.C.'s, than youths from the Metropolitan area).

The heads of the majority of both Aboriginal families and one parent families were either unemployed or not in the workforce. Aboriginal and one parent families were predominantly renters rather than "owners" of their homes. Among defendants' families whose head was employed there was a trend among those categorized as as "upper working class" and "middle/upper class" to be home "owners". This trend was not, however, statistically significant.

Adequacy of Data

The adequacy of research data is usually discussed in terms of validity and reliability. Validity refers to the degree to which the research instrument(s) measures what it is supposed to measure. Reliability refers to the degree of

consistency present in a measuring instrument (see Kaplan, 1964). Before proceeding with a discussion of these issues some comment on the actual interviews is necessary.

As noted above the plan to interview a sub-sample of the defendants both before and after court had to be abandoned. The majority (87.1%) of the defendants were interviewed after court only. Of the remaining 19 youths interviewed before court, eight did not complete the second interview. Five of these youths were from defended cases. These interviews have been included in the analysis as their cases were observed and recorded and they added significantly to the analysis of pre-court issues. In regard to court processes and post-court perceptions, etc. they are treated as missing data in the analysis. More than three-quarters (77.9%) of the juveniles were interviewed in their own homes. A fifth (20.6%) of the sample were interviewed in D.C.W. facilities. Of these, ten were interviewed in Longmore Assessment Centre. Of the remainder, five were interviewed in Riverbank, four in Walcott Reception and Assessment Centre, three each in Nyandi Treatment Centre for girls and Hillston Treatment Centre for boys, and two in Longmore Remand Centre. Two youths were interviewed in friends' homes, in both cases the friends were co-offenders and were also interviewed.

The mean length of interviews (pre- and post-court interviews combined) was 54 minutes. The modal interview length was one hour. Pre-court interviews were generally conducted a couple of days before the youth's appearance. The mean delay between appearance and post-court interviews for cases in the defended sample was 11 days. For general cases it was 20 days. We attempted to interview youths alone. However, this was not always possible. Parents sometimes insisted upon being present. In other situations the interviews had to be held in a part of the house where others were present or where people were coming and going. The majority (62%) of youths were, however, interviewed on their own.

The remaining 38% had either a parent or others present. It is difficult to assess the influence of these others, though overall there does not seem to have been any significant differences between the responses of those interviewed alone and those with others present.

The adequacy of data is always a concern in any research. This is particularly so in the case of research on defendants in criminal proceedings. There are two issues here. The first is that there has been concern in the social sciences with the adequacy of data regarding socially sensitive issues, such as illegal or deviant behaviour. It has frequently been argued that those engaged in such behaviour will conceal or deny their involvement (Ball, 1967). Conversely, there has been an assumption that people will accurately report non-sensitive information (Phillips, 1972). Secondly, as noted in the Introduction, there is a commonly held assumption that defendants hold uniform and stereotypedviews on the judicial system, and that these views do not reflect the reality of their situation but are merely attempts to deny their own responsibility and to discredit others (e.g., the police, lawyers, judges). It is argued that the veracity of the information received from defendants about all or part of the system needs therefore to be questioned.[16].

However, literature on social science methodology suggests that the status of all data is problematic. This is because data is not merely collected but generated by the researcher through a complex set of interactions between the researcher, subjects, research instruments and wider social structures. Sociological research is itself a social activity (Cicourel, 1964; Denzin, 1970; Kaplan, 1964). Attention has already been drawn to how research can be complicated by the style of reporting and explaining events, and these problems are not confined to atypical situations. This does not mean that the research enterprise is hopeless. As Douglas has argued:

> Epistemdogically, any investigator has to believe that the end result of his investigation will be the discovery of truth. To postulate that behind every front lies another front gets one nowhere. But to hold that immutable truth will reveal itself once a front is breached is an equally futile approach. One's interest has to be in judging the validity of the data one collects regardless of the method used to generate that data. (Cited in West, 1979:725)

Phillips (1972) has shown in this regard that even in areas which are supposedly non-sensitive, e.g., voting behaviour and health and illness behaviour, considerable inaccuracies have been found when people's responses in interviews have been checked against information contained in various records. For example, he reports that Bell and Buchanan (1956) found that 30% of the respondents gave inaccurate information to questions on voting. Similarly, another study found that 23% of the respondents said that they had voted when actually they had not done so. Ball (1967) on the other hand, in a review of reliability and validity of information given by drug addicts in interviews on their illegal activities, found that when compared with police and hospital records, a degree of inaccuracy not too dissimilar to that described by Phillips.

There would seem to be no greater need to question the veracity of respondents such as defendants than any other type of person.

In this study the problems of reliability and validity were in the first instance approached by the triangulation of research methods, researchers and data sources. The accuracy of interview and observational data were checked against court and Departmental records. The 'face validity' of the interview data was, on the whole, good (see Selltiz et al., 1965, for discussion). Interview data were also checked against

observational data. A margin of error of 3.7% to 22.5% was found. This is well within the ranges of error discussed by Ball (1967) and Phillips (1972). There are three sources of error involved. The first is in the research team observations, the second in the youth's responses and the third, in the court and Departmental records.

It was hoped that interview reliability would be examined in part by means of a test-retest procedure using the pre- and post-court interviews. However, the failure of the strategy to obtain pre-court interviews meant that this was not possible. Reliability between interviewers was tested by examining a random sample of 10 dichotomized interview items. No significant differences were found between interviewers.

Analysis

Two types of data are utilized in this report. One is statistical data in the form of frequency distributions and Chi-square tables. The other is qualitative data in the form of quotations from the respondents and matrices showing the relationships between various phenomena (e.g., defendants' pleas and use of legal representation) and the respondents' rationales for their behaviour.

Qualitative data are presented as they added considerably to the picture obtained from the statistical data. Quotations from the interviews with the youths and from court proceedings are presented to provide the reader with a better understanding of the perspectives of the defendants and the rationality or logic underlying their actions and evaluations. Quotations, unless preceded by an asterisk, are presented as representative of juveniles' statements.

Those which are preceded by an asterisk are used as illustrations. Following a procedure established by Strauss and others (Schatzman and Strauss, 1973), double quotation marks ("...") indicate a verbatim quotation, whereas single quotation marks ('...') indicate a paraphrasing of a statement.

Statistical analysis of the data was done with the aid of an S.P.S.S. programme.[18] The Chi-square tables produced by that programme are reproduced in the report. In these tables the Chi-square value is shown with the degrees of freedom and the exact level of probability. (This is referred to as "Significance" in the tables). The level of probability taken to be significant is $p < .05$. However, most of the statistically significant associations exceed this level. A number of tables which do not have statistical significance are also reproduced because the lack of significant relationship between the variables is important.

A number of working hypotheses were developed to aid data analysis. The data was controlled for the following background variables: sex, age, ethnicity (Aboriginal/non-Aboriginal); work status (Student/employed/unemployed), family type (single/two-parent), class (parental occupation), type of housing occupancy (owner/renter), place of residence (Perth/Kalgoorlie), case type (general/defended) and type of offence. Other hypotheses were developed from the data as collection and analysis proceeded. (see Selltiz et al., 1965 and Schatzman and Strauss, 1973, for a discussion).

The variables - sex, age, ethnicity, case type and place of residence - are central to analysis as they formed the basis on which the sample was selected. Sex (or gender), age and ethnicity of offenders have been central to the

discussion of the causes and characteristics of crime and outcomes in the juvenile judicial system and need to be considered for that reason. (see for example, Hampton, 1977; Hagan et al., 1979, and Horowitz and Wasserman, 1980). The place of Aborigines in crime and court proceedings is of particular importance because of their over-representation in the criminal judicial and penal systems. (Eggleston, 1976; Parker, 1977; Samson-Fisher, 1978). The sample was thus stratified to ensure adequate numbers of Aboriginal youths and data controlled for the significance of Aboriginality.

The other variables were selected from the range of background data collected from the youths during interview and from records. The research of Cohen and Kleuger (1978) has shown that activities (e.g., school or employed versus unemployment) may be important determinants in case dispositions. "Work status" is categorized in three - student, employed, unemployed - as certain dispositions, i.e. a fine - necessitates the youth having an independent source of income. The place of the "broken home" in delinquency and court actions has been much debated (Cicourel, 1976; Cohen and Kleuger, 1978). It was decided because of this to control for data for family type (single/two-parent family) to explore for any such influences.

Each defendant's social class was assessed by parental occupation. Occupations were graded by a modified form of the scales devised by Broom and Jones (1974). Occupational groups were categorized as "middle/upper class" (professional/managerial/white collar occupations), "upper working class" (tradesmen/craftsmen), "lower working class" (labourers/service and process workers). As noted above, however, the parents of many of the youths were unemployed or not in the workforce (e.g., old age/invalid pensioners). This was especially so in Aboriginal and one-parent families. It was thus decided to analyse parental workforce status separately, rather than include this group as another class category.

Data is examined for the influence of the type of offence the youths were charged with. Offences were categorized according to "Welstat" [19] definitions into offences against "property", "person", "good order", and "drugs". (The two other categories in the system, misbehaviour and traffic, are not relevant to the study) (see D.C.W., 1980). Preliminary analysis showed that the major variance was between offences against property and person/good order. Because of this all offences against property were combined and the categories against "good order" and person combined. Six drug offences were excluded from analysis.

Because of the small number of cases (147) in the interview sample and the fact that the quotas could not be filled for Aboriginal and female defendants, the numbers in various analytical categories are too small to allow for statistical elaboration of results. In most cases responses of the 'not sure' and 'don't know' type are treated as missing data, as are cases where the item is not applicable. Adjusted frequent percentages are calculated by excluding missing data. All percentages are rounded off to 100%. In discussions of in-court behaviour (e.g. plea, use of legal representation) the general and defended cases are discussed separately because of the differences between them. As the number of youths in the defended sample is small, statistical analysis will only be conducted on the general sample. In the remainder of the report the two samples are discussed as a unit though they are compared statistically.

Chapter 3. ARREST AND PROCESSING

INTRODUCTION

Arrest is theoretically the gateway to the criminal judicial system. However, the pre-trial processes of arrest, interrogation and charging are as important to the final disposition of the case as the appearance in court and in some ways more so (McBarnett 1976; Bottoms and McClean, 1976). It is during this phase of the proceedings that the evidence against the defendant is mustered and the decisions about what to charge him with are made. Decisions at this stage define the parameters of the processes which will follow. The events during the arrest stage often limit the options open to the defendant for subsequent action. This is especially true in relation to plea:

> ... and especially the whole series of exchange between the defendant and the police at the outset of the process, may have such effects that the defendant feels he has little option as to the plea he must take. So, while in some cases all other decisions will be secondary to the overriding resolve of the defendant to plea in a particular way, there are other cases in which events and decisions made in earlier stages of the criminal process empty the plea decision of all but formal importance. (Bottoms and McClean, op.cit:104).

From the defendant's point of view the arrest is probably one of the most important parts of the entire process. Many believe that all that remains is for the court to 'rubber stamp' the decisions made by the police. This point of view is in contradiction to the assumptions and rhetoric of the legal system. Casper (1972) suggests that the lack of distinction by some defendants between arrest and conviction is not surprising when the operations of the system are examined. One major reason

is that most of those charged are ultimately convicted. Another is that the way in which the convictions are obtained frequently is at odds with the rhetoric of the system. For example, while idealogically a man is innocent till proven guilty, the "moral burden" of proof rests strongly with the defendant. Often the participants in the system, judges, prosecutors and even defence lawyers, presume guilt once he has been arrested. (Casper, 1972:33; McBarnet, 1976).

Many authors have noted that defendants are typically frightened, bewildered and isolated in Court. While this is so, they are ultimately more so throughout the pre-trial processes. Whereas, the courtroom rituals are played out in front of an audience, (in which the defendant may have supporters), in a public or semi-public forum, during the pre-trial phase they are essentially a 'captive' either in police territory or in a social situation controlled by them. Isolation, fear and bewilderment are frequently used by the police to achieve their aims during this phase. Their achievements may foreclose course of action theoretically open to the defendant.

An examination of pre-trial processes is therefore essential to an understanding of both the disposition of cases in Court and defendant's perspectives on the judicial system. In this chapter and the two following chapters, the apprehension, processing and interrogation of the juveniles and their evaluation of their treatment by the police, will be reported on.

The majority of the defendants were arrested and spent more than four hours in police custody. Just over half reported that they were bailed. While in custody the majority confessed to the offence(s) they were accused of and two-thirds made 'statements'. The juveniles provided a range of rationales for confessing and making 'statements'. These rationales highlight the

power of the police in the interrogation situation. Two-thirds of the defendants reported that their treatment by the police was 'good' or 'alright'. However these assessments are more complex (as are the rationales for confessing and making statements) than they appear on the surface. Some of these complexities are analysed.

Arrest and Prosecution

The decision to arrest and prosecute a suspect is a complex one. It involves a whole series of processes, each involving its own decisions. The police have a range of discretionary powers which come into play during the various processes. This discretion is negotiated by the police officer with a variety of audiences. The suspect, the complainant, fellow officers and superiors and the community as a whole, for example, affect the officer's decision to arrest and prosecute a suspect. Black (1971) has shown how in the field the patrolman's decision to arrest a suspect is the result of complex interactions between the officer, the suspect and the complainant, as well as the evidence available to the officer that a crime has been committed. The suspect is much more liable to be arrested if the complainant presses the officer for an arrest than if the complainant requests leniency, regardless of the available evidence. In addition, the probability of arrest increases when the suspect is disrespectful or overly respectful towards the police officer (see also Piliavin and Briar, 1964; Reiss and Black, 1972; and Lundman, et. al., 1980). Disrespect has also other consequences for the suspect. It determines, in part, not only if he will be arrested but also how he will be treated once arrested. For the police officer there is a crucial nexus between how he perceives his authority and the respect given by members of the community (Rock, 1973; Lundman, 1980).

This problem of the interplay between respect and authority has been aptly described by Bottomley (1979:97):

> ... the practical constraints of the face to face situations that confront the police officers often

> means that a vital concern is that of establishing that degree of personal authority which is an essential precondition of effective action of any kind. This strongly-felt need for 'respect' explains many facets of the behaviour and working philosophy of the police from the importance attached to 'demeanor' and co-operation' of those being questioned to the occupational justification of violence.

Cain (1971) has shown how the structure of the community (e.g. country town or large city) and the officer's place in it moulds the officer's perception of his role and the use of his powers of arrest and prosecution. One of the functions of police work is that of peace keeping. (Bittner, 1973; Black, 1971). Bittner has shown how police use the law and their powers of arrest as a resource to achieve their aims as peace keepers. He argued that: "in real police work the provisions contained in the law represent a resource that can be invoked to handle certain problems... it is only speciously true to say that the law determined the act of apprehension, and much more correct to say that the law made it possible" (1973: 339, italics added).

However, the use of this resource is, to some extent contingent on the officer's interactions with others. This is especially so when the officer is involved in a reactive situation, that is when he is involved in a citizen initiated complaint. However they are occasionally involved in encounters that are proactive, (i.e. initiated by themselves). This is often so in relation to juveniles. In these cases, "arrest is totally a matter of the officer's own making". (Black, 1971 : 1091) i.e. between the officer and suspect(s).

Arrest of Defendants

The data contained in this chapter describe the process once the decision has been made to arrest the suspect, from the suspect's point of view. The apprehension and processing of the defendants will be examined here. Concern here is with the following factors: arrest, type of apprehension, length of time in custody, and access to bail. The following hypothesis was tested;

> That apprehension and processing of defendants, the length of time they spent in custody and their access to bail will not vary with the defendants' sex, ethnicity, age, work status, social class, type of housing, family type, record (number of previous court appearances and status), type and number of offence(s), place of residence (Perth/Kalgoorlie) and casetype (defended/undefended).

The term arrest is subject to various interpretations. It may refer to being taken into custody, or to being formally charged with an offence, or even to being detained temporarily and questioned on the street by the police (La Fave, 1965). Confusion was found among the juveniles interviewed about what constituted an arrest. Though the majority thought of it as meaning being taken to the police station, the definition used here refers to juveniles being taken into custody, from which bail was required to secure the defendant's release.

The majority of youths were arrested. The remainder were summonsed to appear in court. (Table 3.1) Sex was significantly related to arrest. A third of the girls and only 13.7% of the boys were summonsed. Age, ethnicity and work status were not significantly related to arrest. Nor were class, type of residence, family type, place of residence or case type related significantly to arrest. There was, however, a significant relationship between the type of offence and arrest. Committal of an offence against property was more likely to result in an arrest than offences against 'good order' and 'person' (Table 3.3).

TABLE 3.1

ARREST

CATEGORY LABEL	ABSOLUTE FREQ.	RELATIVE FREQ. (PCT)	ADJUSTED FREQ. (PCT)
YES	118	80.3	83.1
NO	24	16.3	16.9
NOT SURE	3	2.0	MISSING
NOT APPLICABLE	2	1.4	MISSING
	147	100.0	100.0

TABLE 3.2

ARREST BY SEX

		SEX		
	COUNT ROW PCT COL PCT TOT PCT	MALE	FEMALE	ROW TOTAL
ARREST	YES	101	17	118
		85.6	14.4	83.1
		86.3	68.0	
		71.1	12.0	
	NO	16	8	24
		66.7	33.3	16.9
		13.7	32.0	
		11.3	5.6	
	COLUMN TOTAL	117	25	142
		82.4	17.6	100.0

CORRECTED CHI SQUARE = 3.70659 WITH 1 DEGREE OF FREEDOM.
SIGNIFICANCE = .0542

RAW CHI SQUARE = 4.92492 WITH 1 DEGREE OF FREEDOM.
SIGNIFICANCE = .0265

NUMBER OF MISSING OBSERVATIONS = 5

TABLE 3.3

ARREST BY TYPE OF OFFENCE

Arrest	Type of Offence: Property	%	Good Order/ Person	%	Total	%
YES	121	87.1	25	71.4	148	85.1
NO	18	12.9	10	28.6	26	14.9
TOTAL	139	100.0	35	100.0	174	100.0

Chi square = 5.3686, with one degree of freedom P .025

Types of Apprehension

The respondents were apprehended in a number of ways. Some of the arrests were traumatic experiences with associated violence or threats. Others were more routine, matter of fact affairs. "Books, movies, television", notes Casper, "portray arrest as a dramatic experience, often involving violence or at least the threat of it. Reality, as usual, is somewhat more prosaic". (1972:20).

From the responses of the juveniles about their apprehension a trichotomy of arrest types was developed:

(a) at the scene of the offence;

(b) arrest subsequent to the commission of the offence; and

(c) those who went to the station for questioning about offences.

A third of the respondents (see Table 3.4) indicated that they were apprehended at the scene of the offence, or were caught redhanded or were caught after a chase from the scene. These included shop-lifters and those

involved with offences against 'good order' and 'persons' (especially assaults resulting from fights). Some, however, were apprehended in the commission of offences against property.

Case 21

'We broke into ---- (Cricket Oval Pavilion). We went through the side window of the pavilion and my little cousin went through and then he went and opened the front door for me. We had a look around for cool drinks. When we went to go we heard a car outside. We went outside and there were two caretakers there...'

Those arrested at the scene of the offence were more likely to experience violence or threats during apprehension than those who were arrested later or those who went to the station for questioning. Casper, (ibid) noted a similar pattern. In some cases this involved being pushed around or hit a few times.

Case 162

(The juvenile had urinated in a bus while he was drunk).

"Two cars arrived when the driver called for the police. I was arrested. A detective hit me when they put me in the car."

A couple of other cases were more violent and traumatic:

Case 323

"The police were called in for a fight at ---- (Night Club) and picked on me for disorderly conduct and escaping legal custody, because they already knew me. They knocked me to the floor and picked me up under my arms and dragged me by the hair... When I tried to

get up they charged me with resisting arrest. Then they took me outside. One of them chucked me over his shoulder and chucked me up in the air. I landed on my head and became unconscious. When I was unconscious my brother came and told them that they had no cause to do that and they started punching him. When I regained consciousness the police were at the back of the wagon punching him, then I ran which they called escaping legal custody...'

Most (49% of the juveniles were arrested some time after the commission of the offence. The majority of these were less traumatic than arrests which took place at the scene, though some were not without excitement.

Case 42

'I think the bloke I done it with dobbed me in. They came to my home about 7.30 in the morning with a warrant for my arrest. One was out the front, the other was out the back. Dad got me out of bed and said that I better give myself up.'

In most cases the police just 'came round' and got the defendant at home or school.

Case 32

"A kid pinched a pair of cowboy boots from a house in company with me and two other kids during the day. About a day later the C.I.B. saw the kid walking round in the boots. He told them of everybody that was in it. They came round and got me."

Twenty six (19.5%) of the juveniles either went to the station for questioning or attended at the station when

they heard that the police were looking for them. In most of these cases it seems to have been purely accidental that they were not arrested in the first instance for they were absent from home when the police came to get them. All but three, however, were arrested after being charged at the station.

Case 53

"The police came around looking for us, so me, James and our mate decided to go to the police station."

Case 90

"The police came to the house to see me after catching me mate. We done the job on Saturday and they caught us on Friday about 7.15 a.m. /i.e. they came to the house/ But I had already gone to work. I start at 6 a.m. They left a message for me to come come to - C.I.B. I went down with my brother that evening. After questioning they said that they had to lock us /i.e. me/ up and they took me to the lock-up for about half an hour."

TABLE 3.4

TYPE OF APPREHENSION

CATEGORY LABEL	ABSOLUTE FREQ.	RELATIVE FREQ. (PCT)	ADJUSTED FREQ. (PCT)	CUM. FREQ. (PCT)
REDHANDED	14	9.5	10.5	10.5
AT SCENE	24	16.8	18.0	28.6
AFTER CHASE	4	2.7	3.0	31.6
SUBSEQUENT	65	44.2	48.9	80.5
STATION FOR QUESTION	26	17.7	19.5	100.0
NOT SURE	1	.7	MISSING	
NOT APPLICABLE	8	5.4	MISSING	
NO DATA	5	3.4	MISSING	
TOTAL	147	100.0	100.0	

As could be expected from the above discussion there is a strong relationship between the type of offence and the type of apprehension (see Table 3.5 over). Offenders against property (65.5%) were more likely to be arrested some time after the commission of the offence. In comparison those committing offences against person and "good order" were less likely to be arrested subsequent to the commission of the offence (29.4%). More than two-fifths (44.1%)of the offences involved arrest at the scene and the remaining quarter (26.5%) of the cases the defendant went to the police station for questioning.

TABLE 3.5

TYPE OF APPREHENSION BY

TYPE OF OFFENCE

TYPE OF APPREHENSION	TYPE OF OFFENCE: PROPERTY	%	GOOD ORDER PERSON	%	TOTAL	%
AT SCENE	36	27.5	15	45.5	51	31.1
SUBSEQUENT	75	57.3	10	30.3	85	51.8
TO STATION FOR QUESTIONING	20	15.2	8	24.2	28	17.1
TOTAL	131	100.0	33	100.0	164	-

Chi square = 7.6635, with two degrees of freedom. $P < .025$

There were significant relationships between ethnicity and age and type of apprehension. Proportionally more Aborigines were apprehended subsequent to the commission of the offence. Only two Aborigines went to the station for questioning. Similarly, younger offenders were less likely to be arrested at the scene of the offence. These differences are probably explained partly in terms of the type of offences that the respondents were involved in. Both Aboriginal respondents of all ages and younger non-Aboriginal juveniles were primarily involved in offences against property. The majority of offences against person and against "good order" were committed by old or by older non-Aboriginal males.

There was also a significant relationship between type of housing and type of apprehension. Proportionally more of the defendants from home-owner backgrounds were arrested at the scene or went to the station for questioning. This again seems to reflect the type of offence rather than a direct relationship between home tenure and apprehension. There was a strong relationship between home tenure and offence type. Proportionally more youths from home-owner backgrounds were involved in offences against 'good order' and

person (25.7% compared with 8.8% of youths from rental tenure). Aboriginal families were with one exception renters.

The relationships between the juveniles' sex, work status, class, family type, records or place of residence were not significant. There was however a strong relationship between the case type and apprehension (chi square = 9.63942, with 1 degree of freedom significance = .0081). A greater proportion of those who defended their cases were arrested at the scene. However, again this would seem to reflect the relationship between the type of offence and the type of arrest.

Processing and Length of Time in Custody

Once apprehended for an offence the defendants were taken to the local police station or C.I.B. office. Unless this station was also one of the Police Divisional Offices (Central, Midland, Fremantle or Kalgoorlie), after questioning and preliminary processing, they were then taken to the Divisional Office for charging, fingerprinting and related processing. A fifth of the Perth sample were arrested in the central city area and were taken directly to Central. A further 13% were taken directly to Midland Police Station. The majority were taken initially to a local suburban office and then to the Divisional Office. A few defendants claim to have been taken to three or more stations before being transported to the Divisional Office (D.O.). The reasons for this are not altogether clear. In Kalgoorlie the majority were taken to the Kalgoorlie Station, the others were taken first to Boulder and then on to Kalgoorlie.

Nearly three-quarters (70.3%) of the defendants were arrested and/or processed with co-offenders. In more than half the cases these co-offenders were reported to have been treated similarly to the respondent. Differential treatment was, according to the juveniles, a result of such factors as age, court status and extenuating circumstances. For example, co-offenders under 16 who had no previous record, were processed for the panel, whereas those over 18 were referred to adult courts and unlike the juveniles not sent to Longmore Remand Centre. A couple of co-offenders were referred to hospital for treatment as a result of injuries received in the commission of the offence. Six respondents said that their co-offenders were treated differently but that the reasons for this were unbeknown to them. Only a couple of juveniles, however, complained about discriminatory treatment of co-offenders.

More than half of the sample (53.3%) spent four or more hours in police custody from the time they were apprehended till the time they were bailed or were transferred to a Community Welfare Centre. The majority of Aboriginal defendants (83.3%) spent four or more hours in custody. In comparison, only 43.5% of non-Aboriginal juveniles were in custody for the same length of time. The length of time in custody was not significantly affected by defendants' sex, age, or work status, class, type of housing, family type, place of residence or record. It did vary, though, with the type of offence. Those charged with property offences generally spent more time in custody than those charged with offences against "good order" or 'person'. The juveniles in the defended cases spent less time in custody than those in the non-defended cases. (chi square = 8.88839 with 1 degree of freedom, significance = 0.0177). Again this probably relates to the type of offence the defendant was charged with. The longer periods spent in custody by Aborigines are more difficult to explain. One possible explanation is that Aboriginal youths were involved more with offences against property than offences of other types, and those charged with

property offences spend more time in custody. However, one would expect such a trend to be found with younger juveniles generally, as they also tended to be charged with property offences. Such a relationship was, however, not significant.

TABLE 3.6

LENGTH OF POLICE CUSTODY

CATEGORY LABEL	ABSOLUTE FREQ.	RELATIVE FREQ. (PCT)	ADJUSTED FREQ. (PCT)	CUM FREQ. (PCT)
TWO OR LESS HOURS	31	21.1	25.4	25.4
TWO-FOUR HOURS	26	17.7	21.3	46.7
FOUR OR MORE HOURS	65	44.2	53.3	100.0
NOT SURE	3	2.0	MISSING	
NOT APPLICABLE	12	8.2	MISSING	
NO DATA	10	6.8	MISSING	
TOTAL:	147	100.0	100.0	

TABLE 3.7

LENGTH OF CUSTODY BY ETHNICITY

	ETHNICITY		
COUNT ROW PCT COL PCT TOT PCT	ABORIGINAL	NON-ABOR-IGINAL	ROW TOTAL
LENGTH OF CUSTODY TWO OR LESS HOURS	2 6.5 6.7 1.6	29 93.5 31.5 23.8	31 25.4
TWO - FOUR HOURS	3 11.5 10.0 2.5	23. 28.5 25.0 18.9	26 21.3
FOUR OR MORE HOURS	25 38.5 83.3 20.5	40 61.5 43.5 32.8	65 53.3
COLUMN TOTAL	30 24.6	92 75.4	122 100.0

RAW CHI SQUARE = 14.63335 WITH 2 DEGREES OF FREEDOM.
SIGNIFICANCE = .0007

NUMBER OF MISSING OBSERVATIONS = 25

The relationship between ethnicity and length of time in custody is also not explained by the juveniles' status. When length of time in custody was controlled by status Aboriginal defendants still spent more time in custody than non-Aboriginal youths. However, those not bailed were in custody longer than those bailed from police custody. Less Aborigines than non-Aboriginal youths were bailed. Those not bailed frequently had to wait until transport was available to take them to Department for Community Welfare facilities. In fact, waiting seemed to be a feature of apprehension and processing.

TABLE 3.8

LENGTH OF CUSTODY BY TYPE OF OFFENCE

Length of Custody (Hours)	TYPE OF OFFENCE Property	%	Good Order/ Person	%	Total	%
Less than 2	22	17.6	12	42.9	34	22.2
2 - 4	21	16.8	5	17.8	26	17.0
4 or more	82	65.6	11	39.3	93	60.8
TOTAL	125	100.0	28	100.0	153	100.0

Chi square = 9.2648, with two degrees of freedom. P < .010

TABLE 3.9

LENGTH OF CUSTODY BY ACCESS TO BAIL

COUNT / ROW PCT / COL PCT / TOT PCT	LENGTH OF CUSTODY: TWO OR LESS HOURS	TWO--FOUR HOURS	FOUR OR MORE	ROW TOTAL
BAIL	16	18	22	56
	28.6	32.1	39.3	51.4
	80.0	69.2	34.9	
	14.7	16.5	20.2	
	4	8	41	53
	7.5	15.1	77.4	48.6
	20.0	30.8	65.1	
	3.7	7.3	37.6	
COLUMN TOTAL	20	26	63	109
	18.3	23.9	57.8	100.0

RAW CHI SQUARE = 16.70640 WITH 2 DEGREES OF FREEDOM.
SIGNIFICANCE = .0002

NUMBER OF MISSING OBSERVATIONS = 38

The fact that waiting for things to happen as a feature of custody are evident in the following comments by juveniles:

Case 2

"I was taken to ---- (Station 05) and then to ----(D.O.) and then to Longmore. I was at ---- (05) for about an hour. Nothing much happened there, they told me to sit down and hassled me a bit. Nothing much else happened. At ----- (D.O.) they took my things, took my prints and put me in a cell. I was at ---- (D.O.) for a couple of hours... Then they took me to Longmore."

Case 35

"I was at the police station for about three hours. Most of the time was spent waiting for them to come and talk to myself and my mother."

Others mention that they were more speedily processed.

Case 280

'We were taken to ----(38) and questioned, then to ----- (D.O.) for a while, then put in the lock-up for about five minutes. Then we were all taken to Longmore in the same van.'

Of those who were arrested, three quarters reported that they had spent some time in one of the lock-ups prior to being bailed or transported to a D.C.W. institution. Others were either bailed very soon after arrest and they were frequently allowed to wait for their parents in the office at the station or in the waiting areas of the lock-up. One could imagine a host of reasons for delays and waits in the processing of offenders. One of the problems surely must be that when juveniles were

apprehended in suburban areas and initially taken to the local station, then had to be transferred to Central or one of the other D.O.'s and then wait to be bailed out or transferred to an institution. In smaller stations, especially at night, it is possible that officers would not always be available to process and transport offenders and contact parents and so on. There are particular problems when the youth lives in an outer suburb and his parents do not have a car. Long waits could be expected in these circumstances.

A few juveniles, however, reported spending excessive amounts of time in police custody. In some cases this was in excess of 10 hours. The reasons for this are not altogether clear. Some cases may be part of a police strategy for obtaining information from offenders. Two juveniles reported: "We had to sit up from eight (8) in the night till seven (7) in the morning". They were questioned intermittently. Other cases may relate to some form of punishment!

Case 188

"We were in custody for about 14 hours altogether. We were taken to ---- (24) and questioned and then to ---- (D.O.) They took our fingerprints and things. We were put in a cell at ---- (D.O.) and then taken to Longmore at 2 a.m."

A couple of the respondents were arrested in the country and because of the lack of juvenile facilities spent the night in police custody before being transported to Perth. It is possible that some of the respondents are mistaken about the length of time they spent in custody. Some were confused and frightened.

Case 32

'I was taken to ----- (34) then to ---- (D.O.). At ---- (34) they spoke to me and another kid ... we were there for about an hour. At ----- (D.O.) they took us to a lock-up, they took your fingerprints and they rang my parents to come and pick us up. I was there for a long time, over an hour I think, though I'm not sure... I'm not sure about what else happened it was all confusing.'

Most of the respondents were reasonably confident in their assessments. Some were very precise, noting the hour or approximate hour of their apprehension and release.

Prints

Though not specifically questioned on the point, a third of respondents mentioned that their fingerprints were taken while in custody. Another 9 (6.1%) said that both their prints and photographs were taken.

Access to Bail

Slightly more than half (51.3%) of the sample were bailed out of police custody. As mentioned above, Aborigines had less access to bail than non-Aboriginal juveniles, only 23.3% of Aboriginal youths were bailed, whereas 61.9% of the non-Aboriginal youths had access to bail.

TABLE 3.10

BAIL BY ETHNICITY

COUNT / ROW PCT / COL PCT / TOT PCT	ETHNICITY: ABORIGINAL	NON-ABORIGINAL	ROW TOTAL
BAIL			
YES	7	52	59
	11.9	88.1	51.8
	23.3	61.9	
	6.1	45.6	
NO	23	32	55
	41.8	58.2	48.2
	76.7	38.1	
	20.2	28.1	
COLUMN TOTAL	30	84	114
	26.3	73.7	100.0

CORRECTED CHI SQUARE = 11.67164 WITH 1 DEGREE OF FREEDOM
SIGNIFICANCE = .0006

RAW CHI SQUARE = 13.17110 WITH 1 DEGREE OF FREEDOM
SIGNIFICANCE = .0003

NUMBER OF MISSING OBSERVATIONS = 33

The defendants' records (number of court appearances and status) were also significantly related to bail. Basically the situation was that juveniles who were 'under control' of Community Welfare at the time of their apprehension were not given access to bail but were transferred to Longmore or the institution from which they had trial release. (This however applies only to Perth). This was reflected in the relationship between number of court appearances and bail. Those with the greatest number of appearances were least likely to be bailed.

TABLE 3.11

BAIL BY STATUS

COUNT / ROW PCT / COL PCT / TOT PCT	STATUS: FIRST AND SECOND OFFENDERS	INTERMEDIATE	PUC	ROW TOTAL
YES	28	14	16	58
	48.3	24.1	27.6	52.3
	66.7	58.3	35.6	
	25.2	12.6	14.4	
NO	14	10	29	53
	26.4	18.9	54.7	47.7
	33.3	41.7	64.4	
	12.6	9.0	26.1	
COLUMN TOTAL	42	24	45	111
	37.8	21.6	40.5	100.0

RAW CHI SQUARE = 8.88169 WITH 2 DEGREES OF FREEDOM
SIGNIFICANCE = .0118

NUMBER OF MISSING OBSERVATIONS = 36

There was also a significant relationship between the type of offence the defendant was charged with and whether or not they got bail. Those charged with property offences were less likely to be bailed than those charged with offences against good order and person.

TABLE 3.12

BAIL BY TYPE OF OFFENCE

BAIL	OFFENCE: Property	%	Good Order Person	%	TOTAL	
Yes	50	42.4	17	62.9	67	46.2
No	68	57.6	10	37.1	78	53.8
Total	118	100.0	27	100.0	145	

Chi square = 3.8477, with one degree of freedom. $P < .05$.

The other background variables, family type, type of housing, class, place of residence, and casetype did not significantly affect access to bail.

Reasons for No Bail

The respondents were asked why they did not have access to bail. Forty-four of the fifty-five respondents provided reasons. The numbers in each cell are too small to analyse statistically but they do provide some understanding of why these juveniles were not bailed. The reasons the respondents provide may not reflect truly the official reasons why they were not bailed but there is obviously some correspondence. About a third of the respondents gave reasons which reflected police actions or decisions. Eight said that they were not given bail because they were absconders or were on trial release from institutions. Five said that the police either had not contacted or were unable to contact their parents.

That the bail set was too expensive was the reason given by five respondents. It is not clear whether the police actually demanded cash bail or whether the parents thought that they would have to put cash down. The median bail set was $144.41. The range was from less than $50 to in excess of $2,000. Only one defendant was released on personal bail. This youth had badly cut himself in the commission of a wilful damage offence and required medical attention. All the others required sureties, usually of the same amount as the bail.

In six cases juveniles reported that parents were unable to get to the station to bail them out. Eleven juveniles said that their parents did not come to bail them out and wanted to teach them a lesson. This represents 25% of

those not bailed who gave reasons. Nine gave other reasons and six said that they weren't sure why they did not get bailed.

Conclusions

Arrest was defined here as having occurred if the defendant was taken into police custody and bail was required for his release. The majority of defendants were arrested. Arrest varied significantly with only the juveniles' sex and the type of offence committed. This would seem to indicate that arrest rather than summons is the usual manner in which the police proceed to a prosecution of juveniles, at least in the two areas studied.

There has been much debate in the literature about the significance of extralegal factors e.g. sex, class, ethnicity, on the likelihood of arrest and the manner of treatment within the judicial system once a person has been arrested. The findings are contradictory (Myers and Hagan, 1979). Some of the literature indicates that discrimination on the basis of class, sex and ethnicity, other research shows that this is not so. Many studies have been criticized for methodological weakness (Cohen and Kluegel, 1978). Myers and Hagan (1979) contend that the findings on both sides of the argument have only shown weak relationships and that various legal variables need to be examined in more detail. They argue that such factors as the seriousness of the offence; the strength of the evidence, the credibility of the witnesses' need to be more fully considered if the nature of prosecution patterns are to be understood (and hence, disposition patters in the courts). They suggest that different types of people are more likely to have their complaints followed up and the offenders prosecuted. 'It is the troubles of older, white, male and employed victims that they are

considered worthy of public prosecution.' It is possible that discrimination on the basis of extralegal factors occurs in Western Australia, however to examine this would require a study of juveniles who are not arrested and/or prosecuted as well as those who are.

Three types of apprehension were identified -

(a) at the scene;

(b) subsequent to the commission of the offence; and

(c) going to the station for questioning.

Most juveniles were apprehended subsequent to the commission of the offence. Type of apprehension varied with the type of offence committed, and the age and ethnicity of the defendants. The latter two variables seem to have been partly influenced by the type of offence committed. Those who committed offences against 'person' and 'good order' were more likely to be arrested at the scene. Older non-Aboriginal males were more likely than others to have committed these offences.

Some defendants reported that they had been assaulted on arrest. This seemed to be related to both the type of offence and the circumstances of apprehension. Bittner (1973) in his study of police work on Skid Row, a situation which is frequently associated with violent confrontations between police and residents, argues that the use and choice of coercive interventions is determined mainly by the exigencies of situations and with little regard for the possible long range effects on individual persons. For example, he points out that police will make ad hoc decisions about who to arrest and how based on criteria not necessarily linked to the culpability of the individuals involved. The aim of the officer is to control the situation and restore peace. This overrides the rights of the individuals involved. In many situations involving fights or disorderly behaviour the actual culpability of the individual participants is ambiguous. This however, does not, I believe

explain all the situations in which violence or threats are administered. In some situations and for some types of offences, violence does not seem to relate to the needs of situational control. Rather, violence would seem to be administered as part of what could be called first order punishment. This is administered as part and parcel of apprehension for certain types of offence (e.g. disorderly conduct as in Case 162 above) and/or because the defendant or suspect created difficulties for the apprehending officers (e.g. making them chase him). Lundman (1980 : 178) argues that:

> '.... there exists within police organizations a logic that justifies acts of violence against certain types of citizens. Public drunkenness offenders, sex offenders, and disrespectful citizens are among the types of individuals seen as likely candidates for police violence.'

It must be stressed that the juveniles' experience during apprehension and processing ranged from very good to very bad and only a minority complained at this point of 'brutality'. However, as we shall see in the next chapter, assaults and threats were also reported during the interrogation process. It shall also be shown in Chapter 5 that the juveniles' assessment of their treatment is extremely complex.

Most defendants spent four or more hours in custody. Much of the time seems to have been spent waiting for things to happen. This situation was exacerbated by the fact that the defendants had to be taken to a police Divisional Office for charging and processing. Aboriginal defendants spent significantly more time in custody than others, as did those charged with property as opposed to 'good order' or again 'person offences'. Length of custody was affected by access to bail. Those not bailed generally spent more time in custody. Aborigines had significantly less access

to bail than others. However, the reasons for this do not seem to be entirely the fault of the police. Those who were 'under the control' of Community Welfare (in Perth) were rarely bailed and were returned to the institutions from which they had trial release or had absconded. The absence of telephones in many homes, especially among Aboriginal families, may have made contacting parents difficult. However, the fact that juveniles were processed in Divisional Offices rather than local stations made access to the office difficult for many families.

Chapter 4. POLICE INTERROGATIONS: CONFESSIONS AND STATEMENTS

> "The whole technique of skilled interrogation is to build up an atmosphere in which the initial desire to remain silent is replaced by an urge to confide in the questioner."
>
> Lord Diplock

In this chapter I wish to examine the defendants' accounts of their interrogations and to place these accounts in the context of the literature on police interrogations. Of central concern is the consequences of interrogations: the defendants' confessions to the offence(s) that they were accused of and the 'statements' they made in relation to these offences. Both confessions and 'statements' have important implications for their court appearances.

While in custody or during non-custody questioning by the police the majority of defendants confessed and two thirds made 'statements'. The juveniles provided a range of rationales for their actions. These rationales on the one hand highlighted the power of the police in the situation and on the other the centrality of the acceptance of guilt in the rationality of the defendants' actions. Though other rationales were given by the juveniles this was by far the most important. The acceptance of guilt is a principle which, as we shall see, runs through the youths' orientations to the entire court process.

While the interviews did not focus in detail on the interrogation process, a number of important points did emerge from the interviews. Some of these issues have been discussed above in the review of the literature on police interrogations. Though these points will be discussed in detail below, it is worth summarizing them at this stage. Firstly, defendants were generally unaware of their rights and secondly, even if aware, they were generally powerless to insist upon them. Thirdly,

few of the defendants were questioned in the presence of their parents or another supporting adult. Fourthly, though the principal reason given by the youths for confession to the offences was "because I done it", threats and violence still played a part in the process. These features were, however, more significant in relation to the making of 'statements' than of confession per se. Some of the youths, however, recognised that threats and violence were partly a result of their own behaviour during interrogation and processing. Fifthly, there is a general belief and an acceptance by some juveniles that threats and violence are a typical part of the process. (This point will be discussed in the following chapter on assessment of police treatment). Sixthly, some evidence suggests that defendants are inadequately cautioned by the police of their 'right' to silence. Though they were not questioned directly on this issue, it would be expected that at least some of the defendants would have referred to a caution, if only cynically. A number made cynical references to being told to write that 'this statement has been made without threat or inducement'. Many of the juveniles referred to such features as finger-printing without being asked.

Before proceeding with a discussion of the data, I wish to review in some detail the literature on police interrogation. This is done to place the data within a wider context for a number of reasons:

(a) to show that the issues discussed here are not unique or unusual;
(b) because few studies have been conducted on interrogations from the interrogatees point of view and the data contained here adds to our current knowledge.

Many of the features of interrogations reviewed in the literature were evident in the defendants' responses.

They refer to the use of isolation while being questioned, the use of what have been called 'Mutt and Jeff' techniques, the presumption of the guilt of the defendant, and so on. However, a word of caution is necessary. While many defendants responded that they were treated roughly, harshly and unfairly during interrogation, the opposite is also true. Quite a few defendants report that they had a very matter-of-fact and even amicable, albeit anxiety-laden, session with the investigating police officer(s).

POLICE INTERROGATIONS - THE LITERATURE

The few empirical studies that have been conducted on police interrogation procedures suggest that, even when legal safeguards are available and specified for the suspect (e.g. Miranda warnings in the U.S.A.), few suspects exercise their rights to silence. This results from the fact that even without threats or violence (though these have been found to still play a significant part), the interrogation process is inherently coercive. It is especially coercive for juveniles for a number of social, developmental and inter-actional reasons which will be discussed below.

Police interrogations serve a number of functions, making it central in the process of securing a conviction of the suspect on the one hand and a validation of the actions taken by the police officer on the other. In the first instance they are conducted to obtain a confession from the suspect. Secondly, an account of the act must be obtained in a form which is admissible in court and which also demonstrates the accused's part in the offence.

Cicourel (1976 : 124) suggests however that on some occasions the officer's aim, especially if the offence is not viewed as serious and the juvenile is considered to be of good character, might not be "to establish guilt, but to deliver a "lecture" on the evils of criminal acts." In such cases the officer

might proceed and give the juvenile a formal warning rather than prosecute.

Buckner (1970) argues that the problem in assessing criminality for the court is two-fold:

1) it must be shown that the actor committed the act and that he intended to do so;

2) it must be shown that the act itself constituted a specific crime.

In order to successfully achieve the assertion of criminality, Buckner contends that, there is a set of rules for transforming the action of suspects into linguistic descriptions and comparing them with the formal code of criminal acts to determine that the former constitutes an instance of the latter. In the court situation police linguistic descriptions, which constitute the 'facts' of the case, have three functions:

1) The officer has to make explicit his thoughts and actions in the situation.

   That is, he must specify what he did and why, how he reached his decision about the nature of the acts under consideration. This is often difficult since the officer may attend to many features of the situation without being aware consciously of them. These features are extremely difficult to articulate verbally. That is, much of his knowledge about the actions of suspects may be tacit. It is one thing to know that someone did X, it is another thing to articulate how one knows that A did X. It is therefore much easier to get the defendant to admit that he did X. (Sacks (1974) discusses this problem in relation to officers articulating why they thought a person looked suspicious).

2) The officer must show a direct correspondence between his description of the offence and the perceptions of any 'reasonable' man would have in the situation.

3) The prosecution must demonstrate that all the elements of the crime as specified in the abstract language of the penal code have been proven by the linguistic descriptions. That is, it must be shown that the two sets of words, one describing the Act and the other quoted from the code, correspond in all particulars.

In some situations the police officer has to take immediate action (e.g. a public disorder) if he then finds evidence of criminality "he can then 'back up' and figure out the way to proceed which will make his evidence admissible" (Buckner 1970:99). If this is not possible a solution is to reinterpret the situation and find the necessary elements to support his assessment of criminality. In other words, in the light of what he now knows about the situation and the actor, there are many ways in which he can stretch the reality of what happened. As Buckner (1970) argues:

> He can find what would have constituted reasonable cause had he thought of it at the time, and simply say that he did think of it at the time. He can testify to things he did not see which were there. He can anticipate the Court's review and put in his initial report items that would have given him reasonable cause had they happened.

In relation to the last point, Buckner says that a process of "over-writing" occurs. That is, for certain classes of offences, elements are typically added to the report to give the officer a reasonable "cause" to take action. The example he gives is that of drunk arrests, where

typically a statement that the drunk had urinated in his pants is added. Disorderly cases observed in court during the study typically reported "the defendant was seen to wave his arms about and heard to shout obscenities". Buckner argues that 'over-writing' is likely to occur when the officer 'knows' that the accused is guilty but knows that he will have difficulty proving it in court (See Buckner, 1970, also Sacks, 1974).

The point here is that the officer, during interrogation and other parts of the investigative process, has in mind not only what happened (the offence) but what will happen (the court case and securing a conviction). Things are made easier, of course, if the suspect admits to the offence and an account is obtained which on the one hand will stand up in court and on the other will foreclose the possibility of defence through a not guilty plea or the submission of factors in mitigation. To do this the officer firstly must get him to talk and then to get him to provide a relevant account. It is obviously not possible to get a literal description of what happened so that a truncated account has to be produced.

The officer has to guide the accused through the account to obtain the relevant details. While the suspect may be asked to describe 'what happened' this is often reinterpreted by the officer into standard categories suitable for legal process. Cicourel (1976:167) makes the important point that the report of the act that is eventually presented may bear little relationship to the actual exchange between the officer and accused and to how the account was constructed. His conclusions are worth quoting:

> The juvenile may be cajoled, pleaded with, lied to, his rights violated continuously and systematically, and his social character maligned or praised, but the official or unofficial report may be quite truncated, and may never reveal how the information was elicited, or what kinds of conversational exchanges preceded the disclosure of information that is then recorded as if it were volunteered, or recorded as an obvious part of the exchange. (italics added)

Interrogation also serves what Witt (1973) calls 'collateral functions'. For example, police use interrogations to help obtain information to solve other crimes, recover stolen property, elicit general intelligence on criminal activity and so on. Casper (1972:33-35) notes in his study that the defendants' interrogations were occupied not with the details of the offence for which they were arrested, but rather, with other offences the defendant might have committed and offences by others known to the defendant. In relation to the crime initiating their arrest, the defendants were frequently confronted with a 'statement' which the police had constructed from statements of co-offenders, physical or other evidence.

Characteristics of Interrogation

Given these functions, what then are the characteristics of interrogations. Driver (1968) has reviewed the police literature (manuals etc.) and the psychological and sociological research on police and other interrogations (e.g. military intelligence) to examine the psycho-social mechanisms at work during questioning. He argues that even in the absence of physical coercion the process is still inherently coercive. The coercion arises out of the strategic manipulation of the attributes of the encounter by the police - ecological (situational) control; control over

interactional roles and the use of persuasive or manipulative tactics. The majority of those interrogated talk, those who talk in the main confess and make statements. He suggests that the ability of the defendant to resist such tactics will depend largely on his self-confidence, self-assertiveness and familiarity with police procedures. In regard to juveniles specifically, Grisso and Pomicter (1979) show that various developmental and socializational factors are also important for juveniles.

The ideal interrogation technique suggests that the suspect be questioned in a specifically designed and controlled setting. A bare room which provides minimal comfort and no distractions for the suspect should be used. The spatial arrangement of the props (chairs, tables, etc.) should be so as to highten the suspect's anxiety and sense of isolation. Interrogation settings do not always conform to this ideal. In fact, most of the juveniles in this study seem to have been interviewed in normal office situations. However the situation (i.e. the general dynamics of the encounter) is still primarily controlled by the police, who make the decisions as to how and where the defendant will be questioned. Even when the encounter takes place away from the police station and even in the suspect's home, the situation is still largely controlled by the police. This control results from the status, power and interactional and interrogational skills that experienced police officers bring to the encounter. Unless the suspect is very self-assertive and/or knowledgeable about interrogation procedures, the definition of the format and meaning of the encounter is controlled by the police officers.

Griffiths and Ayers, reporting on the interrogation of sophisticated university staff and graduate students (in their own homes and offices), by the F.B.I. in relation

to draft resistance, concluded:

> ... our subjects were very nervous on the whole. Almost half of them mentioned spontaneously that they 'felt nervous' or 'had butterflies'... The F.B.I. agents banked on the effects of nervousness and isolation. (1967:314-15).

They show how, by adopting different styles, the agents were able to control the format of the situation. Since they were dealing with middle class people they adopted 'an engaging middle-class manner'. They were careful not to break the general middle-class conventions of politeness and not to disrupt the general context of the social situation. They presented themselves as 'just doing their job' and invited the suspect to 'speak off the record'. The style of presentation is varied to meet the circumstances of the situation and the type of person. Sometimes a professional type manner will be adopted, at other times the suspect will be approached more as an equal.

The isolation of the suspect, as noted above, can be used to enhance the control of the situation and of the accused. This may involve leaving the suspect alone at length, 'letting him cool his heels'. The suspect is without supporting friends and is more susceptible to the directives, assertions and promises of the interrogators. He may even come to regard one or all of his interrogators as a friend and supporter, (Driver, 1968).

TABLE 4.1

KINDS OF VARIABLES WHICH ARE KNOWN TO INDUCE ADULT SUSPECTS TO CONFESS OR RESIST CONFESSING DURING NONCOERCIVE INTERROGATION

General Type of Influence	Confession	Resistance
A. The Encounter and Ecological Control	Confidentiality of the relationship	Definition of encounter by defendant as illegitimate, coercive, etc.
	Intimate distance between interrogator and suspect	Immediate dislike of interrogator by suspect
	Isolation from persons who provide consensual validation	
	Ambiguity and unpredictability of the setting	
B. Properties of the Interrogator	High social status or prestige	Professional manner, *per se*
	Role-playing ability	
C. Properties of the Suspect	Low social status	Self-confidence
	Passivity	Self-assertiveness
	Inexperience with police	Prior criminality, "hardened" criminal
D. Rational Appeals	Police displaying air of confidence in guilt of defendant	Exaggeration of "facts"
	Constant repetition by defendant of his "story"	
E. Emotional Appeals	Display of sympathy	

(After Driver, 1968)

Violence and threats may also be used by officers to assume control of the encounter, once the defendant has been apprehended. These can also be used to ensure the suspect accepts his position as subordinate and to ensure compliance in a similar way as they are used in the field (see below). They can be introduced at various points in the process, depending on the circumstances.

Manipulative Techniques

Driver (1968) suggests that the police use seven manipulative tactics. The first of these is that they operate on the assumption of guilt. The suspect is interrogated on the basis that he is guilty. The question is not 'did you do it?' but 'how did you do it?' Cicourel (1972:123) argues that this assumption lies at the very heart of police work:

> "The assumption of guilt or innocence on initiative, commonsense grounds, based on considerable experience in typing different persons suspected or labelled offenders, is the core of law enforcement (italics added).

In a similar vein, Bottomley (1979:99) argues that if they did not have such a presumption their earlier decision to arrest would be undermined in their own minds.

The assumption of guilt is followed by the strategy of presenting incriminating evidence to the suspect to support such assumptions. Here the interrogators review the evidence available and may point to physical features or the body language of the suspect (e.g. downcast eyes, excessive movement of the Adam's apple, etc.) which are open to interpretation as guilt reactions. Police show disbelief in the claims of innocence and try to find flaws in the suspect's story.

> "When no evidence, witness, or co-suspect was available, the detectives usually had the suspect repeat his story over and over, while they looked for discrepancies. If none could be found, a detective would pounce on that fact. 'No one telling the truth', he would say, 'maintains the same story word for word; you must be lying'" (Yale Interrogation Study, cited in Driver (1968, fns. 56 p.53)).

The third strategy is to redefine the crime. At times the charge is exaggerated, at others its moral significance is

minimized. The fourth major strategy is to provide an explanation or motive which is morally acceptable to the suspect or which blames the victim or an accomplice. ("The other guy was asking for it wasn't he?")

The remaining three strategies Driver defines as 'emotional' in nature. On the one hand the police may show friendship, respect and sympathy for the suspect or even use flattery. On the other hand, if kindness does not work, hostility is often resorted to. This may take the form of "Mutt and Jeff" or "good guy and bad guy" techniques.

Rules of Speaking and Silence

In a more general way, the police control the interrogation encounter (and hence, the process of getting the suspect to confess and provide an account) by controlling and manipulating the rules or conventions that govern speaking and silence. This exercise of control results in part from:

a) their general control over the situation, its format and meaning, (as outlined above) and

b) their use of manipulative skills (often unarticulated) to direct the flow and content of talk, of specific import here is the manipulation of the rules governing 'Question and Answer Sequences' in English.[2]

All languages include rules governing speaking and silence. These rules specify not only how something is said but also, what is said, where, when, by whom and so on. (Bauman and Sherzer, 1974). In any cultural situation these rules also specify what is not to be said or when speaking should be refrained from. As Basso has argued:

> '... for a stranger entering an alien society a knowledge of when not to speak may be as basic to the production of culturally acceptable behaviour as a knowledge of what to say.

Now, while suspects are not entering an alien society, they are entering a social situation of which they usually have little knowledge and experience. They are also in a subordinate position. It is also, and this is of crucial importance, a situation which on the one hand is deliberately anxiety-provoking and on the other deliberately structured to get them talking.

In such a situation the suspect, especially a young inexperienced one, would not only be confused as to a choice between silence and speaking, but if he chose the former, find it difficult to sustain. Central to this difficulty is the fact that such silence is in itself a form of communication and can be variously interpreted. This interpretation in the first instance is made by the police and later by the courts. It may be interpreted as a sign of guilt or a sign that the suspect is disrespectful or unco-operative (see above). Secondly, when a rigid strategy of silence is adopted, the suspect is prevented from correcting interpretations given to the non-verbal parts of his interactional repertoire, gestures, eye-contact and so on. I suggested above that such features can be presented by officers as signs of guilt. Silence can also prolong the ordeal and the defendant may decide to talk with the hope of 'getting it over with'. Talking then might also be a defence mechanism. Driver (1968 : 58-59) has outlined a number of issues here:

(a) by talking 'freely', as an equal, he asserts that he is not in a position of inferiority to the interrogator, and thus maintain his self-esteem;

(b) by answering the questions before any pressure is exerted he 'knows' that he forecloses a later confrontation with the officer.

The suspect may also decide to talk in order to justify his actions or alternatively to endeavour to have his story

reported. In both these situations he may make his decision without being aware of the selective recording processes that are in operation to produce the truncated reports. (Cicourel, 1976; Leiken, 1970:41). On the other hand, the suspect may decide, knowing that he will eventually have to talk, to bluff his way out of it by (a) denying all guilt or knowledge of the offence, or (b) fabricating and giving the police a false story.

Hepworth and Turner (1974) have argued that the legal position in regard to silence is ambiguous and often contradictory and consequently accused people do not have any clear rules or guides for action, that will specify the conditions of appropriate silence. They contend that traditionally the English maintained that silence was compatible with innocence, 'the innocent man has nothing to say'. They say that recently, however, the argument has been advanced that silence should be interpreted as evidence of guilt. The English Criminal Law Revision Committee argued that the right to silence gives an unnecessary advantage to the guilty without helping the innocent and that such silence is contradictory to commonsense.[3] However, as Hepworth and Turner (1974:47-8) have pointed out:

> The problem of this appeal to 'commonsense' (apart from the fact that there may well be different types of commonsense knowledge) is that, although we have a legal right to silence, we feel we have a social duty to speak. One of the basic rules of conversational practice is that silence will be typically interpreted as a form of rudeness.. (Italics original)

This point was highlighted in the study of Griffiths and Ayers (1967). Their respondents, interviewed at home or in their offices in a non-coercive fashion, reported that

they felt that they had to answer at least some questions to avoid being rude. The implications of this are wider than the suspect feeling he was rude. Rudeness is a sign of disrespect. For the police, disrespect is an indication that their authority is in question. The consequences of such action can be serious for the suspect. For example, Westley (1953) found that police mentioned disrespect, most frequently as a justification for the use of violence against the subject.

More specifically the rules governing Question and Answer sequences in English make it more difficult to sustain silence in an interrogation situation. Linguists have suggested that the Question and Answer sequence is an utterance pair. By this is meant, that if a question is asked the next talk in the sequence will be an answer. If there is no answer to the question, the silence that results belongs to the party in the conversation who was expected to answer. Sanders (1974) has examined the strategic use of these rules by police to get suspects to answer in interrogations. One way of obtaining control over the encounter is gain control of the Question and Answer sequence. This is examplified by the old police drama adage, 'I'll ask the questions'.

Sanders shows how the interrogator uses 'pumps' (questions, grunts, for example) and 'pauses' (silences) to get the suspect to talk by leaving the talk turn with him. This means that any (or most) resulting silences 'belongs' to the suspect and it is therefore up to him to fill them in with talk. Silence, especially in a controlled, potentially hostile situation, like an interrogation, can at best be awkward (as in everyday conversation) and at worst, highly stressful. Sanders (1974:259) concluded from his analysis:

> 'Thus, it can be inferred that the interrogator did not attempt to make or trick the suspect into talking. Rather, the suspect's talk was encouraged structurally.

The rules of speaking and the collateral rules of silence make it difficult for the suspect to choose and sustain silence during interrogation. It is a situation in which the rules are both socially and legally ambiguous. It is not surprising in such a situation that the majority of suspects talk to the police. Many confess and most make statements. Grisso and Pomicter (1979) found that of all interrogated juveniles in their sample, only 6.5% refused to talk to the police. Suspects refused to talk in 11.3% of 405 cases where they were known to have been informed of their right to silence.

The situation in relation to juveniles asserting their rights is complicated by psycho-social developmental factors. Grisso and Promicter (1979) suggest that the general intellectual functioning may inhibit the ability of juvenile suspects to understand warnings (cautions) in regard to rights and to interrogation process generally. Research has shown that there is an inverse relationship between age and compliance that would affect the outcome of interrogation. Thirdly, images held by juveniles would also affect outcomes. Younger juveniles have been shown to view the police as generally helpful and they would be more likely to comply with police demands. Fourthly, research on legal socialization has shown that younger adolescents have a lack of sense of social contract and of the universality of rights, hence they may not be able to make informed decisions about their own rights in an interrogation situation. More generally, of course, adolescents are more likely to be over-awed than adults by the interrogation process.

I do not wish to give the impression that all police interrogations strictly adhere to the guidelines of police training manuals, or that they are conducted with the verbal dexterity of a Perry Mason cross-examination or with

the guile of Kojak. The police, however, do have the power and the strategies to dominate and control the interrogation process. The strategies used by police are frequently based on tacit knowledge. They are developed through experience and training. (Cicourel, 1976; Leiken, 1970). The control of the interrogation and the production of confessions are based on the manipulation of the attributes of the encounter; ecological control, control over interactional roles and the use of persuasive tactics. Under these conditions the majority of suspects and especially juvenile suspects, talk.

In addition to the dominance gained through the use of non-coercive strategies, research has shown that custodial interrogations are still sometimes accompanied by the use of threats and violence.

> "The results of this study appear to indicate that despite the stringent common law rule prohibiting promises and threats and later rules having the same effect, police interrogations still resort to these tactics regularly (Leiken, 1970:25).

The statements of respondents in this study would indicate that such tactics are also used in the interrogation of some juveniles.

PERCEPTIONS ON INTERROGATION

Before turning to examine in detail the juveniles' perspectives on making confessions and statements, I wish to outline some of their general perceptions on the interrogation process as a whole. As with arrest and processing, juveniles experienced a wide range of interrogations, ranging from the matter-of-fact friendly affairs, to the traumatic. Some respondents were overawed by the experience, others saw behind the strategies and the fronts. For the following boy and many like him, the officer was cordial and most of the time was spent making out the statement.

Case 32

'At ---- (Station No. 34) they spoke to me and another kid... about the kids that were in it and what did I take. ... then I just wrote out a statement... I was questioned in one room and my friend in another. Just one policeman questioned me. Nothing much else happened. During the questioning most of the time I just wrote out the statement.'

Some, while they did not experience threats or violence, noted that they thought such factors were a possibility:

Case 94

"(I) sat there for about half an hour and they made me give a statement. (Probe: How many?) There was one of them. He wrote it out and asked me if it was right after each paragraph. They acted like they were going to get heavy but they never did. There was this untold paper work, forms and stuff. I waited for another two hours or so and they took me to the lock-up."

While for others the process was characterised as being violent, or in part violent.

Case 35

"They took us all into a room together and punched us around. They questioned me about who drove the car, who broke the locks, who did we steal the car from and things like that."

Case 235

'We were bashed up one by one. They talk to you and that. If you don't say you did it they put other breaks on you.'

A number of respondents mentioned the use of such tactics as violence and threats to ensure their compliance. These

can be introduced at various points in the process:

Case 120

'When we went for fingerprints the cop told us that we had better behave, he said that the last guy they had in there didn't want his prints taken so they broke one of his fingers.'

Case 214 (While their property was being taken).

'I had $3 on me. The cop asked me where I got it from. I replied that I was going to get something to eat with it and that I got it from home. He said, 'this is what happened to the other f..... bastards who lied to us' and he showed us a board with some blood on it.'

The next two examples relate to the opening of interrogation.

Case 275

"... at first they said that if we didn't tell them what ones /i.e. Breaking and Enterings/ we'd done they'd turn the radio up so that the people couldn't hear us scream."

Case 356

"They told us that if we didn't tell them the truth they would get the detectives to beat us up and that that wasn't a threat."

(a) Isolation

It was noted above that one method of achieving situational control is isolating the suspect from both co-offenders and others, such as relatives, friends and legal advisers who may be of assistance to the suspect and enable him to resist the pressures of interrogation. A number of respondents noted the use of isolation during their questioning:

Case 214

'At the station, they put us in separate rooms.

They approached each of us in turn and got the story from us.'

Only eight (6.0%) of the 147 respondents reported that their parent(s) or another adult was present during their questioning. A number of others said that a parent(s) was present at the station at the time though they were not permitted to be present at the interview. Some parents reported that, when the police contacted them to say that their child had been arrested, they were told that he/she would be available to be picked up at a certain time. This was usually after interrogation had been completed. Some were not contacted till after interrogation and other processes were complete.

(b) Manipulative Techniques

Questioning usually seems to have covered the offence and the defendants' part in it, the participation and culpability of others and biographical details of the suspect, (age, address and so on). The questioning about co-offenders meant, of course, that when these youths were in turn questioned the police had more evidence to present to them and frequently all that was required was an admission and the signing of a 'statement'.

Case 281

'When I first got there they kicked me and pushed me around a bit. They didn't sort of question me. My brother had already said what I'd done, it had already been written down and they said, "do you admit to it?"'

Interrogation was reported to have frequently proceeded on the basis of an assumption of guilt. This is not to say that assumptions of guilt are not warranted on many occasions as the following illustrate:

Case 280

"At first we said nothing and they said bullshit. Whatever we said they said that it was lies till we told them the truth. They had a fair idea of the ---- /neighbourhood/ jobs we did. They knew we couldn't have stayed out /on the run/ that long without doing something."

Case 220 (Youth who absconded from an institution and was arrested in the country)

'At first I didn't say anything. I didn't want to get my friends in trouble. Then they /the police/ told me what I'd done, what happened, what I ate, where I went. I knew then that they knew everything.'

As will be shown below, few of the youths who confessed to offences disclaimed guilt. However, three respondents reported that they were unable to get the interrogating officers to accept their claims of innocence and that the officers continued with interrogation till an admission was obtained.

The respondents were sometimes asked to provide explanations or motives for their actions. They were also questioned about other offences that they might have been involved in. This was sometimes perceived by the juveniles, as in the comment by Case 235 above, as an attempt to put other charges on them. That is, they saw themselves being accused of other offences and pressured to admit them. This practice was reported by respondents. Not all respondents, however, perceived questioning about other offences as a 'put on'. This difference in perception would seem to have its basis in a number of inter-related factors. Firstly, as noted above, interrogation invariably proceeds on the

basis that the suspect is guilty. There may have been variations in the strength of this practice among different police officers, or some suspects may have been questioned about other offences without the assumption of guilt. Secondly, if questioning was accompanied by threats or violence, it was more likely to be seen as an attempt to pin the charge on them. Thirdly, the actions of the police while they might have been similar, were variously interpreted by different juveniles because of their experience, background and level of resistance to pressure.

Threats were sometimes experienced in the form of a 'put on'. That is, rather than be threatened with violence they were told that they would be charged with other offences. These threats were used to pressure the suspect to confess, to obtain compliance and eliminate trouble. Adult offenders have reported similar processes. However, for many of them the process is accepted and viewed as part of a trade off.

> The interrogation that occurred generally dealt with <u>other</u> crimes the defendant might have committed, ... This is viewed by the defendant (probably justly) as a tacit - and sometimes explicit - form of bargaining; in return for admissions which help the police to "clear" (solve) other cases, the defendant will lose little or nothing (he will receive, probably concurrent sentences) and may gain something for being co-operative. (Casper, 1972:33)

Matza (1964) argues that juveniles have a more rigorous assessment of guilt and justice than adults and that they are more concerned with the justice and fairness of each charge. They are concerned that the charge not be a 'bum rap'. They may be unwilling or unable in many cases to engage in the tacit bargaining that

Casper refers to. Their perception of the 'put on' is therefore heightened. (These issues will be discussed in more detail in Chapter 11) Some respondents noted that the definition of the crime was changed. This was usually in the form of an exaggeration of its seriousness. 'You're in real trouble now boy, things will go easier if you co-operate and admit to it', was the type of approach maintained. Two of the three emotional strategies discussed by Driver (op. cit.) were also mentioned. Some of the respondents experienced the 'friendly' approach, as one youth characterised his treatment.

Case 108

'Good. It was really funny. If you didn't know you'd think that they were on your side.'

Hostility in the form of threats and violence have already been mentioned. Hostility in the form of "Mutt and Jeff" techniques were also experienced by some of the respondents.

Case 337 (17 year old girl on stealing and receiving and false pretences charges).

'While they were asking the questions one police officer was gentle, the other wanted to get it over with. He didn't give me the opportunity to finish one answer before asking me another question.'

(c) Verbal trickery

The manipulation of speech forms and the use of questioning strategies were also referred to.

Case 423 (Girl charged with shoplifting, claimed innocence)

"He asked me why did I steal them for. I said that I didn't intend to take them. He said that he didn't believe me and that I stole them... He

got me very confused and he asked me questions and I said no. Then he changed them around and got me to say yes even if I didn't want to or not."

One girl indicated the problem of answering questions and how the officers "pump" the suspect till an admission is obtained. What is evident from this statement is the helplessness the suspect feels. They are no match for experienced police.

Case 26

"First I put a bluff up. They then start talking you into it and there's no way out till you tell the truth."

Seven respondents said that they were not questioned formally about the offences. They were involved in "good order" and related offences or they were merely confronted with the evidence and a statement. Four of those were charged and processed. The other two report that they were beaten.

Case 320

'Nobody questioned me. They just shoved me about and gave me a hiding.'

Cases against these defendants were usually constructed from eyewitness evidence, so detailed questioning was not seen to have been deemed to be necessary. There also seems to have been the assumption that they would plead guilty so that a signed and sealed confession was not obtained (see below).

These data, though not systematic or detailed, have been presented to give context to the following analysis of the process of confessing and making statements. They

> are also present to indicate that the strategies discussed in the literature are used in the interrogation of juveniles in Perth and Kalgoorlie.

Confessions

Hepworth and Turner (1974) suggest that ideally a confession involves the acceptance of full responsibility for an untoward act. I have indicated above that the procurement of a confession which is admissible in court is one of the functions of interrogation. From their point of view, a confession, at least in part, forecloses the possibility of the accused establishing the defence through a not guilty plea. It also forecloses the necessity of doing the work associated with a not guilty plea - collecting and collating evidence, organising witnesses, appearing in court, etc. Confessions therefore are crucial. Respondents were asked if they admitted to the offence(s) with which they were charged and whether they had made statements. They were also asked to elaborate on their reasons for doing so. The hypothesis in relation to confessions and statements stated;

> That confessions and statements by defendants would not vary significantly with their sex, age ethnicity, work status, record, class, type of housing, family type, place of residence, case type or type and number of charges.

Three-quarters (76.2%) said that they had admitted to the offence. A further seven youths replied that they had given what could be called qualified admissions, i.e. they said that they had admitted to (or to some aspect of) the offence that they had been charged with. Only 17 (11.6%) said that they had not confessed in any way to the offence(s). Three respondents answered that they were not sure if they had confessed, one was drunk at the time, and data was not collected on another eight respondents for various reasons.

TABLE 4.2

CONFESS TO OFFENCE

CATEGORY LABEL	ABSOLUTE FREQ.	RELATIVE FREQ.	ADJUSTED FREQ.
FULL	112	76.2	87.5
NONE	17	11.6	12.5
QUALIFIED	7	4.8	5.1
NOT SURE	3	1.7	MISSING
NO DATA	8	5.4	MISSING
	147	100.0	100.0

Thus of the 136 respondents for whom data is available, (92.6%) replied that they had given the police a full or qualified confession.

Ethnicity was significantly related to confessions. All of the Aboriginal defendants reported that they confessed. Seventeen (16.7%) of the non-Aboriginal respondents said that they had not confessed (Table 4.3). Age was also significantly related to whether the juveniles confessed or not. Younger juveniles (13 - 15) were more likely to confess than older (16 - 18) youths (95.4% and 80.3% respectively). Table 4.4 summarizes the effect of age on the tendency to confess.

TABLE 4.3

CONFESSION BY ETHNICITY

	ETHNICITY		
COUNT ROW PCT COL PCT TOT PCT	ABORIGINAL	NON-ABOR-IGINAL	ROW TOTAL
YES	33	85	118
CONFESS	28.0	72.0	87.4
	100.0	83.3	
	24.4	63.0	
NO	0	17	17
	0	100.0	12.6
	0	16.7	
	0	12.6	
COLUMN TOTAL	33	102	135
	24.4	75.6	100.0

CORRECTED CHI SQUARE = 4.86926 WITH 1 DEGREE OF FREEDOM.
SIGNIFICANCE = .0273

RAW CHI SQUARE = 6.29237 WITH 1 DEGREE OF FREEDOM.
SIGNIFICANCE = .0121

NUMBER OF MISSING OBSERVATIONS = 12

TABLE 4.4

CONFESSION BY AGE

	AGE		
COUNT ROW PCT COL PCT TOT PCT	13 - 15	16 - 18	ROW TOTAL
YES	62	57	119
CONFESS	52.1	47.9	87.5
	95.4	80.3	
	45.6	41.9	
NO	3	14	17
	17.6	82.4	12.5
	4.6	19.7	
	2.2	10.3	
COLUMN TOTAL	65	71	136
	47.8	52.2	100.0

CORRECTED CHI SQUARE = 5.76332 WITH 1 DEGREE OF FREEDOM.
SIGNIFICANCE = .0164

RAW CHI SQUARE = 7.07680 WITH 1 DEGREE OF FREEDOM.
SIGNIFICANCE = .0078

NUMBER OF MISSING OBSERVATIONS = 11

Both the work status of the defendants and the type of offence were also significantly related to confessing. In the use of work status, all of those who were students reported that they had confessed, while 81% of the employed youths and 80% of those who were unemployed confessed (Table 4.5).

TABLE 4.5

CONFESSION BY WORK STATUS

COUNT / ROW PCT / COL PCT / TOT PCT	WORK STATUS: STUDENT	EMPLOYED	UNEMPLOYED	ROW TOTAL
CONFESS				
YES	46	21	49	116
	39.7	18.1	42.2	87.2
	100.0	80.8	80.3	
	34.6	15.8	36.8	
NO	0	5	12	17
	0	29.4	70.6	12.8
	0	19.2	19.7	
	0	3.8	9.0	
COLUMN TOTAL	46	26	61	133
	34.6	19.5	45.9	100.0

RAW CHI SQUARE = 10.30897 WITH 2 DEGREES OF FREEDOM.
SIGNIFICANCE = .0058

NUMBER OF MISSING OBSERVATIONS = 14

Those charged with offences against 'good order' and 'person' were much less likely to confess than those charged with offences against property (62.5% and 96.2% respectively). This difference was statistically significant (chi square = 41.5734, with 1 degree of freedom, significance = .0001). As will be shown below in the discussion of the defendants' rationale for confessing, 'good order' and the offence against person,

in particular, minor assault charges, involved more complicated definitions of guilt for the defendant, than did property offences.

TABLE 4.6

CONFESSION BY CASE TYPE

COUNT / ROW PCT / COL PCT / TOT PCT	CASE TYPE: UNDEFENDED	DEFENDED	ROW TOTAL
CONFESS: YES	111	8	119
	93.3	6.7	87.5
	96.5	38.1	
	81.6	5.9	
NO	4	13	17
	23.5	76.5	12.5
	3.5	61.9	
	2.9	9.6	
COLUMN TOTAL	115	21	136
	84.6	15.4	100.0

CORRECTED CHI SQUARE = 50.20856 WITH 1 DEGREE OF FREEDOM.
SIGNIFICANCE = .0000

RAW CHI SQUARE = 55.42171 WITH 1 DEGREE OF FREEDOM.
SIGNIFICANCE = .0000

NUMBER OF MISSING OBSERVATIONS = 11

There was a strong relationship between the type of case (defended/non-defended) and confessions. Thirteen (61.9%) of those in the defended sample reported that they did not confess. Only 3.5% of the non-defended sample did not admit to what they were charged with. This highlights the issue of the acceptance of guilt by the defendants in their orientation to their case. While more than a third (38.1%) of those in the defended sample indicated that they confessed to the offence (at least in part), a number

later entered guilty pleas. Their initial not guilty pleas were frequently influenced by other factors after their interrogation (e.g. legal advice). Coercion and other factors in the interrogation were also reasons for discrepancies.

None of the other variables were significantly related to confessing. There was however a strong trend for girls to confess. Twenty one of the 22 girls in the sample confessed (chi square = .77466, with one degree of freedom, significance = .3788).

Rationales for Confessing

Respondents were asked to specify why they did or did not confess to the police. Their responses were then coded. Five main rationales were given by the defendants and these are shown below in Table 4.7. These rationales were:

(a) 'they asked me'

(b) committed the offence

(c) incriminated

(d) forced

(e) 'best way out'

The defendants' rationales for not confessing will be discussed first as these highlight the parameters of the juveniles' decision-making.

Twelve (63.2%) of the respondents who said that they did not confess, gave as their reason the fact that they did not commit the offence. Simply put, it was because the defendant said that 'I didn't do it' or 'I was not guilty'. In the case of a youth charged with unlawful use of a motor vehicle he indicated that it was because 'we had permission from the driver, we didn't know he wasn't the

owner.' Similar responses, claiming not to know the fact that the vehicle was stolen was mentioned by a couple of other defendants. The problem of the acceptance of guilt for interactional offences (good order and person) was mentioned by a number of defendants.

Case 321

"Didn't do 'em, (it) wasn't my fault, he hit me first, it was self-defence. Don't know how they did me for disorderly".

Case 325 (A fight)

"Because the other guy started".

Case 326 (Charged aggravated assault on police officer)

"I didn't touch him".

Six (31.6%) of the respondents said that they did not confess because they were not questioned about the offence. These were offences against 'good order' and person. In a couple of cases respondents indicated that police had spoken to them at the scene of their apprehension but that they were not formally questioned at the station.

Some of those who were questioned said that they had some difficulty in getting the police to accept that they did not want to confess to the offence. One youth mentioned that luckily he and his mate were questioned by the uniformed branch for "if you told a detective that you were going to plead not guilty, they'd beat the hell out of you."

Interestingly, none of the respondents gave strategic rationales for not confessing (i.e. "I didn't confess

because I wanted to get away with it' or 'I thought it was best not to confess'). While some attempt to interact strategically with the police, none seems to have been successful because of police dominance in the encounter. The importance of police actions can be seen in the fact that nearly a third of those who did not confess said it was because the police did not ask them. That is, in these cases, the non-confession results from a police decision. This will be seen again when the making of statements is discussed later.

TABLE 4.7

RATIONALE FOR CONFESSING OR NOT CONFESSING TO POLICE

	RATIONALE							
			Incriminated (c)					
Confession	Questioned (a)	Committed Offence (b)	"Dobbed In" (i)	Caught Red-handed (ii)	"Stuff" Found (iii)	Would be Caught (iv)	Forced (d)	Best Way Out (e)
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
No	No	No	-*	-	-	-	-	-

*Rationale not mentioned.

Four main rationales were given for confessing to the police; types (b), (c), (d) and (e) above.

It is important to note, though, that few of the defendants in the last three categories also denied their guilt. A number of defendants gave reasons that encompassed some or all of these rationales. A few also indicated that the very fact that they were apprehended and questioned was enough to make them confess (Confession Type (a)).

Case 183 (Young boy, B. & E.)

"Cos I got caught".

Case 237 (Young boy, U.U.M.V.) (Apprehended the following day)

"Cos they caught us".

Some of the defendants attempted various strategies to get out of the situation or mitigate the possible effects. Three youths (who had driven a car without a licence and syphoned petrol from another car when they ran out of petrol), went to the station when they heard that the police were looking for them. They brought their elder brother along. The plan was that he was to say that he was driving the car. This strategy failed when the elder brother found out that the boys were to be charged with stealing the petrol and denied any involvement. Others attempted to stick to prearranged stories.

Case 173 (18 year old youth charged with stealing a car in company)

'We were questioned separately. We just kept sticking to the story that we had slept in the bush. They found out that I slept with Tom and his brother in the /stolen/ car. They apparently gave Tom a hiding and he told them the whole story. They knew it was us from the beginning.'

An Aboriginal boy (16) tried to keep them guessing and confused without success.

Case 167

"They asked me what I did and why I did them.
(Probe: Did you admit to them?)
I didn't know that Jack had dobbed me in, so I said that I did and then that I didn't and kept changing like that... They said that my mates had dobbed me in. I said that I didn't believe them, so they brought Jack in."

Confession Type (b) - Acceptance of guilt

The second type of confession involved a statement of the acceptance by the defendant of guilt for the offence. In simple terms the reason for confessing was because "I was guilty". This was the major rationale offered by the respondents (43.3%). A number of the responses indicated that the defendants felt that the fact that they had committed the offence foreclosed the option of not confessing.

Case 53

"We knew we'd done it, we didn't have much choice."

Case 180

"I knew I had received the stuff, no use hiding it, is there?"

Case 46

"You can't very well plead not guilty, if you did it can you?"

There seems to be the feeling, that if you committed the offence, you have to admit to it. ("Because I had to (probe), I was guilty"). This often expressed as a group feeling for all the co-offenders (as Case 53 above). This was more prominent among your first and second offenders, though not entirely confined to them. It is also important to note that some of the defendants considered confessing and pleading as the same thing or part of the same phenomenon - "Did you admit to the offence?" "Yes, I pleaded guilty." The boy in Case 46 (above) when asked why he pleaded guilty in court, replied, "Because we pleaded guilty to the cops at ---- (Station). This sort of conceptualization highlights the importance of the pre-

trial processes on the outcome of the case.

Confession Type (c) - Incriminated

Type (c) confessions were based on the rationale that the defendant thought he was already incriminated and he 'couldn't get out of it'. Respondents indicated that the police had a variety of evidence to incriminate them in the offence. The following sorts of evidence were mentioned by the juveniles:

(1) information or statements from co-offenders;

(2) eyewitness accounts;

(3) being caught in the act;

(4) material evidence found in his possession.

On the basis of this catalogue a number of subtypes can be developed. Some respondents indicated that their reasons were based on two or more of the factors listed above. Rationales based on the fact of incrimination in the offence were the second largest category of responses.

The subtypes of the rationale are as follows:

(i) "Dobbed in".

Case 167

"Jim and them dobbed me in."

In these cases the police had information or statements from co-offenders or others on the defendants' part in the offence. Some of the defendants knew at the time of their apprehension or before they went to the station for questioning that they had been "dobbed in".

Case 108

"My friend said just to tell them, as someone had dobbed us in."

Most of those who went to the station for questioning, had prior knowledge of the fact that they were "dobbed in", often from the very fact that the police were looking for them. Others were confronted with the fact that they had been "dobbed in" on their apprehension.

Case 83

"Cos my friend had already written a statement and my name was included."

However, the assertions by the police that the defendant had been "dobbed in" were not always believed by the respondent as Case 167 above illustrates (see page 121).

Respondents also said that the police used assertions that they were "dobbed in" as part of the process of trying to get them to admit to other charges ('Your friend said you did this'). When this was an obvious 'put on' the juvenile attempted to disregard the assertion. For others, the "dob in" came when a co-offender cracked under interrogation and confessed.

(ii) Caught red-handed

Defendants who were caught in the offence tended to give this as their reason for confessing. Though a couple of youths tried to deny involvement with the crime, most concluded that they had no way of denying the offence.

Case 35 (Youth charged with Unlawful Use of a Motor Vehicle)

Interviewer: Did you admit to the offence?
Respondent: 'I didn't have to, they caught me in the act.'

Case 120 (Youth caught breaking and entering)

"Cause they caught us in there, it was not much point saying we didn't, was there?"

(iii) "They found the stuff"

Juveniles found with stolen property also confessed on the same basis. In some cases youths said the property was hidden and was found by the police after a search. In other cases, as with the 'cowboy' boots mentioned above, little attempt had been made to conceal the incriminating evidence. Once the police 'found the stuff' most defendants felt the 'game was up' and that they had no chance of escaping a conviction for stealing or for the possession of stolen property.

A combination of the above subtypes of rationales were also provided by some. One youth, for example said that he did not admit to the offence at first but:

"I admitted to it when I saw Johnson /co-offender/ in the car and they brought in the sheepskin." (Case 117)

Confession Type (d) - "Coerced"

A small number of respondents (4.4%) gave coercion as the reason for their confession. Coercion was in the form of violence or threats of violence. The following examples speak for themselves:

Case 111

'In the end I did' (Probe: why?) 'because it was getting dangerous' (Probe: what do you mean?) "They started hitting me".

Case 244

"I don't know, they started to hit me around."

Case 274

"I told them that I done it"(Probe: why?) "They make you, they punch you around and everything."

For one youth the situation was more complex. He was accused of a traffic offence, for which he denied responsibility. He was coerced into admitting to the offence. His parents later brought him back to the station and corroborated his story. The officer then withdrew the traffic charge and charged him with making a false statement. In relation to this latter charge he said that he 'admitted' to it because;

"I did it, even though they forced me."

It's worth quoting from his account of the interrogation for the first charge as it highlights some of the more extreme processes.

"He asked me where I was Friday night at such and such a time. I told him that I was at home having tea. He said that he was going to let me off but now he was going to charge me for not telling the truth. I didn't know what had happened. He accused me of ... He got pretty rough with me and threatened me with other charges. Another detective came in and said that they were after someone who was spraying paint on walls at ---- and that he would spray black paint on my hands and charge me with it. I had been there for a couple of hours and was pretty scared, it was the first time I had ever been in a police station. So I admitted to it. He said did I want to make a statement and I said was it the best thing to do. He said he wasn't telling me what to do. But I got the impression that it would be best, so I did. But I didn't know what had happened so I had to let him make it for me."

Of the other two respondents who claimed to have been forced to confess to offences they did not commit, one indicated

that the use of verbal trickery by the officer was the reason for the admission.

> "Because of the way he said it. He got me all mixed up."

The other said that she was led to believe that her two "co-offenders" (one had actually committed the offence) had dobbed her in and there was no way out for her.

> 'I had to. Because if you were told that your two friends had said something, you would think that they would be believed and not you.'

These three defendants were first 'offenders'.

Confession Type (e) - 'It's best to'

The last major type of rationale was based on the assumption that 'it's best to' confess. This type of rationale was mentioned by 5.6% of the respondents.

There were two considerations underlying this type of rationale. The first was focused on the present, the immediate situation they faced in the interrogation. The second, was oriented to the future, to the court and its disposition. The rationale was based on a number of types of knowledge;

(a) previous experience and information supplied by peers or other commonsense knowledge about police interrogations and their 'dangers'.

(b) assumptions about how the courts operated gained from previous experience or peers and so on.

(c) information given by the police as to how the court would react to the confession (i.e. favourably).

A focus on the immediate situation is evident in the following accounts:

Case 98

"There was no point in lying about it. You'd get into more trouble."

One youth (charged with stealing from work) specified the reasons in more detail.

Case 94

"Cause if I had lied, I'd have got into more trouble later. When the cop arrived and the boss was there, he was very nice, but as soon as we got in the car he said, 'if there's any more and you haven't told me there'll really be trouble. You can't muck coppers about, because they get heavy with you, when you've got these seven foot-nine coppers about. I know kids who've messed about. They can lay other charges on and book you for more."

The following girl had her focus on the court disposition.

Case 182

"I knew if I lied, I would get longer in here /Ñyandi/ and would have got a heavier fine."

Combinations of Rationales

Some of the respondents gave accounts of their reasons for confessing which contained combinations of the major rationale types outlined above and/or somewhat different dimensions.

Two youths who were both involved with a series of offences (breaking and enterings and unlawful uses mainly) and who both thought that they were heading for status changes (from institution to jail in one case and from probation to P.U.C. and institutionalization in the second) added the dimension of 'cleaning 'em up'.

Case 278

"I don't know, I did them. I knew I was going into a home and I admitted to them all so that I wouldn't have anything to worry about.

Case 293

"So I could clear 'em up, cause they would have found out."

Others had their focus on the court and its disposition.

Case 3

"They would have found out anyway. The police said that if I admitted it, things wouldn't be so hard on me in court."

Case 337

"Because they had already got a statement from John. I thought what's the use of bullshitting when they got John. Also they said that if I told them the truth, it would go down easier with the court and they would tell them /the court/ what I said."

A 15 year old youth (Case 238) thought, that regardless of what you did they still had you; there was no way out.

"Cause I did it and they belt you up, even if you didn't /commit the offence/ you still go to court".

Generally once the confession had been made a statement was the next thing on the agenda. Though some youths especially those whose co-offenders were arrested and interrogated prior to them, were confronted with a 'statement' and asked to sign it (see Casper, 1972, for a discussion in relation to adult offenders). It is to statements that I would now like to turn my attention.

STATEMENTS

As with confessions, the respondents were asked if they had made a statement and why they made it. Two-thirds (66.7%) replied that they had made statements (see Table 4.8). However, in doing so they referred to two different procedures. Both were considered by the respondents to constitute a 'statement'. On the one hand, some respondents indicated that they had written out (or had written out for them) formal statements.

A second, more common form of statement was a record of interview taken by the police and signed by the defendants. The fact that they had signed it gave it, in their minds, the status of a statement. This was evidenced by the fact that some of those who replied that they had not made a statement indicated that a record of interview had been taken but they had not signed it (see below).

TABLE 4.8

STATEMENTS

CATEGORY LABEL	ABSOLUTE FREQ.	RELATIVE FREQ. (PCT)	ADJUSTED FREQ. (PCT)
YES	90	61.2	66.7
NO	45	30.6	33.3
NOT SURE	8	5.4	MISSING
NO DATA	4	2.7	MISSING
TOTAL	147	100.0	100.0

Apart from the type of offence committed and the type of case the defendants were listed in, there were no relationships of significance between the background variables and the making of statements. Table 4.9 shows the relationship between the type of offence and statements. While statements were not made for a quarter (23.6%) of the offences against property, juveniles did not make them in regard to almost half (48.5% of the

offences against 'good order' and person.

TABLE 4.9

TYPE OF OFFENCE

Statement	Property	%	Good Order/ Person	%	Total	%
YES	128	94.1	19	61.3	147	88.0
NO	8	5.9	12	38.2	20	12.0
TOTAL	136	100.0	31	100.0	167	100.0

$X^2 = 25.8072$, df = 1, $p < .001$

Two-thirds of the defended sample did not make statements compared with less than a third of the non-defended sample. As with confessions, though to a greater extent, it would seem that in the case of offences against 'good order' and person that statements are considered to be less essential than in the case of offences against property. This is probably a result of the availability of other evidence, including accounts by arresting officers. This partly explains the lack of statements in defended cases. The refusal of some (3) defendants to make statements is also a factor in this regard.

TABLE 4.10

STATEMENTS BY CASE TYPE

COUNT / ROW PCT / COL PCT / TOT PCT	CASETYPE UNDEFENDED	DEFENDED	ROW TOTAL
STATEMENT			
YES	81	8	89
	91.0	9.0	66.4
	72.3	36.4	
	60.4	6.0	
NO	31	14	45
	68.9	31.1	33.6
	27.7	63.6	
	23.1	10.4	
COLUMN TOTAL	112	22	134
	83.6	16.4	100.0

CORRECTED CHI SQUARE = 9.10813 WITH 1 DEGREE OF FREEDOM.
SIGNIFICANCE = .0023

RAW CHI SQUARE = 10.63431 WITH 1 DEGREE OF FREEDOM.
SIGNIFICANCE = .0011

NUMBER OF MISSING OBSERVATIONS = 13

Rationales for Making or Not Making 'Statements'

As in the case of confessions the respondents provided a variety of rationales for making or not making statements. These are shown in Table 4.11 below. Two main points are evident from these. Firstly, many of the respondents lacked knowledge about their rights and in particular their right to silence. Secondly, they lacked power in the interrogation process and though only a few youths said that they wanted to make a statement, two thirds did. The overall powerlessness of juveniles interrogated by the police is shown by the explanations of those who did not make statements. Many indicated that they had not made a statement because the police had not asked them to make one.('They didn't want one')

Their powerlessness was also shown by the fact that while many thought that it was strategic to give the police a statement, few who thought that the reverse was strategic were able to carry through with the strategy.

Rationales for No Statement

Of the 45 respondents who did not make statements 40 provided reasons for their actions. Three main rationales were given for not making statements. The first two result from police actions and decisions. These account for nearly three-quarters (73.6%) of the reasons given by those not making statements. These are;

(a) 'They didn't want one' (63.9%)

Some of the respondents replied simply, that the police 'didn't want one, or 'cause they didn't ask me'. Others provided more details as to why the police did not ask them.

> Case 118
>
> 'I asked the copper about it /making a statement/ and he said that they only needed one as both of us /co-offender and self/ agreed with what happened. They already got one from my mate.'
>
> Case 293
>
> 'They didn't want a statement, they just asked me, 'are you going to plead guilty?' I said yes and they said then they didn't need a statement.'

(b) No signature required (10.4%)

I have indicated above that for many of the respondents a signed record of interview constituted making a statement. The reverse was also thought to be true, that a record of interview not signed did not constitute a statement.

> Case 110
>
> "They didn't ask me. They seemed to be happy writing down what I said."

Case 98

'They typed it down, I wasn't asked to sign it.'

(c) Refusal (21.1%)

The third major rationale for not making statements was that the respondent said that he 'did not want to'. There were a number of reasons behind this decision by the defendants. A couple said that they just did not want to, indicating that it was not in their interests. Another youth said that his parents had given him general instructions "not to sign things at the police station" without one of them being present. His parents said they had told him this after a bad experience involving his elder sister, who they claimed, was forced into incriminating herself in an offence she did not commit. A youth charged with receiving a large sum of money said that he had a previous bad experience himself and was wary about making statements now.

Case 34

"I didn't want to (Probe: Why?) Because the last time I made one they twisted it around in front of the court".

Another youth said that he refused because he 'didn't want to get his mates into trouble (i.e. incriminate them). In most of these cases it is obvious , from what the defendants said, that the police had either a record of interview (obviously in the case of the second reason above) or a statement from co-offender. The police then had some incriminating evidence on the defendants. None of the above defendants actually refused to talk to the police. The youth in Case 34 above, for example said that he had confessed to the offence. I will now examine the rationales given for making statements.

TABLE 4.11

RATIONALE FOR MAKING OR NOT MAKING STATEMENTS

	RATIONALE								
				HAVE TO		NO POINT NOT MAKING ONE			
STATE-MENT	ASKED	WANTED TO	FORCED TO	HAVE TO	ITS PRO-CEDURE	INCRIM-INATED	NO POINT	BEST WAY	RECORD NO SIGNA-TURE
YES	YES	YES	YES	YES	YES	YES	YES	YES	-
NO	NO	NO	NO	-*	-	-	-	NO	NO

* Rationale Not Mentioned

Rationales for Statements

Five major rationales were provided by the respondents for providing statements to the police. As with confessions some defendants gave compound reasons.

As with confessions, some of the respondents indicated that they attempted to 'bullshit' or bluff their way out of the situation. Only one was able to claim success, nevertheless, he admitted to a less serious charge. An important point to be remembered here (given the number of respondents who indicated that their 'statement' was, in fact, a signed record of interview) is that for many of the respondents, the statement and the confession were part and parcel of the same process. That is, in many of the situations, confessing is the same as making a statement. This point is illustrated below.

Statement Type (a) - 'Wanted to/Asked to'

A third of the respondents gave this type of rationale(s). However of these, only 8.7% said either that they 'wanted to' or that they wanted to get their side of the story recorded.

Statement Type (a) - 'Wanted to/Asked to'

A third of the respondents gave this type of rationale(s). However of these, only 8.7% said either that they 'wanted to' or that they wanted to get their side of the story recorded.

Case 54

"To tell the police what happened".

Others said simply that they made a statement because the police asked them to.

Case 9

"Because they asked me to".

It is important to note here that a number of the respondents specified that the police made it clear that they had a choice in regard to making a statement and that they applied no pressure to the defendants. This point is illustrated by the following comments.

Case 83

"They asked me to. They said that I didn't have to, but I wanted to. (Probe: Why?) So that I could get my story out".

Case 272

"They told me I didn't have to, but I did anyway".

Statement Type (b) - 'Forced to'

However, some of the defendants (15.9%) were not as lucky as these. They indicated that they were 'forced to' give statements. Some also said that they complied with police commands. They were 'told to' sign the record of interview or they were told to write out or copy out statements.

Case 121

"The sergeant said, sign here".

Case 253

"They said, we had to go in and sign it".

Others in this category said that they were threatened or assaulted and that this was the reason they made a statement. As one youth put it;

"On the statement they write it is not made under threat or promise, but it is." (Case 244)

The following examples illustrate such threats and violence.

Case 101

"They said, 'if you don't you'll be sorry'."

Case 238

"I asked them what happened if you don't sign it /the statement/, they said, 'oh yeah' /the respondent demonstrated how the officer held up his fist/. I got punched."

Statement Type (c) - "Have to"

One in five of the respondents replied that they had made a statement because either (a) they thought that they "had to" or (b) it's part of the procedure. This latter type of reason refers to the taking of records at interviews. The respondents felt that they had no choice in the matter. It occurs as part of the process of 'telling them what happened' and of confessing.

Case 36

'I don't know. You just say what you've done and they write it down.'

Others in this category thought that once you were arrested you have to make a statement. The data does not allow me to specify in all cases whether; (a) these were beliefs brought by the respondents to the situation from their general stock of knowledge, (b) beliefs based on information previously given by the police, (c) based on information provided by the police during the interrogation. Whatever the source of the belief, the result was

the same - a statement was provided or record of interview signed:

Case 338

"You've got to when you under arrest".

Some responses showed that the defendants thought that it was a customary expectation:

Case 10

"You usually make a statement after you told them what you've done. You have to sign it".

Case 430

'Because you have to sign it (Probe: why?) The sergeant told me before that I have to sign it'.

Statement Type (d) - 'No point not making one'

Some of the respondents (13%) felt that there was 'no point' not signing the record of interview or making a statement because they were already incriminated or because of some other factor. Once the defendant had confessed, it was thought that a refusal to 'make a statement' was pointless (especially if the statement was a record of the interview).

Case 311

'There's no use in hiding the facts. I admitted to the facts'.

Other forms of incrimination (see above p. 123) also make refusal pointless.

Case 183

'I don't know, they just asked me to make one, they found the other guy with the money'.

Some other reasons were offered to show that refusal was pointless. One defendant referred to a previous

experience of being confronted with a statement:

Case 169

"One time when they picked me up they had a statement already made out (Probe) So there's no point in not making one".

Another thought that a statement was necessary for court;

Case 53

"There wasn't any point not making one 'cos the court wanted one, need it to judge us".

Statement Type (e) - 'Best way out'

Making a statement was considered to be strategic by 10% of the respondents. Again as in the case of confessions, some of the defendants were concerned about the immediate situation - the interrogation, others had their focus on the court. The police, according to the respondents, occasionally supplied information and suggestions to them about the best course of action.

(i) Interrogation oriented

The making of the statement was seen as a way to get things over with, to avoid undesirable consequences and antagonizing the police.

Case 27

'I reckon it's better to make one. It makes things easier with the cops'.

Case 280

"Because they asked me to. I didn't want to argue with them, they can be nasty".

(ii) Court oriented

The statement was thought to be an advantage in relation to court by the following defendants:

"They just asked me to, so I did. If you do it means you are co-operating or something".

Case 337

'I had nothing to hide ... I thought that it would look better, go down easier with the court.'

The part played by the suggestions of the police was specified by some of the respondents in their rationales. They thought that it was best to because the police had told them:

Case 32

'Because they told me to, they said it was best to.'

Case 278

"They told us if we wrote a statement, it would be better for us in court and it probably wouldn't be remanded."

Case 281

"They asked me why I didn't want to, I just say, 'I don't want to' and they say, why don't you want to co-operate?' and I say that I did. They said, 'well write a statement'."

The police power and dominance in the situation is evidenced by the fact that the majority of those who gave strategic rationales for the making or not making statements, decided that the best thing to do was make a statement. This strategy is frequently encouraged by information given by the police. In one way this information is not false because the court may not look kindly on a defendant who was not 'co-operative'. The power of definition and the decision to inform the court of the definition, of course, remains with the police. The police control of the situation is also shown, as in the case of confessions, but the fact that the majority of those replying that they did not make

statement, gave reasons that resulted from police decisions ('I wasn't asked', or'wasn't asked to sign it'). The use of records of interview forecloses the decision about making statements for many of the defendants.

Summary

In this chapter, I have examined the juveniles' accounts of their interrogations by the police and have attempted to place these accounts in the context of the literature on police interrogations. Few empirical studies have been done on police interrogations, particularly from the accused's perspective. This is especially so in relation to juveniles. The study by Grisso and Pomicter (1979) discussed above used documentary sources (i.e. police records) for its data. For these reasons the literature was discussed in some detail. Though the data are impressionistic, in relation to the overall interrogation process, they indicate that the interrogation experiences of the respondents were similar to those discussed in other research. The major features of interrogations suggested in the literature, situational control, control of interactional roles, and the use of manipulative techniques - were all evident.

All the respondents questioned by the police provided them with some information about the offence. That is, none opted for their legal right to remain silent. Respondents typically lacked knowledge of such rights. None, moreover, referred to being cautioned about this right, though some reported that their rights about making a 'statement' or signing a record of interview were specified to them, after they had already 'talked'.

The majority of defendants confessed to the offence(s). There were statistically significant relationships between

ethnicity, age and work status, and case type and confessing. All Aboriginal defendants and all students confessed to the police. Younger defendants were also much more likely to confess than older youths. The literature on police interrogations suggests that suspects with experience of police procedures would be less likely than those with little experience to confess and make statements in relation to offences. Grisso and Pomicter (1979) found such a trend in relation to their juvenile sample though the actual numbers were small.

Conclusions

In the present study neither of the indicators of defendants' experience (the number of previous court appearances and court status) was significantly related to either confessing or making statements. If anything, their previous experience would seem to have taught that it is more strategic to confess and make a statement. These results then differ from those of adult studies where the more experienced offenders at times tend to refuse to talk. The results highlight both the differences between juveniles and adult and the power of the police in the interrogation situation. There was a strong relationship between the type of offence and confessions. Those charged with offences against 'good order' and 'person' were less likely to confess. This relates to the issue of the acceptance of guilt by the defendant. In these types of offences, guilt from the respondents' point of view, was more likely to be ambiguous. The importance of this relationship was seen in the defendants' rationality for confessing. The acceptance of guilt was the principal type of rationale given by the juveniles. However, confessions are also contingent upon the youth being questioned and the acceptance of guilt is not in itself sufficient explanation of why offenders confess. Matsa's (1964:107) comment on confessions should be kept in mind.

> "Confessions are not typically statements made by persons who willingly and joyfully present themselves

> to the nearest police officer. Confession is ordinarily preceded by suspicion, apprehension and interrogation".

Defendants do not confess to offences merely because they have committed them. The rationale in type (b) confessions needs then to be reformulated - 'I done it and I was caught'. It is the interaction of the two factors, among others, that provides the rationale for confession. The combination of these factors were mentioned by some of the respondents. One youth succinctly put it;

> Case 90
>
> "Because I done it. They knew I done it."

Guilt is accepted but it takes apprehension and questioning to get a confession. In relation to offences against 'good order' especially, defendants reported that they were not questioned and asked for a confession or a statement. Other rationales given for confessing included; incrimination, coercion, and that it was the 'best way out'. Statements were also made because of coercion, because defendants felt they had to or felt that there was 'no point' not making one or it was the 'best way out' of the situation. Few said that they wanted to. While a small number of respondents thought that it was strategic not to make a statement, none did not make one for the same reason, though a few tried. Three juveniles claimed to have been forced to confess to an offence(s) they did not commit. Threats and violence were reported by the defendants to have been part of the interrogation process. However, it must again be stressed that the experiences of the defendants were varied and many youths had a very matter-of-fact friendly session with the police. The police, however, would seem from all accounts to have been in total control of the situation. As shall be seen in later chapters, the events during interrogation and their outcomes - confessions/statements effectively foreclose the solution

of various courses of action by the defendants. For many defendants in this study, arrest and interrogation are not the gateway to the criminal judicial system, they are the beginning of the end of the process. It shall also be seen that the patterns of rationality displayed by the juveniles in relation to confessing to the offence(s) they were accused of underly many of their other decisions in relation to the criminal justice system.

Chapter 5. JUVENILES' EVALUATION OF THEIR TREATMENT BY THE POLICE

It has been shown that the experiences of the juveniles during apprehension, processing and interrogation varied considerably. Some respondents reported that they were treated very well, others said that they experienced threats and assaults at various stages. In this chapter the juveniles' assessments of their treatment by the police will be examined and discussed.

The respondents were asked to evaluate their treatment by the police. (Generally how did the police treat you?) As can be imagined a wide range of responses was elicited, creating a number of difficulties in coding and analysing the data. However, three key terms were used in a large number of responses - "good", "alright" and "rough", providing a basis for a broad division of responses according to their own assessment of their treatment by the police. The category "rough" includes references to both treatment in which assaults or threats played a part, and treatment which was considered to be unfair or not in accordance with ideal treatment. The difficulties of analysis will be reviewed below, but firstly the statistical relationships between assessment of treatment and the independent variables will be examined.

The following hypothesis was developed and tested:

That defendants' evaluation of their treatment by the police will not vary significantly with their sex, age, ethnicity, work status, record, class family type, type of housing, place of residence, case type and type of offence or with their attitudes to the police.

Table 5.1 shows that 62 (43.7%) evaluated their treatment as 'alright'. Approximately a fifth (20.4%) thought that their treatment was 'good' and nearly a third assessed it as 'rough'. The remaining eight (5.6%) respondents classified their treatment in a variety of other ways.

TABLE 5.1

EVALUATION OF POLICE TREATMENT

CATEGORY LABLE	ABSOLUTE FREQ.	RELATIVE FREQ. (PCT)	ADJUSTED FREQ. (PCT)
Good	29	19.7	20.4
Alright	62	42.1	43.7
Rough	43	29.2	30.3
Other	8*	5.5	5.6
Not sure	1	.7	Missing
No Data	4	2.7	Missing
TOTAL	147	100.0	100.0

Valid Cases = 142 Missing Cases = 5

* Excluded from statistical analysis

No significant relationships were found between the defendants' characteristics and their assessment of police treatment apart from case type and place of residence, though there was a trend for more boys than girls to evaluate their treatment as 'rough'. Younger juveniles (13 - 15) also tended to report that their treatment was 'rough' compared with older respondents.

The differences between case types assessed were only marginally significant (Table 5.2). Those in the defended sample evaluated their treatment as 'rough' more frequently (52.4%) than those in the non-defended sample (21.8%). This relationship cannot be explained at present. However, it may be related to the belief that police intervention and apprehension was unfair in the first place (see Chapter 12 for a discussion). It may, on the other hand, be an after the fact evaluation, as the majority of those who defended their cases were convicted.

TABLE 5.2

ASSESSMENT BY CASE TYPE

		CASE TYPE		
	COUNT ROW PCT COL PCT TOT PCT	GENERAL	DEFENDED	ROW TOTAL
ASSESSMENT OF POLICE TREATMENT	GOOD	24 82.8 21.2 17.9	5 17.2 23.8 3.7	29 21.6
	ALRIGHT	57 91.9 50.4 42.5	5 8.1 23.8 3.7	62 46.3
	ROUGH	32 74.4 28.3 23.9	11 25.6 52.4 8.2	43 32.1
	COLUMN TOTAL	113 84.3	21 15.7	134 100.0

RAW CHI SQUARE = 5.96417 WITH 2 DEGREES OF FREEDOM.
SIGNIFICANCE = .0507

NUMBER OF MISSING OBSERVATIONS = 13

Juveniles in Kalgoorlie assessed their treatment as 'rough' more frequently than those in Perth (Table 5.3). Interestingly though a number of youths said that they were lucky that they had been arrested in Kalgoorlie and not in Perth because the 'cops' in Perth were 'much rougher' than the local ones.

TABLE 5.3

ASSESSMENT BY PLACE OF RESIDENCE

	COUNT ROW PCT COL PCT TOT PCT	PLACE OF RESIDENCE		ROW TOTAL
		PERTH	KALGOORLIE	
ASSESSMENT OF POLICE TREATMENT	GOOD	22 91.7 25.3 19.5	2 8.3 7.7 1.8	24 21.2
	ALRIGHT	46 80.7 52.9 40.7	11 19.3 42.3 9.7	57 50.4
	ROUGH	19 59.4 21.8 16.8	13 40.6 50.0 11.5	32 28.3
	COLUMN TOTAL	87 77.0	26 23.0	113 100.0

RAW CHI SQUARE = 8.96665 WITH 2 DEGREES FO FREEDOM.
SIGNIFICANCE = .0113

NUMBER OF MISSING OBSERVATIONS = 34

A problem in interpreting juveniles' assessments of their treatment is of deciding whether they are based on 'objective' factors relating to their apprehension and interrogation or whether differences reflect variations in attitudes about the police or background expectations about the nature of pre-court processes. Defendants' evaluations were cross-tabulated with their opinions of the police to see if their general attitudes affected such assessments. Opinions of the police were coded as positive, neutral, negative/cynical. Defendants who said that their opinions had changed since their apprehension and court case were excluded from analysis. There was no significant relationship between their evaluation of treatment and their opinions of the police (Table 5.4). This may indicate that assessments were made in relation to their actual treatment and not merely their general attitudes to the police. To test this, assessments of treatment were cross-tabulated with complaints about threats and assaults, 'put ons' and length of time in custody.

TABLE 5.4

ASSESSMENT BY ATTITUDES TO POLICE

	COUNT / ROW PCT / COL PCT / TOT PCT	ATTITUDES TO POLICE: Positive	Neutral	Negative/ Cynical	ROW TOTAL
ASSESSMENT OF POLICE TREATMENT	GOOD	7 29.2 33.3 7.2	7 29.2 31.8 7.2	10 41.7 18.5 10.8	24 24.7
	ALRIGHT	11 23.9 52.4 11.3	11 23.9 50.0 11.3	24 52.2 44.4 24.7	46 47.4
	ROUGH	3 11.1 14.3 3.1	4 14.8 18.2 4.1	20 74.1 37.0 20.6	27 27.8
	COLUMN TOTAL	21 21.6	22 22.7	54 55.7	97 100.0

RAW CHI SQUARE = 5.92197, WITH 4 DEGREES OF FREEDOM
SIGNIFICANCE = .2051

NUMBER OF MISSING OBSERVATIONS = 50

Assaults and threats are categorised as a single phenonemon for the purposes of this analysis. As would be expected there was a significant relationship between complaints about assaults and threats and evaluations. Those who did not complain were significantly more positive in their assessments of police treatment (Table 5.5). The relationship is, however complex, as we shall see below. While there was not a significant relationship between 'put ons' and evaluations there was a very clear trend. Those claiming that 'put ons' had been attempted were more negative in their evaluations than those who did not report them (Table 5.6).

TABLE 5.5

ASSESSMENT BY THREATS AND ASSAULTS

	COUNT ROW PCT COL PCT TOT PCT	THREATS AND ASSAULTS YES	 NO	 ROW TOTAL
ASSESSMENT OF POLICE TREATMENT	GOOD	6 21.4 14.3 4.8	22 78.6 26.2 17.4	28 22.2
	ALRIGHT	14 25.0 33.3 11.1	42 75.0 50.0 33.3	56 44.4
	ROUGH	22 52.4 52.4 17.5	20 47.6 23.8 15.9	42 33.3
	COLUMN TOTAL	42 33.3	84 66.7	126 100.0

RAW CHI SQUARE = 10.39286 WITH 2 DEGREES OF FREEDOM.
SIGNIFICANCE = .0055

NUMBER OF MISSING OBSERVATIONS = 21

TABLE 5.6

ASSESSMENT BY 'PUT ON'

'PUT ON'

	COUNT / ROW PCT / COL PCT / TOT PCT	OTHER CHARGES: YES	OTHER CHARGES: NO	ROW TOTAL
ASSESSMENT OF POLICE TREATMENT	GOOD	3 11.5 11.1 2.4	23 98.5 23.2 18.3	26 20.6
	ALRIGHT	11 19.0 40.7 8.7	47 81.0 47.5 37.3	58 46.0
	ROUGH	13 31.0 48.1 10.3	29 69.0 29.3 23.0	42 33.3
	COLUMN TOTAL	27 21.4	99 78.6	126 100.0

RAW CHI SQUARE = 3.98210 WITH 2 DEGREES OF FREEDOM.
SIGNIFICANCE = .1366

NUMBER OF MISSING OBSERVATIONS = 21

The relationship between the length of custody and evaluation was not significant (Chi S-uare = 5.90734, with four degrees of freedom, Significance = .2062). The trends, moreover, were in the opposite direction to what would be expected. That is, generally the trend was for those in custody longer to evaluate their treatment more positively than those in custody for two or less hours. This may be due to the effect of the differences between the defended and non-defended samples. The respondents in the defended sample tended to be in custody for shorter periods than those in the non-defended sample. They also assessed their treatment more negatively than those

in the non-defended sample. However, the overall relationship between those features of police processing and evaluation of treatment would seem to confirm that evaluations are made in terms of factors inherent in the process and not in terms of general attitudes of the defendants towards the police. Some of those complexities are evident when one examines the actual evaluative statements of the defendants. It is also evident that background expectations about the nature of pre-trial processes are of some importance.

The Logic of Evaluation

It was pointed out above that a number of difficulties were experienced in coding these data. These difficulties may partly be a result of problems inherent in the questions asked of the defendants. The structure of the question may have had a wide range of meanings for the defendants. (Generally how did the police treat you?). Some respondents might have thought that their treatment was generally 'good' or 'alright', though they were assaulted or threatened. This possibly explains some of the variations. However, the relationship between claimed assaults and threats (and the similar trend with claimed 'put ons') would seem to indicate that for many defendants such features were crucial in their evaluation. Confirmation for this conclusion would seem to be found in the evaluation of treatment in terms of the absence of such factors (see below).

Thus the difficulties would seem to have more to do with a number of problems in the logic or methods the respondents use to evaluate their treatment than the structure of the question. The first of these problems related to the fact that the actual treatment that was evaluated as 'good', 'alright' or 'rough' varied greatly and at times seemed to be at odds. The old adage that 'one man's drink is another man's poison' could be applied to the evaluations. The second point relates closely to the above problem. In some cases the

assessment by the defendants, on the surface at least, seemed to be at odds with other information given by the respondent about his apprehension, processing and interrogation. For example, how can X say that his treatment was 'good' when it was reported that he was beaten or threatened? These seeming contradictions are evident in comments such as the following:

Case 233

'Good (probe: you said that you were clouted on the head with a rolled up newspaper?). Ah, that really didn't worry me.'

Case 233

(Youth arrested for disorderly conduct. He had two encounters with the police during the one evening).

"Very well considering (Probe: what do you mean by that?) I was just bashed in the mouth when I was picked up the first time."

Case 4

(Youth on B.E. & S. Charge)
"Alright". (Probe: were you roughed up at all?)
"They only punched me in the stomach when I walked in /into the station/ and winded me."

The responses and similar ones, (if taken on their face value) would seem to raise issues about the validity of the data. The third problem is that evaluations of a 'good' or 'alright' nature were frequently qualified. Qualifications were made either with regard to the defendant himself or another party, particularly co-offenders. The following comments are examples of this:

"Alright, except we got no food."
"Fair ... But one jabbed my mate with a torch."

The fourth problem is that assessments were often made in terms of the absence of certain features ('It was good, because X did not happen').

A more important point, is the background expectations the respondents have of what constitutes a 'typical' or normal apprehension, processing and interrogation. Certainly some of the juveniles believe (either from 'general knowledge or experience' or both) that threats and assaults are a normal part of the pre-court process. As one youth, who was arrested at the scene of a breaking and entering and who reported that he was bashed, succinctly put it:

"Ah, normal I suppose. I just got busted".

It was noted in the Introduction that all evaluations are made in the context of people's perceptions of what is typical about the situation and that this involves the categorization and the comparing of experiences (Cicourel, 1972:50). Evaluations, however, also involve the complex selection of qualities, the ordering of these qualities on a scale and the expressing of preferences for certain objects or conditions. However, there may be various kinds of rationalities for the actual ranking of the qualities in the scale of preference (Harre and Secord, 1972). These factors are evident when the juveniles' accounts of their evaluations are examined. A number of types of rationalities can be discerned.

(a) The Straight Evaluation

Here the defendant evaluated the treatment without reference to any overt comparisons or qualifications. Assessments of treatment as 'rough' were most likely to be constructed in this way. It should be pointed out again that the term 'rough' was used by the respondents to categorize treatment which contained threats and assaults and which was considered to be unfair. There was a wide variation in what was considered (and what was coded) as 'rough'. While many respondents would have been happy with only being shouted at, some respondents were clearly unhappy with this treatment.

Case 345

"Not very good, they were shouting at me."

Case 434

"Pretty rough. (Probe: In what way?) They talk to you rough and look at you mean. (Probe: Did they beat you or rough you up?) They pushed me once."

Other comments showed that some respondents had more serious grounds for negatively evaluating their treatment. One Aboriginal girl (Case 299) made this serious comment:

"The blonde headed bloke talked dirty to me and mum down here /~at home _/. Took us up the bush and tried to rape us, me and me cousin."

Most of the treatment evaluated as 'rough' involved simple assaults, threats, 'put ons' or a combination of these features. The use of unfair treatment as a criterion for assessment of treatment as 'rough' can be seen in the following example.

Case 37

'Pretty rough, cause when they were taking our statements they tried to rearrange our statements to say that we were drunk.'

The defendant was charged with a firearm offence (no licence). He had been seriously injured in a shooting accident. He thought that the inclusion of statements that he and his friends were drunk at the time of the accident (which he maintains, they were not) would make the offence seem to be more serious in the eyes of the court. This he considered to be unfair and 'rough.'

Assessments of 'good' or 'alright' treatment in this frame tended to be simple statements of fact, 'it was good', 'o.k.', 'alright', and such like.

(b) Feature Absent Evaluations

Both 'good' and 'alright' evaluations were frequently made in terms of the absence of such features as assaults, threats and 'put ons.'

Case 90

"Really good .... They didn't try to put anything else on me."

Case 3

"They were o.k. They didn't threaten me or nothing."

Casper (1972) found similar criteria at work in the evaluations by adult defendants. It remains difficult, however, to explain, how the absence of a feature, such as assault, transforms 'rough' treatment into 'good' treatment in one case and 'alright' treatment in another.

(c) Comparative Evaluations

Some of the defendants evaluated their treatment by comparing it with previous experiences, or what they thought constituted typical or ideal treatment. Thus to be roughed up a bit was not too bad as getting roughed up always occurred. It was better than getting roughed up a lot. A number of defendants drew comparison between different types of police. Two said 'that they were lucky they were apprehended by the uniformed branch and not the C.I.B.' The latter branch has generally a reputation for roughness.

Case 101

"Not too bad. Been treated worse. The C.I.B. usually beat you up, the uniformed ones don't."

This reputation seems to be promoted at times by the police themselves, sometimes by the uniformed branch (see Case 356 p.107) and sometimes by the C.I.B. In the following case

for example, the youth was arrested for disorderly conduct and taken to a local station where he claims some detectives joined the uniformed police while they were processing him.

Case 362

"Roughly (Probe: In what way?) They kicked me and hit me and threatened me. The Ds. threatened me. They said I was lucky they didn't pick me up."

While rough treatment might have been considered typical it was not necessarily thought of as the ideal. Some comparisons were made in terms of the ideal.

Case 47

"Not like they should have done (Probe: What do you mean by that?) They shouldn't go round hitting kids."

Others thought that their treatment should have been commensurate with the offence they committed and being roughed up for a minor offence was considered to be bad treatment.

(d) Qualified Evaluations

'Good' and 'alright' assessments were often made with qualifications in reference to the respondent himself or co-offenders. Some of these qualifications seemed trivial, others were of a more serious nature.

Case 83

'Alright (Probe) They didn't pull me around or nothing. Except they made me walk home from the Police Station /a distance of some miles/ the policeman was going there anyway to take the bail forms.'

Case 54

"Alright, a bit rough though. They threatened to bash our heads in if we didn't tell them what happened. One hit Philip and he hit him back. He got smacked behind the ear for it.'

(e) Treatment as a consequence of Interaction

A number of defendants were aware that their treatment was a consequence of both their behaviour and interactions between the police officers involved in their apprehension, processing and interrogation. The former is illustrated by the following:

Case 167

'Alright', except that they locked me in a room with two cops and they punched me in the ribs (Probe: Why did they do that?) I got a bit cheeky with them. (Probe: How?) I called them poofters'.

Case 173

"They gave us a bit of a hiding, one of them got pretty shitty in the end, cause I'd lied to him for three hours. Both of them smelt like they had been drinking. They laid into me".

One youth very neatly summarized this process when he said:

"They're o.k. unless you give them a hard time then they start treating you hard".

Others reported that the interaction between the police officers was also important.

Case 9

"Alright". They were only a bit smart at times. (Probe: How?) Things they were saying. They called me a dickhead, things like that. It was the young one. I think that he was trying to impress others".

Some youths reported that this type of behaviour was sometimes used strategically by the police. Name calling, pushing around, punching and so on, was, according to the juveniles, an attempt to provoke them into reacting. This could then be used as an excuse for getting "heavy" or rough.

Case 352

"They gave us a bit of shit. They were trying to get us going, to give cheek".

CONCLUSION

The juveniles were asked to evaluate their treatment by the police. Three basic types of treatment were identified:

(a) good

(b) alright

(c) rough

Most of the defendants evaluated their treatment as good or alright. However, almost a third (30.3%) thought that it was rough. Youths in Kalgoorlie and those in the defended sample significantly evaluated their treatment as rougher than other defendants. However there were trends for girls and older youths to reply that their treatment was good or alright. The defendants' evaluations were not affected by their general attitudes to the police. They were, however, influenced by the actual treatment they reportedly received, especially assaults and truants.

It was noted that there were problems encountered with the coding and analysis of the youths' evaluations and that these problems arose from the diverse principles in the rationality or logic used in the evaluations and not the construction of the question itself. The following types of evaluations were distinguished:

(a) straight

(b) feature absent

(c) comparative

(d) qualified and,

(e) treatment as a consequence of interaction

The logic of assessments of treatment was contingent on what was thought to be 'normal', reference to absent features, comparison to the ideal or other experiences. Similar issues arise in their evaluations of their treatment by the court. (Chapter 12 below).

Chapter 6. EXPECTATIONS OF COURT AND DISPOSITIONS

The focus of this chapter is on the expectations the defendants had about their case prior to attending court. Here the concern is not only with their expectations about the court itself, its organization, its personnel and processes, but also with what they expected to happen to them (expectations regarding the use of legal representation and about the plea to be entered and the defendants' rationales will be discussed in Chapters 8 and 9). Prior to doing this, however, the respondents' assessment of the seriousness of the trouble they were in will be examined. This is done to determine whether their perceptions of seriousness had any effect on their expectations and anticipated action.

ASSESSMENT OF SERIOUSNESS

Defendants were asked to think back prior to their going to court, they were then asked to describe the trouble they were in. After this they were asked "how serious did you yourself think this trouble was?" [1]. They were then questioned about the reasons for their assessment. This question was not precoded and a content analysis was conducted on their responses (Table 6.1). Eight of the respondents gave answers which were not retrospective (e.g. "I didn't think they were that serious until the Judge told me"). Further probing was unable to elicit an appropriate response. Data was not collected in the case of nine subjects. [2]. Eight respondents said that they were not sure. Of the remainder, 43 (33.1%) thought that their offences were not serious. Thirty (24.6%) said that the offence was very serious or pretty serious and another 32 (24.6% replied that it was serious. Thirteen defendants gave 'other' replies. These included five who said that they had done nothing illegal and therefore had not committed an offence.

TABLE 6.1

RESPONDENTS' ASSESSMENT OF THE SERIOUSNESS OF THEIR OFFENCE(S)

	ABSOLUTE FREQ.	RELATIVE FREQ. %	ADJUSTED FREQ. %
SERIOUSNESS			
VERY SERIOUS	34	23.1	26.2
SERIOUS	32	21.8	24.6
NOT SERIOUS	43	29.3	33.1
OTHER	13	8.8	10.0
NON-RETROSPECTIVE RESPONSE	8	5.4	6.2
NOT SURE	8	5.4	-
NO DATA	9	6.1	-
TOTAL	147	100.0	100.0

The following hypothesis was developed to examine the data:

> That the defendants' assessment of seriousness would not vary significantly with juveniles' sex, age, ethnicity, work status, social class, family type, type of housing, place of residence (Perth/Kalgoorlie), record, type of offence and case type (defended/non-defended).

There were no significant relationships between the defendants' characteristics (sex, age, 'work status', ethnicity), family type, social class, type of housing and perceptions of seriousness. There were also no significant relationships between seriousness and the case type samples or place of residence. The relationships between type of offence and defendants' records and perceptions of seriousness were also not significant, although both were mentioned as reasons for their assessments of seriousness.

Rationale for Assessment

Defendants offered two general considerations in assessing the seriousness of their offences. The first related to offence seriousness. Thus some of the defendants said the offence itself was of a serious nature while others referred to the fact that the offence was not serious. The consequences of the offence were also mentioned as a criterion for the assessment, some of the defendants referred to the fact that the consequences were not serious in nature while others suggested that they were. Table 6.2 below lists the defendants' reasons for their assessments. Three of the defendants gave 'don't know' responses. The item was not applicable for 25 (17.0%) of the respondents as they had either given 'not sure' or non-retrospective responses to the first part of the question, or data had not been collected from them. Reasons were not provided or not collected for 26 (17.7%) defendants.

Twenty (21.7%) of the defendants indicated that they felt that the offence was not of a serious nature, while 14 (15.2%) regarded their offence as serious. Serious consequences were mentioned by 30 (32.6%) of the respondents. That the consequences were not considered of a serious nature were mentioned by 9 (9.8%) of the defendants. Of those who thought that the consequences were serious, ten specifically mentioned that this was because of their record or a previous court appearance. They were thus expecting severe dispositions from the court. Others expected severe dispositions (e.g. gaol or being sent to a 'home') although they were without a previous court appearance. A couple of defendants thought the very fact that the offence was leading to a court hearing was in itself a serious consequence. For those not anticipating serious consequences the expected disposition was referred to in six cases ('I knew I'd only be dismissed'; I knew they would just recommit /sic/ me'). Two defendants were surprised when their actions lead them to court. Nineteen defendants gave other reasons for their assessment.

TABLE 6.2

RESPONDENTS' RATIONALES FOR THEIR ASSESSMENT OF THE SERIOUSNESS OF THEIR OFFENCE(S)

CATEGORY LABEL	ABSOLUTE FREQ.	RELATIVE FREQ.	ADJUSTED FREQ.
OFFENCE SERIOUS	14	9.5	15.2
OFFENCE NOT SERIOUS	20	13.6	21.7
CONSEQUENCES SERIOUS	30	20.4	32.6
CONSEQUENCES NOT SERIOUS	9	6.1	9.8
OTHER	19	12.9	20.7
NOT SURE	3	2.0	MISSING
NOT APPLICABLE	25	17.0	MISSING
NO DATA	27	18.4	MISSING
TOTAL	147	100.0	100.0

VALID CASES 92 MISSING CASES 55

There was, as could be expected, a general correlation between the juveniles' assessment of offence seriousness and the type of reason given for the assessment. For example, those who thought the offence was of a serious nature generally gave the reasons that either the offence was serious or the consequences were serious. On the other hand, those who thought the offence was not serious tended to suggest that their reasons for thinking so was the fact that the offence itself was not of a serious nature or that the consequences were not serious. Generally, however, the former category of respondents emphasised the seriousness of the consequences more frequently than the seriousness of the offence itself (45.1% and 25.5% of cases respectively). In the latter case defendants tended to

emphasise the fact that the offence was not serious (51.6%) rather than the perceived lack of consequences (25.8%).

Perceptions of seriousness by significant others

Defendants were also asked to indicate how they thought significant others would consider the seriousness of the trouble they were in. These others included: (1) their parents, (2) the court, (3) the police, (4) a community welfare officer, (5) a teacher, and (6) a friend. For each of these groups they were requested to rate the perceived seriousness from 1-5, (1 - very serious; 2 - serious; 3 - somewhat of a problem; 4 - a minor problem; 5 - no problem).[3] That is, they were asked, for example, 'how serious do you think your parents thought the trouble you were in was?' Did they think it was (1) very serious; (2) serious...' and so on for each significant other. The purpose of these questions was to see if the defendants' perceptions of how significant others rated offence seriousness had any affect on their orientation to court.[4] Table 6.3 below shows the adjusted frequency percentages of the defendants' responses.

It can be seen that parents are perceived as assessing the offence as very serious in comparison to other groups. On the other hand, friends are thought to take a less serious view of the problem. However, the difference between parents and the court, community welfare and teachers is not so great, especially if their responses are dichotomized as serious or non-serious. When this is done, the police would seem to be thought of as representing a middle group between parents, the court, community welfare and teachers on the one hand, and friends on the other. Parents, for their part, were thought to regard three-quarters or more of the offences as serious, whereas the police were thought to regard only 61.7% of the cases in the same light. With friends, trouble was only thought to be assessed as serious in just over one-third of the cases (35.6%). There

were no significant differences between these assessments and the defendants' characteristics, his ethnicity, the class and family type, the type of housing and the city or case type samples.

TABLE 6.3

DEFENDANTS' PERCEPTIONS OF ASSESSMENTS OF OFFENCE SERIOUSNESS BY PARENTS, FRIENDS, COURTS

PERCENTAGE RESPONSES ON ADJUSTED FREQUENCES

LEVEL OF SERIOUSNESS	PERCEIVED ASSESSOR					
	PARENTS %	COURTS %	POLICE %	D.C.W. %	TEACHER %	FRIEND %
VERY SERIOUS	48.7	32.4	26.2	26.4	26.4	7.7
SERIOUS	35.7	42.6	35.5	48.3	51.5	27.9
SOMEWHAT OF A PROBLEM	8.7	10.2	15.9	10.3	14.8	10.6
MINOR PROBLEM	4.3	12.0	14.0	10.3	3.3	16.3
NO PROBLEM	2.6	2.8	8.4	4.6	4.0	37.5
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0

The only significant statistical relationships to be found related to the juveniles' perceptions of parental assessments. These varied with the type of offence and the defendants' records. First offenders and those with no previous appearances were less inclined than others to perceive their parents rating their offences as serious. This was also the case of those charged with offences against 'good order'.

Even after their appearance in court, many respondents were unable to answer questions regarding Department for Community Welfare officers' perceptions of offence seriousness. In fact, 19.7% said they didn't know what a welfare officer would think. Indeed, many of these asked 'what's Community Welfare?' This proportion of

don't-knows far exceeded the figure for all other categories of significant others (approximately 5%).

Summary

Most of the respondents (51%) assessed their alleged offence as either very serious or serious. Those assessing their offence as not serious thought that either the offence itself was not of a serious nature or that the consequences for them would not be serious (e.g.) they would not receive a severe disposition from court). The hypothesis relating to the assessment of offence seriousness by defendants was supported.

Defendants' assessments of the rating of offence seriousness by significant others were also elicited. Parents were thought to rate the trouble the defendants were in as serious or very serious. Similar assessments were made for the court, community welfare and teachers, while the police were thought of as rating the trouble somewhat of a less serious nature. Friends were thought to consider the offences as non-serious. Overall the relationships between the defendants' characteristics, his record, class, family status, type of housing, the type of offence committed, or the city and case type samples and his own or his perceptions of others' ratings of seriousness were not significant. The defendants' perceptions, the different attitudes of parents and friends are interesting, as they raise questions about the value orientation of delinquents, their families and peers to offending.[5]

EXPECTATIONS OF COURT AND PLANS OF ACTION

It was thought that the juveniles' expectations and plans would depend upon their previous experience with the court. It was also expected that inexperienced defendants (i.e. those who had previously appeared before not more

than a panel or in one court session) would largely depend on police and welfare officials for information about court and likely dispositions.

The data on expectations and anticipated actions will be discussed separately for defended and other cases as they differ quite dramatically in their structure and orientation. However, as the number of interviews in the defended sample is small (27) statistical analysis will be done on only the non-contested sample. Respondents were asked "Before you went to court, what did you think it would be like?" Interviewers were instructed to probe for expectations of the setting, court personnel and procedure. The question was left open ended but it was planned to develop three rating scales for each of these areas relating to the processes, the setting and the personnel involved. These responses varied considerably and the depth of data was inconsistent and consequently it was decided to abandon the idea of scales. It proved to be extremely difficult to obtain details of court processes from many of the defendants. Though many were familiar with and even knowledgeable of arrangements of court personnel and layout and were able to verbalise this knowledge, they either knew little of court processes or were unable to verbalise in any detail their knowledge for us. Their general expectations of court proceedings are presented below. In regard to defendants' expectations of court, the following hypothesis was developed and tested;

> That the defendants' expectations about court proceedings, outcomes and their rationales for expecting specific outcomes would not vary with their sex, age, ethnicity, class, type of housing, family type, place of residence, case type, record and type of offence.

Remand Cases

A number of defendants in both the defended and general samples had previous appearances in relation to the charges

considered in this study. As might be expected this was more pronounced in the case of those in the defended samples. In all 55 (37.4%) had previous appearances and their cases had been remanded or adjourned. Of these 60.9% had one appearance, 28.3% had two, 6.5% had three and 4.3% had four previous appearances.

Expectations

Table 6.4 below shows the expectations with general and defended cases. As can be seen, nine defendants said that they were unsure as to what their expectations were and data was not collected for twelve defendants (8.2%).

TABLE 6.4

EXPECTATIONS OF COURT ORGANIZATION

EXPECTATIONS	GENERAL LIST	RELT. %	ADJ. (%)	DEFENDED LIST	RELT. %	ADJ. (%)	TOTAL	%	(%)
No Expectations	18	15.0	(17.6)	2	7.4	(8.3)	20	13.6	(15.9)
Like Last Time	38	31.7	(37.3)	8	29.6	(33.3)	46	31.3	(36.5)
Like Other Courts	31	25.8	(30.4)	4	14.8	(16.7)	35	23.8	(27.8)
'Other'	15	12.5	(14.7)	10	37.0	(41.7)	25	17.0	(19.8)
Not Sure	8	6.7	-	1	3.7	-	9	6.1	
No Data	10	8.3	-	2	7.4	-	12	8.2	
TOTAL	120	100.0	(100.0)	27	100.0	(100.0)	147	100.0	(100.0)

Categorized in Table 6.4 under the heading 'no expectations' are those defendants who said that they had no idea of what court would be like ("I didn't think about it". "I didn't care about what it would be like") as well as those defendants who gave responses which were non-retrospective in nature (that is those who gave responses

about what court was like when they got there, rather than what they expected it to be like). In all, 20 (15.9%) defendants fell into this category (17.6% and 7.4% for the general and defended samples respectively).

General Sample

Apart from those with no expectations, the two major categories of responses were, 'like last time' and 'like other courts'. Forty-six (37.3%) defendants replied that they expected the court to be 'like last time'. Other defendants indicated that they expected proceedings to be similar to their previous appearance, but were able to describe in detail the personnel and setting and, in several cases, even the court processes.

These are all categorized together for the purposes of this table. The next category 'like other courts' relates to those responses in which defendants indicated that they felt the court would be like other courts of which they had images. Generally these relate to aspects of a trial in judges' courts, including such things as ideas of trial by jury, to judges in wigs and the presence of complainants and witnesses, and so forth. A number of defendants in both the general and defended samples specifically mentioned that these expectations were derived from television.

> Case 401 (Girl charged with stealing and receiving first offender)
>
> "I thought that it would be harsher, like on T.V. though easier on children. I thought that it would be like T.V. like "Case for the Defence". I thought that the judge would be wearing a wig and all that".

The other types of trial expectations mentioned above were also evident in these following quotations.

Case 42 (Boy charged with breaking and entering - first offender)

"I thought that there would be a judge. I thought that the guy whose house we broke into and the guy who saw us would be there".

Case 383 (Girl, first offender, charged with shoplifting)

"Scary (probe: What do you mean?) "I thought that there would be a lot of high society people there." (probe: What sort of people are they?) "Like yourself. I thought that I would have to stand in the little box and say my piece and that the constable would say his piece".

As expected there was a significant relationship between the defendants' records and expectations of court. Both measures of record (number of previous appearances and status) were significantly related to the type of expectations held by the defendants (see Table 6.5).

As expected, those with no previous court experiences were more likely to base their expectations of court proceedings and personnel on their knowledge of other courts, especially those they had seen on television dramas. Fourteen (58.3%) of the respondents in this category felt that court would be like other courts, whereas only 9% of those with one to four appearances and 25% of those with five or more appearances reported these sorts of expectations. Defendants with no previous appearances also gave a range of 'other' responses in a greater proportion to those with one or more appearances. Again as expected, there was a

significant relationship between the defendants' status and their expectations of court. In a similar fashion to the relationship described in Table 6.5 'first offenders' were more apt than others to give responses in which they said that their expectations of court were 'like other courts' or some 'other' type of response. Those with an intermediate or a P.U.C. status were more likely to respond that it would be 'like last time' (Chi square = 11.85074 with 4 degrees of freedom. Significance = .0185). There was also a strong relationship between the sex of defendants and their expectations in that girls were more likely than boys to expect the court to be 'like other courts'. Again this partly reflects the defendants' records in that girls generally have less records than boys (Chi square = 8.39426 with 2 degrees of freedom. Significance = .0150).

Defended Sample

Defendants in the contested sample were as likely as others to expect court to be 'like last time'. However, they more frequently gave 'other' responses. Some of these defendants were very vague as to what to expect. This seems to have been a result of a range of factors, including the inarticulateness of some respondents or their inability to describe prior expectations about the court, their concern with other features of the appearance (viz. Case 320. "None, other than a judge sitting in front of me and other people sitting there staring /at me/"), and their uncertainty as to whether the case would proceed. Some defendants were not sure if a hearing would be commenced or if (once again!) the case would be remanded. Others had prior confirmation that it would be remanded. Others had prior confirmation that it would be remanded and thus expected it to be 'like last time'. There was also some uncertainty as to how a contested case would actually be structured, though some realized that it would not be like past experiences.

TABLE 6.5

EXPECTATIONS OF COURT

	COUNT / ROW PCT / COL PCT / TOT PCT	NO. OF PREVIOUS COURT APPEARANCES 0	1-4	5 OR MORE	ROW TOTAL
EXPECTATIONS	LIKE LAST TIME	1*	22	15	38
		2.6	57.9	39.5	45.2
		4.2	66.7	55.6	
		1.2	26.2	17.9	
	LIKE OTHER COURTS	14	3	7	24
		58.3	12.5	29.2	28.6
		58.3	9.1	25.9	
		16.7	3.6	8.3	
	OTHER	9	8	5	22
		40.9	36.4	22.7	26.2
		37.5	24.2	18.5	
		10.7	9.5	6.0	
	COLUMN TOTAL	24	33	27	84**
		28.6	39.3	32.1	100.0

RAW CHI SQUARE = 26.65062, WITH 4 DEGREES OF FREEDOM.
SIGNIFICANCE = .0000

NUMBER OF MISSING OBSERVATIONS = 18

** EXCLUDING 'NO EXPECTATIONS' = 18

* DEFENDANT HAD BEEN TO THE 'PANEL'

TABLE 6.6

EXPECTED DISPOSITIONS

EXPECTED DISPOSITION	CASE TYPE GENERAL LIST	%	%	DEFENDED LIST	%	%	TOTAL	%
DISMISS/ ACQUITTED	9	7.5	(8.4)	1	3.7	(5.3)		6.8
FINE	22	18.3	(20.6)	5	18.5	(26.3)	27	18.4
PROBATION	14	11.7	(13.1)	1	3.7	(5.3)	15	10.2
P.U.C.	46	38.3	(43.0)	3	11.1	(15.8)	49	33.3
OTHER*	16	13.3	(15.0)	9	33.3	(47.4)	25	17.0
NOT SURE	12	10.0	-	7	25.7	-	19	12.9
NO DATA	1	.8	-	1	3.7	-	2	1.4
TOTAL	120	100.0	(100.0)	27	100.0		147	100.0

Chi square = 9.12366, with 3 degrees of freedom. Significance = .0277)
(Note: dismissals recoded with 'Other')

Case 340

"I don't know, I have never been to a not guilty charge before. I don't think it will be like the guilty charge in the first appearance court. There they bring you in and the judge reads the charge and the report and they ask you to plead. Then they read the charge again and the judge lectures you a bit. He asks you what you've got to say for yourself and why you did it. You tell him you'll never do it again and off you go".

The television images also played their part, as in the general sample: "I thought that there would be a lot of blokes lined up like on T.V." (referring to a jury). As can be seen from Table 6.4 there was a significant relationship between the case type and expectations (Chi square = 7.38370 with 2 degrees of freedom. Significance = .0249). Cases with no expectations and missing data were excluded from this cross-tabulation). To summarize then, the defendants who have been to court before generally expected it to be 'like last time', although this was not so in the case of some youths in the defended sample. Those who had little or no prior court experience based their expectations on general images of courts, often obtained from television.

Expectations of Disposition

Attempts were made to elicit juveniles' expectations of the disposition they would receive from court. They were also questioned about their reasons for their expectations. Table 6.6 above shows the respondents' expectations of outcome. The juveniles gave a wide range of responses and these were coded in five categories: dismissed/acquitted, fine, probation, P.U.C. (placed under control) and 'other'. Included in the category dismissed and acquitted were those who thought that their charge would either be dismissed under a section (such as Section 26) of the Child Welfare Act, or that they would be acquitted. Often such defendants referred to dismissal as being 'let off'.

However, only 5 defendants thought they would actually be acquitted. The 'fine' category is straightforward and self-explanatory. The 'Probation' category, on the other hand, refers to such dispositions as good behaviour bonds, community service orders (C.S.O.) and supervision as well as probation orders. These are categorized together as all of them involve some supervisory aspect, as well as the possibility of the defendants returning to court on the same charge if the specified conditions are not fulfilled. The next category P.U.C. refers to the defendants' expectations of either being 'placed under control' or, as many of them still refer to it, to be 'committed' or of being institutionalized or 'sent to a home' or sent to gaol. The 'other' category includes anticipated remands or adjournments or referrals to other courts or the Children's Panel. Also included are a number of unrelated responses and 16 defendants who felt they would get two or more dispositions e.g. fine and probation.

General Sample

Of 120 defendants in the general sample, 12 were not sure what would happen to them and data was not collected for one defendant. Of the remaining 107 respondents, 43% expected that they would be institutionalized or placed under the control of the Department for Community Welfare, or sent to a gaol. Fines were expected by 22 (20.6%) of defendants and 14 (13.1%) of defendants expected to obtain probation, C.S.O. or the like.

TABLE 6.7

EXPECTED DISPOSITION BY STATUS

	COUNT / ROW PCT / COL PCT / TOT PCT	STATUS: FIRST OFF.	INTER-MEDIATE	P.U.C.	ROW TOTAL
EXPECTED DISPOSITION	FINE	10 47.6 22.2 9.7	4 19.0 22.2 3.9	7 33.3 17.5 6.8	21 20.4
	PROBATION	6 46.2 13.3 5.8	2 15.4 11.1 1.9	5 38.5 12.5 4.9	13 12.6
	P.U.C.	19 42.2 42.2 18.4	3 6.7 16.7 2.9	23 51.1 57.5 22.3	45 43.7
	OTHER	10 41.7 22.2 9.7	9 37.5 50.0 8.7	5 20.8 12.5 4.9	24 23.3
	COLUMN TOTAL	45 43.7	18 17.5	40 38.8	103 100.0

RAW CHI SQUARE = 12.62746, with 6 degrees of freedom, Significance = .0493

NUMBER OF MISSING OBSERVATIONS = 17

'Other' dispositions were expected by 15% of defendants. There was a significant relationship, as might be expected, between the defendant's status and what he expected would happen to him in court. Generally, as can be seen from Table 6.7, those who were already 'under control' expected that they would be re-institutionalized or 'sent to a home'. By contrast first offenders and those with intermediate status generally expected fines, probation or some other form of disposition. However, it is interesting to note that 42.2% of first offenders felt that they would be institutionalized, Longmore being the

Departmental facility most frequently nominated by the respondents. There were also significant relationships between expected disposition and the age, 'work status' and type of housing of the defendant. Younger defendants (i.e. between 13 and 15) tended to expect institutionalization whereas older defendants expected fines. Students generally expected to be placed on probation whereas those who were working anticipated a range of dispositions and unemployed youths were more inclined than students or employed youths to expect 'other' dispositions. Youths from rental accommodation more often expected institutionalization than those from homes which their parents owned. This trend was reflected with family status and parental employment status. Both relate significantly to the type of housing. Children from single parent families and from families where parents were unemployed more frequently expected institutionalization than those with two parents, one or both of whom were employed. No significance was found between anticipated dispositions and the town sample or type or number of offences. In the defended sample a significant proportion of the defendants expected 'other' dispositions. Such expectations are important as they reveal one of the underlying expectations which orient defendants towards the principle of 'getting it over with'. Defendants know that defending one's case mitigates against the goal of 'getting it over with'.

It can be seen from Table 6.6 that proportionately fewer of the youths in the defended sample expected institutionalization for their offences. However, seven defendants or 25.7% of the sample were uncertain of the disposition they would receive. This again gives further evidence of the overall uncertainty and anxiety experienced by juveniles choosing to defend themselves in court. Defendants in the defended sample more frequently expected remands than those in the general sample. In the general

sample the main expectation was of being institutionalized (Chi square = to 9.12366 with 3 degrees of freedom. Significance = .0277).

Reasons for Expectation

Explanations to defendants' expectations of court dispositions were elicited. A number of basic criteria were used by respondents in assessing the likely outcomes of their cases. These criteria related to offence, record, information from formal and informal sources, and previous experience. In the latter case the expectation was often based on a homily or lecture given by the magistrates at previous appearances (e.g. "The magistrate said last time if I came back again I would get...") or the actual outcome of a previous appearance. Three defendants anticipated that the change of status was due at this point in their criminal career (and again this was often referred to in magistrates homilies "You are now at the stage where..."). Offence criteria involved both emphasizing the seriousness of the charge or charges (9 cases), the fact that the charge was not of a serious nature (4 cases), the type of offence (2 cases) and the fact that there were many charges to face. Official sources such as police, welfare officers and court officials were mentioned by a number of defendants. Friends were the main source of unofficial information. The 'other' category included 4 defendants who said that they were pleading not guilty and who therefore expected to be let off or dismissed. Two others thought that the outcome would occur because the court would 'believe the cops' and not them. Another two defendants gave two or more reasons. Nine further defendants gave a range of unrelated responses.

The chief concerns of the defendants was the disposition of the case. That is, they were chiefly concerned with 'what's going to happen to me' and not necessarily to how or why it

will happen. Yet, notwithstanding this preoccupation with dispositions juveniles do consider the nature of court processes in assessing the fairness of the hearing (Chapter 12).

TABLE 6.8

RATIONALE FOR EXPECTED DISPOSITIONS

RATIONALE FOR EXPECTED DISPOSITION	GENERAL LIST	%	%	DEFENDED LIST	%	%	TOTAL	%
OFFENCE CRITERIA	15	12.5	(19.2)	1	3.7	(6.7)	16	1.0
RECORD CRITERIA	26	21.7	(33.3)	1	3.7	(6.7)	27	18.4
EXPERIENCE	8	6.7	(10.3)	2	7.4	(13.3)	10	6.8
INFORMATION (OFFICIAL)	7	5.8	(9.0)	4	14.8	(26.7)	11	7.5
OTHER*	13	10.8	(16.7)	4	14.8	(26.7)	17	11.6
NOT SURE	3	2.5		2	7.4	-	5	3.4
NO DATA	26	21.7		2	7.4	-	28	19.1
NOT APPLICABLE**	13	10.8		8	22.2	-	21	14.2
TOTAL	120	100.0	(100.0)	27	100.0	(100.0)	147	100.0

* OTHER includes four respondents who said that they were 'not guilty' hence they would be dismissed/acquitted. ** NOT SURE and NO DATA group from Table 3.

(Chi square = 6.73721, with 2 degrees of freedom, Significance = .0344, comparing the rationales used by case types). Data recoded, 'Records Criteria' and 'Experience' as a single category and 'Official', 'Unofficial Information' and 'Other' as a single category. Those in defended cases tend to emphasise 'Other' criteria.

TABLE 6.9

RATIONALE FOR EXPECTED DISPOSITION BY NO. OF COURT APPEARANCES

	COUNT / ROW PCT / COL PCT / TOT PCT	NO. OF COURT APPEARANCES 0	1-4	5 or more	ROW TOTAL
RATIONALE FOR EXPECTATION	OFFENCE CRITERIA	7	5	3	15
		46.7	33.3	20.0	19.2
		30.4	16.7	12.0	
		9.0	6.4	3.8	
	RECORD CRITERIA	5	12	17	
		14.7	35.3	50.0	43.6
		21.7	40.0	68.0	
		6.4	15.4	21.8	
	OTHER CRITERIA	11	13	5	29
		37.9	44.8	17.2	37.2
		47.8	43.3	20.0	
		41.1	16.7	6.4	
	COLUMN TOTAL	23	30	25	78
		29.5	38.5	32.1	100.0

RAW CHI SQUARE = 11.30027, with four degrees of freedom. Significance = .0234
NUMBER OF MISSING OBSERVATIONS = 42

TABLE 6.10

RATIONALE FOR EXPECTED DISPOSITION BY STATUS

	COUNT / ROW PCT / COL PCT / TOT PCT	STATUS FIRST OFF.	INTER-MEDIATE	P.U.C.	ROW TOTAL
RATIONALE FOR EXPECTATION	OFFENCE CRITERIA	9	2	3	14
		64.3	14.3	21.4	18.4
		27.3	20.0	9.1	
		11.8	2.6	3.9	
	RECORD CRITERIA	9	1	24	34
		26.5	2.9	70.6	44.7
		27.3	10.0	72.7	
		11.8	1.3	31.6	
	OTHER CRITERIA	15	7	6	28
		53.6	25.0	21.4	36.8
		45.5	70.0	18.2	
		19.7	9.2	7.9	
	COLUMN TOTAL	33	10	33	76
		43.4	13.2	43.4	100.0

CHI SQUARE = 20.47036, with four degrees of freedom, Significance = .004
NUMBER OF MISSING OBSERVATIONS = 44

Respondents were closely questioned about the sources - official and unofficial - with whom they spoke about their case. They were also asked about how they had spent their time at court prior to their case being called. Sixtyseven (45.6%) indicated that they had spoken to others not already mentioned to us about the court case. The basic topic of conversation was the outcome of the case. In a similar way, those who spoke to others while waiting for their cases to be heard were primarily concerned about the possible outcome of the case. There was a significant difference between the two samples (defended and general) in relation to the information sources. Those in the defended samples generally relied on information from official and unofficial sources and other sources. Those in the general sample tended to emphasise the use of defence and record criteria. In the general sample there was a relationship as would be expected between the defendants' record and the use of record criteria in terms of assessing and anticipating possible outcomes. Essentially the relationship was those with a high number of appearances and those who were already 'under the control' of the Department used record criteria. In relation to both of these variables first offenders tended to use offence and 'other' criteria for reaching their expectations while those in the group with a medium number of appearances used equal proportions of all criteria. There was a tendency for Aboriginals and the younger defendants to use record criteria in reaching their expectations. Girls tended to use 'other' sorts of criteria especially official information for their expectations. There were no relationships between the defendants' class, housing type, family type or place of residence between the type and number of offences and the sorts of rationales the defendants based their expectations on.

SUMMARY AND CONCLUSIONS

Most defendants assess the trouble they were in as being either very serious or serious. Others such as their

parents, the court, teachers and community welfare officials were thought to view offences as being serious. Police were thought to evaluate offences as somewhat less serious than these others. While their friends, on the other hand, were thought to assess the offences as not being of a serious nature. There was a general relationship between the defendant's experience and his expectations about court and what would happen to him. Those with previous experience in court tended to expect it to be 'like last time' whereas those with little or no experience expected it to be 'like other courts'. The images they have on other courts are often obtained from television dramas. These findings are consistent with other research which has found that television and other forms of mass media are important in forming the popular images of crime and legal institutions (Kutchinsky, 1979; see also Cohen and Young, 1972). Rafky and Sealey (1975) in their study of juveniles' knowledge and opinions of law and law enforcement agencies found that television and other media were important sources of information (1975:134):

> "T.V. and radio, say 44 percent, are their primary sources of legal information, particularly, say 26 percent, T.V. shows about attorneys, such as The Young Lawyers and Perry Mason. The importance of T.V. is highlighted by the amount of time devoted to it: half the students say they watch television at least two hours every day. Two-thirds of the students read at least one newspaper every day and one quarter (26 percent) mentioned newspapers as a source of legal information".

The defendants' expectations of what would happen to them in court ranged from dismissals to institutionalization. In excess of a third of those first offenders thought that they would be institutionalized or as they put it sent to 'a home' for their offences. There is obviously a strong relationship between a person's previous court experience and their expectations. Only 5 defendants

thought that they would be acquitted. Only one of these was in the defended sample, the other 4 were going to court for the first time and were entering pleas of not guilty. (In the general sample only 7 of the 120 defendants thought that they would plead not guilty). A range of reasons were offered as to why they thought that certain dispositions would occur, including factors relevant to (a) offence criteria, (b) record criteria and (c) of official and unofficial information. Not all such information was accepted, some was clearly treated as disinformation. For example, a number of defendants mentioned that the police provided information to them about likely dispositions which they disbelieved in some cases. Information provided by community welfare officers or institutional staff was treated in a more positive fashion, particularly the information provided by institutional staff as a social skills programme.

The main concern of the defendants was not with what the court would be like, but with what would happen to them. Langley (1977) and Peterson (1978) found that their respondents, when asked what expectations they had of court, referred to the disposition they expected and not to court proceedings. As will be seen in Chapter 11 this concern with outcome significantly affects the juveniles' perceptions and understanding of court proceedings.

Defendants' expectations about court processes, dispositions and their reasons for their expectations of dispositions were significantly affected by the defendants' records (number of previous court appearances and status) and not by any of the other background variables.

The following chapter will examine defendants' contacts with welfare officers, aftercare officers, lawyers and others and the purposes of these contacts and the content of conversations resulting from them.

Chapter 7. OPENING MOVES: PRE COURT CONTACT WITH WELFARE OFFICERS, LAWYERS AND OTHERS

This chapter discusses the contact the defendants had at court with welfare officers, after-care officers, solicitors and others prior to the commencement of their case. The interest here is primarily to examine the information exchanged between the defendants and officials especially in relation to negotiations, arbitration, coaching and so forth. Contact was generally made with welfare officers and after-care officers for the purposes of preparing an 'Informative Report' (Social Enquiry Report) for the court. Contact with solicitors was for the purposes of legal advice and preparing the solicitor to defend the juvenile or to enter a plea of mitigation on his behalf. Defendants were questioned as to who (if anyone) they had contact with and why, and as to the issues that were discussed. No attempt was made to examine in detail the construction of Informative Reports, or where lawyers were concerned, construction of pleas of mitigation or of defence strategies generally, or the defendants' views of these processes. Rather, the concern was to obtain a broad outline of information exchanged. However, other research has shown that the process of the preparation of social enquiry reports and of pleas of mitigation are similar in many respects. There also tends to be cross-fertilization between Social Enquiry Reports (SER) and solicitors' statements in mitigation. This is more frequently the result of solicitors using information contained in SERs than welfare officers using the information available to the solicitors (Bean, 1976 and Anderson, 1978).

SERs play an important part in the rehabilitative model of justice in both the juvenile and adult systems. As

Bean (1976 : 100) has argued:

> "... yet SER's are the obvious and open manifestation of the rehabilitative ideal. Their aim is advowedly diagnostic and the recommendations in the SER attempt to make the punishment fit the offender. The whole content of SER's is about the psychic and social conditions of the offender and the sentence is regarded as treatment for those conditions".

Hagan et. al. (1979) have argued that reports are not as crucial to the outcome of the case in adult courts as it would seem on the surface and that importance is frequently largely 'ceremonial'. Bean (1976) and Anderson (1978) both have pointed to the dialectical relationship between the construction of the report and the court. That is, the welfare officer while preparing the report has to attend to not only the psycho-social conditions of the offender and to his offence, but also the likely reaction of the bench (and one could add, the prosecution and defence counsel). The structure of the report and its recommendation, therefore are negotiative in nature. They involve compromises (and conflict) with the court and the available 'treatment services'. Reports have also to be "acceptable" to the bench. Anderson (1978) argues that their importance lies in the fact that they are often the only information, apart from that supplied by the police, about the defendant available to the court. The child, he says (1978 : 24), "is presented to the court by this means". Defendants are frequently unrepresented and they and their parents are often passive in court (see below Chapter 8). Thus it is often only through the welfare report that something akin to their point of view is present to the court.

SER's have been the subject of much research and criticism, especially in Britain. Criticism has related to the adequacy of the information presented, the time actually

spent in obtaining this information and writing reports, the inconsistencies and ideological underpinnings of the reports themselves (see Bean, 1976). The information available for the preparation of S.E.R.'s is limited by a number of factors. In the first instance, the information is provided by the defendant and he may withhold information or even falsify it. Secondly, other information available is frequently provided by other agencies who may put their own interpretation on it. Thirdly, the actual time spent collecting information for SER's is generally very limited, usually not more than an hour is spent with the defendant and his family (Bean, 1976). Holden (1978) reported that with adult defendants less than thirty minutes had been spent interviewing more than half the sample preparing the report. Officers with the Department for Community Welfare pejoratively refer to pre-court interviews and the reports produced from them as 'doorstep reports'. This term is used to indicate the temporal, organizational and informational context in which the report is produced in many cases - little time, confusion and little information.

Reports also tend to be fairly standardized through various routines despite the fact that they are supposed to be individualized. These routines develop from the need to process cases efficiently and the officers' expectations and assumptions about particular types of offenders and offences. The information contained in them is also made problematic by the fact that, it is they are truncated versions of the defendants' story (Cicourel, 1976). They are not only filtered through the officers' preconceived expectations but also through what the officer already 'knows' from the files about the defendant and his plans for the defendant - his recommendation. The actual structure of the interview itself; the questions asked, the phrasing of the questions, the context of the interview; affects the answers the interviewer will receive. The interview structure itself is partly determined by the organizational concerns of the interviewer,

the assumptions they have about the nature of the interviewee and the problems under consideration (e.g. delinquency), as well as the exigencies of the interview situation itself (McIntyre, 1978; see also Emerson and Messinger, 1977).

As with the court hearing itself, the construction of the report involves the evaluation of the moral character of the juvenile. The moral evaluation has to be negotiated with the bench and its form and content will depend on what the officer thinks should happen to the defendant. The officer is involved in 'making a case' about what action should be taken with the defendant and present the information accordingly. For example, the same factors can paint very different images of the defendant. The images the officer has of the defendant and his offence also influence the very information the officer obtains in the first place. By structuring questions in a particular way, the officer will be able to obtain the sorts of answers he wants, which may not necessarily be the defendants' point of view (see Chapter 3 above). Despite these limitations, reports are frequently submitted to the court as 'objective' statements.

> 'SER data are presented as a form of objective truth. Typically statements appear as if they have been verified... Heresay statements are not only acceptable, but are presented as objectivications as to the truth about what has really happened to the defendant over the past few years. The whole format of the report is 'official' producing a tendency to see the document as a scientific account of the offenders' social and psychological history. Unhappily no distinction is made between what has been told and verified". (Bean 1976 : 103)

It has also been argued by Bean (1976) and Anderson (1978) that officers are not accountable in court or to the defendant for their reports. Reports have also been criticised in terms of their ideological underpinning. Bean (1976) argues that they are firmly anchored in the psychoanalytic framework. Hardiker and Webb (1978), however, have shown that this notion is too simplicit and that various orientations are used by report writers depending on the offender, the type and seriousness of the offence and the outcomes desired by the officer.

The essence of a plea in mitigation by a legal representative is to obtain for the defendant the most lenient sentence as possible in the circumstances. As with the SER the solicitor or barrister constructs a plea from a range of information available to him. This information comes from the defendant himself, police records and antecedents and the social enquiry reports. As Shapland (1979) notes, all of this information has originally been collected from the defendant but by different people who see themselves as having different roles in court. The legal officer, as the welfare officer, is concerned not only with what has happened, but with what is likely to happen in court. Pleas of mitigation, like SER's are negotiative in essence, attention has to be paid to the likely reactions of the bench by the solicitor or barrister. "They think of the range of sentences that judges might impose and suggest one somewhat more lenient than the most severe end of the range but not one so lenient that their suggestion will be treated with derision by the judge" (Shapland, 1979 : 162).

As with the court process itself, few attempts have been made to investigate the defendants' views on the SER's in either juvenile or adult courts. Hapgood (1979) in his study questioned defendants in detail about various aspects of social enquiry reports. He was particularly concerned with the manner of the preparation of social enquiry reports; the defendants and their parents access to reports; and their

views on the content of the SER. Most of the defendants (70.9%) were able to correctly identify the occupation of the authors of their report. They tended to view the report writer as being advocates for them (55.3%). Only 27.7% of the respondents thought of the SER author as being impartial in relation to the court and themselves. Most defendants were seen only once by the authors of the report and the mean number of meetings was 1.4%. However, Hapgood did not report on the actual time spent in preparing reports.

Hapgood reports that just over half of the sample suggested that the author of the report knew them well enough to write the SER and 38.3$ felt that the author's knowledge of the defendant was inadequate. Moreover, only 13.5% of the respondents made adverse comments about the suitability of authors. He also shows that defendants had little access to reports and he points out that the regulations in Britain, relating to the access by defendants and their parents to reports are ambiguous. In Hapgood's sample only 4.3% of the respondents reported that they saw the report prior to going to court, the rest saw it either in court or just prior to going into court. Of those who had seen the report, only 50% knew what the recommendation was. However, though this was the case, 85% of the sample felt that the information contained in the report was quite factual and 80% felt that the information and the recommendations and the way the report generally was structured was fair. However, as Hapgood himself points out, he did not attempt to elicit what the defendants actually meant by 'factual' or 'fair' and how they reached their assessment. He also did not report what sort of information was actually contained in the reports themselves. On the other hand over two-thirds of the sample thought very strongly that they should have access to the report.

In Holden's (1978) study of adult offenders, 94.6% of the sample reported that they felt satisfied with the content of their social enquiry report. This was despite the fact that only 26.6% had an opportunity to read the report either before going to court or at the court itself. Two-thirds (66.6%) reported that they did not have access to the report at all. There would seem to be some ambiguities involved with the defendants' assessments of their report and there is a need for more research as on what basis defendants decided on the adequacy or inadequacy of the content of the report and its recommendation. The interest here was somewhat more broad in that we were concerned with the general discussions between defendants and significant people at the court, though undoubtedly some of the information that was exchanged between defendants and welfare officers or lawyers and others went to make up informative reports or to help construct pleas of mitigation on behalf of the defendant by lawyers.

The Context of Report Preparation

The manner of report preparation differs from court to court and Community Welfare division to division, as well as with the status of the defendant and his previous contact with the Department. Juveniles with whom the Department has contact prior to the court cases ('under control', 'in care', or on probation and so on) typically had a report prepared by the officer on whose caseload they were. If the defendant was 'under control' and on trial release from an institution, the report was prepared by his after-care officer provided that he was living in the Perth metropolitan area. Juveniles in this situation who were living in country areas had reports prepared by a local officer who was responsible for the case. Other juveniles who are involved with the Department and who have not been institutionalized previously also usually have their reports prepared by the officer responsible for him. In the case of 'clean skins' (first offenders) and those with whom the Department had

no previous contact the reports are written by the 'court officer'. Most Divisional offices have an officer whose duties include the preparation of court reports. A full time specialist officer represents the Department in the Perth and Fremantle courts. This officer is based at the Perth Children's Court. In other divisions (e.g. Kalgoorlie and Midland) the court work is generally done by the divisional court officer.

Where the Department has prior contact with a juvenile the informative report is frequently prepared before the day of the court appearance. More frequently, the report is prepared on the day of the hearing, either at the court itself or at the D.C.W. office if it is located near the court. The point at which welfare officers are notified about a court appearance of a juvenile varies and depends partly on when the court sits. The Midland Court sits once a week and the Fremantle Court, twice weekly (though one day is for contested cases). The staff servicing these courts frequently have prior warning of a juvenile's appearance. Thus, it is sometimes possible to prepare a report before the day of the hearing. In Kalgoorlie the court sits only when necessary (any day except Sunday) and officers are informed of a juvenile's appearance either the night before, or the morning of the appearance. However, reports are usually prepared on the morning of court, though a verbal, rather than written report, is usually presented to the court.

In the Perth Court, the Divisional officers are usually contacted by the court the morning of the appearance. Most reports are prepared between 9 and 10 o'clock when the court's session commences. The result is what officers generally refer to as a "doorstep report". The situation in the Perth Court was often hectic, to say the least. Frequently, not only are officers attempting to contact the defendants, but the juveniles were also

possibly contacted by the duty counsel scheme and the Aboriginal Legal Service. When there were 50 or 60 or even more defendants and their parents waiting for a hearing, the situation was quite confused. There is also a limited availability of interviewing space and officers had to jostle with one another and various other contenders for offices. No interviewing facilities, at all, were available at Midland Court. Defendants are often extremely confused and seek help from court staff or anyone who looks official. The researchers found themselves frequently approached by lost and confused defendants and parents for information.

Pre Court Contacts

In this section the contacts defendants had prior to court with welfare officers, after-care officers, lawyers and others will be examined. Firstly, the frequency of contacts will be discussed, then the statuses of the people with whom the defendants had contact and the purposes of those contacts and the persons on the defendants' side who were involved (the defendant only, defendant and parents, etc.). The following section will examine the content of these interviews and contacts.

Custody

Prior to proceeding with this discussion however, it is necessary to point out that quite a few of the juveniles were in custody when they arrived at court. These contacts and interviews with welfare staff and lawyers took place while these youths were in custody. The courts at Perth, Fremantle and Midland have special holding-rooms. Perth is the most sophisticated (prison like!), with separate facilities for boys and girls and secured interviewing rooms. Youths in custody in Kalgoorlie are escorted to court (the police station,

lockup and (old) regional prison are across the road) and they are usually interviewed by welfare officers in the same interview room as other defendants.

In the observational sample, almost half the defendants (45%) were in custody prior to court. However, only 40 (27.2%) of those in the interview sample reported having been in custody. All of these youths were in the general sample. Those who were already under the control of the Department for Community Welfare were more likely to be in custody than those who were not. This relationship was significant and a similar relationship was found between those who had a high number of court appearances and custody. There were no significant relationships between the defendants' age, sex, work status, ethnicity, family type, social class, type of housing or place of residence. Though the relationship was not significant statistically Aborigines tended to be in custody more frequently than non-Aborigines. Girls were also less likely to be in custody than boys. The relationships between ethnicity and sex though not significant, are important and they reflect the defendants' access to bail. I have reported (Chapter 3) that Aboriginal children were less likely to get bail than non-Aborigines. Aborigines accounted for 41.8% of those not obtaining bail from the police. Boys were more likely to be arrested than girls (see above).

Once taken to the D.C.W. institution, those already under control of D.C.W. were unlikely to be bailed. However, those not already under control were usually taken to Longmore Remand Centre from where they were still able to obtain bail. Of the children not bailed from police custody, 49 were reported to have been taken to D.C.W. institutions or facilities. The remainder tended to stay in police custody and this was especially the case in Kalgoorlie, where there was no D.C.W. custodial facility. Though a number of the Perth sample

also experienced this sort of situation, a number of children, for example, mentioned about having to spend time locked up at Rottnest or at another country lockup. Of those in Department for Community Welfare custody, 41 or 83.7% were in the remand section at Longmore, three were in Riverbank and two in Nyandi and one in each of the following: Walcott and Longmore Assessment and Working Boys' Hostel in Boulder. Fourteen of these youths reported obtaining bail from Community Welfare. However, it seems that five of these got bail after appearing in court on their first appearance. They were returned to the institution after court and bailed, if people were not available to bail them from the court directly.

Of those who were not bailed from Department for Community Welfare institutions, seven (26.9%) said that it was because they were either absconders from an institution or under the control of the Department. Five (19.2%) said that their parents either wanted to teach them a lesson, and another five defendants that their parents could not get to the institution or could not be contacted. The absence of telephones in parents' homes probably accentuated the situation. Three youths reported that they were unable to get bail because it was 'too expensive' and six (23.1%) gave a range of other reasons. These explanations were similar to the explanations provided by the defendants not obtaining bail from the police. When they went to court most of these defendants had access to their parents prior to their case being heard. However, few mentioned that they only saw their parents in the court room itself. They were unable to say whether this related to the fact that police at court did not permit them access or whether their parents did not wish to have access, or alternatively did not know that they could have access to their children.

Contacts

The following hypothesis was tested in regard to contacts:

> That the frequency of contacts would not vary with the sex, age, ethnicity and work status of the defendants or with their record social class, type of housing, family type, place of residence and case type.

The data on the officials contacted, the persons involved in the contact and the reported purposes of the contact are tested only for the significance of case type (general/defended sample).

Table 7.1 shows those defendants who reported having contact at court with welfare officers, legal counsel and others prior to their case commencing. In the general sample of those for whom we have data seventy-eight (69%) said they had contact and thirty (31%) said they had no contact prior to going into court. In the defended sample 86.4% said they had contact and three defendants indicated they had no contact with officials before court. There was no significant difference between the general and defended cases. Contact did not vary very significantly in the general sample, with the defendants' sex, age, ethnicity, work status, type of housing and social class. There were, however, significant differences between the place of residence and contacts, Children in Kalgoorlie tended to have more contact prior to court than children in Perth. This reflects the organisation of community welfare practices for report preparation and the fact that officers in Kalgoorlie were able to see all defendants prior to court because of the small numbers involved.

TABLE 7.1

REPORTED PRE-COURT CONTACTS

CONTACT	SAMPLE								
	GENERAL			DEFENDED			TOTAL		
	Freq.	Relt. %	Adjust. %	Freq.	Relt. %	Adjust. %	Freq.	Relt. %	Adjust %
Yes	78	65.0	69.0	19	70.4	86.4	97	66.0	71.9
No	35	29.2	31.0	3	11.1	13.6	38	25.9	28.1
Not sure	3	2.5	-	0	0.0	-	3	2.0	-
No data	4	3.3	-	5	18.5	-	9	6.1	-
TOTAL	120	100.0	100.0	27	100.0	100.0	147	100.0	100.0

(CORRECTED CHI SQUARE = 1.94664, WITH 1 DEGREE OF FREEDOM, SIGNIFICANCE = .1630

There was also a significant relationship between family type and contacts. Defendants from single parent families were more likely to have contacts with officials than those from two parent families (Chi square = 4.96366 with 1 degree of freedom, Significance = .0259). The reason for this is not altogether clear, however.

The persons with whom the defendants had contact varied with the case type. In the defended sample the juveniles reported having contact with lawyers, police officers, and prosecutors more frequently than those in the general sample. In the latter case, the youths tended to have contact primarily with welfare officers. Frequently the juveniles in the defended sample had contact with a welfare officer prior to their first appearance on the current charge(s). Table 7.2 shows the officials with whom the defendants reported contact with. In the general sample two defendants replied that they were not sure who they had contact wirh. However, another nineteen defendants were not able to identify with certainty the official.

These respondents gave replies such as the following:

'I think he was a welfare officer'

'He was a solicitor, I think'

'I saw some woman who asked me questions and wrote down what I said'

In all, twenty-one defendants were unable to identify the occupation of the person who interviewed or spoke to them before court.

TABLE 7.2

STATUS OF PERSONS WITH WHOM DEFENDANTS HAD PRE-COURT CONTACT

OCCUPATION OF OFFICIAL	SAMPLE								
	GENERAL			DEFENDED			TOTAL		
	Absolute Freq.	Relt. %	Adjust. %	Absolute Freq.	Relt. %	Adjust. %	Absolute Freq.	Relt. %	Adjust %
Lawyer	11	9.2	19.6	11	40.7	57.9	22	15.9	29.3
Welfare Officer	36	30.0	64.3	3	11.1	15.8	39	26.5	52.0
Other *	9	7.5	16.1	5	18.5	26.3	14	12.9	18.7
Not sure	21	17.5	-	0	0.0	-	21	10.9	-
No data	1	0.8	-	0	0.0	-	1	0.7	-
Not Applicable	42	35.0	-	8	29.6	-	50	34.0	-
TOTAL	120	100.0	100.0	27	100.0	100.0	147	100.0	100.0

* Includes police officers, prosecutors and court officials.

(CHI SQUARE = 22.79414, WITH 2 DEGREES OF FREEDOM, SIGNIFICANCE = .0000)

In the absence of a duty counsel scheme in Kalgoorlie most of the defendants (86.4%) had contact with welfare officers. The remainder of the contacts were with lawyers, whom the defendants or their parents had made arrangements to represent them in court at an earlier date. The defendants or

their parents did not generally initiate the contact. Welfare and After-care officers tended to seek out the defendants and interview them. Only thirteen of the general sample and five of the defended sample reported that they and/or their parents had initiated contact. Those who said that they had contacted solicitors were somewhat more inclined to initiate the contact. However, even in these cases the representatives of the duty counsel scheme and A.L.S. generally established contact with the defendants.

The defendants' accounts of the purposes of these contacts are shown in Table 7.3 below. In the general sample the preparation of Informative reports were given as the main reason for contacts (70.3%). In the defended sample, on the other hand, only four (21.1%) said that their contact was for the preparation of a report. Those in the defended sample were more likely to see lawyers with regard to legal advice or the preparation of their case or to have discussions with prosecutors, police officers or court officials about some aspects of their case (e.g. negotiations, scheduling of the case and so on).

TABLE 7.3

PURPOSES OF PRE-COURT CONTACTS

	SAMPLE								
	GENERAL			DEFENDED			TOTAL		
	Freq.	Relt.	Adjust.	Freq.	Relt.	Adjust.	Freq.	Relt.	Adjust
Representation/Legal Advice	10	8.3	15.6	8	29.6	42.1	18	12.2	21.7
Report	45	37.5	70.3	4	14.8	21.1	49	33.3	59.0
Other	9	7.5	14.1	7	25.9	36.8	16	10.9	19.3
Not sure	4	3.3	-	0	0.0	-	4	2.7	-
No data	10	35.0	-	8	0.0	-	10	6.8	-
Not Applicable	42	8.3	-	8	29.6	-	50	34.0	-
TOTAL	120	100.0	100.0	27	100.0	100.0	147	100.0	100.0

(CHI SQUARE = 14.70251, WITH 2 DEGREES OF FREEDOM, SIGNIFICANCE = .0006.)

In just over half the cases in both the general (51.4%) and defended (52.6%) samples the defendant and his parent(s) were seen by the welfare officer or solicitor (Table 7.4). However, 31 (43.1%) of the juveniles in the general sample reported that they had seen the official alone. Five (26.3%) of the defended sample reported the same situation. In the total sample four respondents said that their parent(s) saw the welfare officer/lawyer by themselves. Females and non-aboriginal defendants were more likely to be accompanied by their parents during the contact than Aboriginal and male defendants.

TABLE 7.4

PEOPLE INVOLVED IN THE CONTACT

PERSONS MAKING CONTACT	SAMPLE								
	GENERAL			DEFENDED			TOTAL		
	ABSOLUTE FREQ.	RELT. %	ADJUST. %	ABSOLUTE FREQ.	RELT. %	ADJUST. %	ABSOLUTE FREQ.	RELT. %	ADJUST. %
DEFENDANT	31	25.8	43.1	5	18.5	26.3	36	24.5	39.6
DEFENDANT AND PARENT	37	30.8	51.4	10	37.0	52.6	47	32.0	57.9
PARENT ONLY	3	2.5	4.2	1	3	5.3	4	2.7	4.4
DEFENDANT AND OTHER	1	0.8	1.2	3	11.1	15.8	4	2.7	4.4
NO DATA	6	5.0	-	0	0	0.0	6	4.1	-
NOT APPLICABLE	42	35.0	-	8	29.6	-	50	34.0	-
TOTAL	120	100.0	100.0	27	100.0	100.0	147	100.0	100.0

Content of Discussion

The respondents were questioned about the content of their interviews. Table 7.5 below shows the topics that were raised in their interviews with welfare staff, lawyers and others. In the general sample, data was obtained in 64 cases. More than half (57.8%) referred to the topic of discussion as being the offence and/or the expected outcome of the case (56.3%). Other items mentioned included the defendants expected plea (42,2%) and the defendants family background (43.8%). References to discussion about court process were reported by 6.3% of the sample and 3.1% of the

TABLE 7.5

TOPICS OF DISCUSSION IN PRE-COURT INTERVIEWS

GENERAL SAMPLE

TOPIC	COUNT	PCT OF RESPONSES	PCT OF CASES
YOUTHS' BACKGROUND	28	19.4	43.8
OFFENCE	37	25.7	57.8
PLEA	27	18.8	42.2
COURT PROCEEDINGS	4	2.8	6.3
OUTCOME	36	25.0	56.3
DEMEANOR	2	1.4	3.1
DEFENCE STRATEGY	2	1.4	3.1
OTHER	8	5.6	12.5
TOTAL RESPONSES	144	100.0	225.0

66 VALID CASES

14 CASES NO DATA

42 CASES NOT APPLICABLE

respondents mentioned discussing both defence strategies and demeanor to be followed while they were in court. Other topics were referred to by 12.5% of the respondents. The topic of discussion varied with the occupation of the person with whom the defendants had contact. Table 7.6 shows the frequency of topic discussions with welfare officers and lawyers in the general sample. As can be seen from

this table the two major topics of discussion were offence and outcome (56.1%) respectively. However, lawyers were reported much more likely to discuss as plea than outcome of the case or other topics. Community welfare officers, on the other hand, were much more likely to discuss the possible outcome according to the juveniles. Both lawyers and officers discussed the defendants' background with equal frequency. However the topics of discussion also varied not only between types of interviewer but also in terms of the background of the youths involved. For example, those who were already under control of the Department were less likely to discuss their background with the interviewer who was generally a welfare officer or after-care officer than were first offenders. This would seem to result from the fact that the officers concerned 'knew' the defendants background because of previous contact with him and did not have to go into details at this stage. The possible outcome of the case was more frequently discussed with the defendant than his background. Girls more frequently discussed their background with officers than male defendants. Welfare officers were less likely to discuss the issue of plea with Aboriginal defendants and more likely to discuss the expected outcome of the case than they were with non-Aboriginal youths. This is probably a result of the work done by the A.L.S. in court and officers felt that it was unnecessary to enquire into the proposed plea of the defendant and left these issues to the A.L.S.

Topics relating to the youths' backgrounds included discussion of his family, his place in it, his behaviour around the home and his relationship with his parents and siblings, his current activities (school/work) and how these were progressing ('he asked me how I was getting on at school'), his plans for the future and his leisure activities. If his parents were present they would also be asked about his relationships with the home and outside (friends and associates), school, leisure interests and so on. These

topics were used in an attempt to develop a picture of the youths character and the typicalness of the offence.

Discussions of plea were often integrated with discussions of the offence and the defendants' part in it. Advice would be given about the appropriate plea. Welfare officers were reported to have referred defendants to solicitors for further advice, if there was any doubt about the defendants' guilt. Some defendants glossed these discussions with phrases like the following:

> 'She (welfare officer) asked me had I done it I said yea. She told me to tell the truth and plead guilty.'

TABLE 7.6

COUNT COL PCT	OFFICIAL CONTACTED LAWYER	 WELFARE OFFICER	ROW TOTAL
YOUTHS BACKGROUND	3 33.3	11 34.4	14 34.1
OFFENCE	5 55.6	18 56.3	23 56.1
PLEA	7 77.8	11 34.4	18 43.9
COURT PROCEDURES	0 0	1 3.1	1 2.4
OUTCOME	2 22.2	21 65.6	23 56.1
OTHER	2 22.2	2 6.3	4 9.8
COLUMN TOTAL	9 22.0	32 78.0	41 100.0

PERCENTS AND TOTALS BASED ON RESPONDENTS

41 VALID CASES 6 MISSING CASES

As well as collecting information for reports or the construction of mitigation, officers and legal representatives also gave defendants advice of how they should behave in court, their demeanour and conduct while in court.

> 'He told me to stand up straight and to say 'yes, sir' and not to smile.'

Some defendants reported that they were given advice on the form of explanation they should use, points to make about themselves and their activities.

The similarity in the type of information sought by both welfare officers and solicitors was also a source of confusion for a number of juveniles. They were uncertain about the identity of the interviewer:

> 'I don't know who he was. I think he was a solicitor because he asked the sort of questions a solicitor would ask.'

(The defendant had in fact been interviewed by a welfare officer, she had been observed going into the interview room with the officer and her description of the person who interviewed her clearly indicated that it was the welfare officer).

Summary and Discussion

Almost half of the observational sample were in custody prior to court and 27.2% of the interview sample report having been in custody. Sixty-nine per cent of the general sample and 86.4% of the defended sample reported having contact with some official before their case commenced. The hypothesis with regard to contact was accepted apart from the place of residence (Kalgoorlie defendants reported more frequent pre-court contacts) and family type (single parent families having more contact than two parent families).

Those in the defended sample tended to have contact with lawyers and police and court officials, whereas youths in the general sample had contact mainly with welfare officers. This pattern reflected the low use of legal representation in the general sample (see Chapter 8). Officials were the ones who usually initiated contact. More than half of the defendants saw the official in the company of a parent.

However, 43.1% of the general sample and 26.5% of the defended sample were alone when they saw the official. This is interesting as 85% of all youths were accompanied to court by parents or others (see below Chapter 8). In the general sample the major purpose of the contact was identified as the preparation of an informative report for court. Legal advice and other negotiations were more important issues for contact in the defended sample. Twenty one defendants were not able to positively identify the official with whom they had contact. Other data, though somewhat impressionistic, suggests that other defendants while positively identifying the occupation of the person interviewing them were in fact mistaken. It was suggested above that the similarity in the topics discussed during the interview was probably a source of confusion in itself. Some defendants thought that they were seeing solicitors when they were being interviewed by welfare officers. This was more likely to occur at the Perth court. It is difficult to put a precise figure on how many youths were in this category. However, it would seem that overall at least 20% of the juveniles were not certain or mistaken about the identity of the person interviewing them. As we shall see below (Chapter 11) even though many youths understood that a report was being prepared for the court they did not understand the mechanics of how the report was presented. The D.C.W. court officers (the persons whose task this was) were only identified by 41% of the defendants.

It is difficult to convey the atmosphere of utter confusion that can exist at the Perth court on busy days. Welfare officers, After-care officers, duty counsels and their 'court welfare officers', A.L.S. solicitors and field officers, all attempting to interview and sell their wares to defendants and their families, trying to find a room to interview in, on the one hand and lost and confused defendants and their families seeking them out on the other. To this has to be added the court staff, prosecutors, police officers, D.C.W. court staff, all going about their business. If things are confused between 9 and 10 o'clock they really become confused when the court(s) start at 10 o'clock. The confusion is then added to by cases being

called, stood down, remanded, solicitors trying to interview clients and appear for others or appearing in one court and being called for another case, bench clerks arranging bail for those being released or remanded, and the police locking others up. In the middle of all this confusion are the two ladies peacefully selling tea and biscuits. What is really surprising is that only a fifth of the defendants are confused about who they are talking to. This is especially so as most defendants (67%) reported that they were either nervous or scared or very nervous and scared at the time.

The topics discussed with welfare officers and lawyers include; the youths background, the offence, plea, outcome of the case. These topics both to construct pleas of mitigation and informative reports for the court. Key items in these topics help develop an account of the defendants moral character. The offence; its characteristics and the defendants part in it; are integrated with the accounts of the defendants background to assess whether the offence is 'out of character' or part of a pattern. A case is made on the basis of this information for the treatment by the court and an assessment of a prognosis for offending in the future.

Shapland (1979) reports very similar topics raised by barristers in interviews with the purpose of collecting information for a mitigation speech. However, the emphasis was slightly different. Family background was given most attention, this was followed by the details of the present offence and contact with the probation service.

Though we did not attempt to record the defendants evaluations of these interviews and their content, it must be seriously questioned if an adequate assessment of the defendant, his life and the offence can be achieved in the context within which interviews are conducted. The value of 'doorstep reports' needs to be questioned. These conditions also raise questions about the quality of legal services that defendants are receiving.

As well as collecting information from welfare officers and lawyers, court staff also gave defendants information about what to do in court and what outcomes were likely to be. In a similar fashion, Anderson (1978) found that in the preparation of social enquiry reports by social workers in his study that defendants mentioned that social workers provide them with a range of information. In 25% of the cases they either suggested that the defendant obtain or not obtain legal representation, advice about plea was given in 7.7% of the cases, advice about conduct in court was given to 14.4% of the respondents and information about what was likely to happen court, personnel etc. was given in 5.7%. Information about outcome was given in 39.4% of these cases.

Conclusions

In this chapter the defendants' pre-court contacts with welfare officers, lawyers and others has been examined. The research concern was with the nature and content of the contacts, especially as it related to information exchange and negotiations. Attention was also given to the context in which the contacts took place. It has been attempted, in particular to illustrate the atmosphere of confusion that exists at the Perth court on a busy day.

The chapter commenced with a review of some of the research on Social Enquiry Reports. Criticism of reports because of the time spent in their preparation would seem to be applicable. Doubts also need to be expressed about the quality of legal advice and representation given in this context. It was suggested that reports and pleas of mitigation were essentially evaluations of the defendants moral character which are produced not just in terms of the offence and the defendant but also with the reaction of the bench in mind. The topics of discussion between solicitors and welfare officers and juveniles were examined. Despite some changes in emphasis especially in relation to plea the topics were essentially the same. The similarity has its basis in the fact that the elements

which are used to construct a moral evaluation are essentially the same. While the actual topics discussed may vary, they relate to the essential properties of moral character construction. The same information can be presented in different forms to construct different characters. (See Introduction)

These contacts can also be used to inform the youths about court and to coach them as to the appropriate way to act and the appropriate things to say to the Magistrate. For welfare officers and probably to a lesser extend lawyers, however such information exchange is probably contingent on their own evaluation of the defendants' moral characters.